

CHAPTER 273.**INCOME TAX.****INCOME TAX RULES AND ORDERS.**

(These rules and orders are printed in the order of the numbers of the sections under which they are made.)

**THE INCOME TAX (DEDUCTIONS FOR
PASSAGES) RULES**

P.N.
46 of 1951.
125 of 1959.

made by the Governor in Council under section 5.

1. These rules may be cited as the Income Tax (Deductions for Passages) Rules, and shall apply in ascertaining income chargeable for the year of assessment commencing on the 1st April, 1951, and each succeeding year of assessment. Citation.

2. In these rules— Definitions.

“journey” means a journey by one person in one direction;
“terminal point in Sierra Leone” means the place which is, or will be, the normal place of business or residence in Sierra Leone of the individual making the journey;

“terminal point abroad” means the place in his country of origin or domicile where the individual making the journey resides during his absence from Sierra Leone or, if the individual is not making a journey to such place, the place at which the individual first stays outside Sierra Leone other than on account of transshipment, the transaction of business on behalf of his employer or other delay incidental to making the journey.

3. Subject to the provisions of rules 4 and 5, in ascertaining the income of an individual for any period there shall be deducted the actual expenditure incurred and borne by the individual in that period on— Prescribed sums in respect of journeys.

(a) any journey or journeys of him or his dependants in either direction between a terminal point in Sierra Leone and a terminal point abroad, subject to a maximum deduction of one hundred pounds in respect of each such journey, and

(b) any journey or journeys of him or his dependants in either direction between a terminal point in Sierra Leone and

some other place in Sierra Leone, subject to a maximum deduction of ten pounds in respect of each such journey:

*

Provided that the maximum amount deductible for all passages shall not exceed five hundred pounds over any two consecutive years of assessment.

Limitation on number of allowable journeys.

4. In any one period by reference to the profits of which the assessable income for any one year of assessment are computed, no deduction shall be allowed in respect of more than one journey by the same individual in the same direction between a terminal point in Sierra Leone and a terminal point abroad and more than one journey by the same individual in the same direction between a terminal point in Sierra Leone and some other place in Sierra Leone.

Limitation where more than one year of assessment affected.

5. Where the profits of the period in which an allowable journey or journeys occur affect the liability for more than one year of assessment, a deduction shall only be made in calculating the income chargeable for such one year of assessment as the claimant shall elect, such election being made in writing to the Commissioner not later than the end of the last year of assessment which is or may be affected, or, if no such election is made, for such one year of assessment as the Commissioner shall decide.

* This proviso applies when ascertaining income chargeable for the year of assessment commencing on the 1st April, 1959, and each succeeding year of assessment (P.N. 129 of 1959).

P.N.
10 of 1955.

THE INCOME TAX (BOARD OF COMMISSIONERS REMUNERATION) RULES

made by the Governor in Council under section 5.

Citation.

1. These rules may be cited as the Income Tax (Board of Commissioners Remuneration) Rules.

Period of service and remuneration.

2. Members of the Board of Commissioners appointed under section 65 of the Ordinance shall serve for a period of one year from the date of appointment and shall be remunerated at the rate of two pounds ten shillings for each day or part thereof during which they are engaged in hearing and determining appeals.

THE INCOME TAX (INTEREST ON ADVANCE PAYMENTS) RULES

P.N.
17 of 1956.

made by the Governor in Council under section 5.

1. These rules may be cited as the Income Tax (Interest on Advance Payments) Rules. Citation.

2. In these rules, the expression "due date" means the 31st day of December in the year of assessment. Interpretation.

3. Any person liable to income tax in an amount of not less than one thousand pounds may apply to the Commissioner or the Official Representative in the United Kingdom for permission to pay the tax or any part, not being less than one thousand pounds or a multiple thereof, in advance of the due date. Income tax may be paid in advance of due date.

4. On receipt of an application specified in rule 3, the Commissioner or the Official Representative shall forward to the Accountant General or the Crown Agents particulars of the amount authorised to be paid in advance. Particulars of amount paid to be forwarded to Accountant General or Crown Agents.

5. The Accountant General or the Crown Agents, on receipt of the amount, shall issue a receipt therefor together with a warrant for the interest due thereon. Receipt for amount paid and interest warrant to be issued.

6. Interest shall be calculated on amounts so paid, at a rate to be prescribed from time to time and published in the *Gazette*, from the date of payment up to the due date: Rate of Interest.*
 Provided that the rate of interest payable on any amount shall be the rate in force at the date of payment of the amount, and shall not be affected by subsequent alteration.

7. Interest shall be payable on or after the due date on presentation of the warrant therefor to the Accountant General or the Crown Agents, or the warrant may be surrendered in part payment of the tax due. Warrant to be presented for payment of interest, or may be surrendered.

* The prescribed rate of interest is from the 18th day of October, 1956, until the 29th day of January, 1959, inclusive, five and a half per cent. and, with effect from the 30th day of January, 1959, five per cent. (P.N. 41 of 1959.)

income payable by the latter company to the former company shall be left out of account in computing the liability of the latter company to Danish tax at any higher rate appropriate to distributed or distributable income, and this shall apply, in particular, in computing the liability of the latter company to that part of the Danish extraordinary tax on companies known as Udbytterate.

ARTICLE VI.

1. Notwithstanding the provisions of Articles III, IV and V, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

2. The Agreement dated 18th December, 1924*, between the United Kingdom and Denmark for the reciprocal exemption from Income Tax in certain cases of profits accruing from the business of shipping shall not have effect for any year or period for which the present Convention has effect.

ARTICLE VII.

1. (a) Dividends paid by a company which is a resident of the United Kingdom to a resident of Denmark, who is subject to tax in Denmark in respect thereof and does not carry on a trade or business in the United Kingdom through a permanent establishment situated therein, shall be exempt from United Kingdom surtax.

(b) Dividends paid by a company which is a resident of Denmark to a resident of the United Kingdom, who is subject to tax in the United Kingdom in respect thereof and does not carry on a trade or business in Denmark through a permanent establishment situated therein, shall not be chargeable to tax in addition to the tax on the profits out of which the dividends are paid at a rate exceeding 5 per cent.: Provided that where the resident of the United Kingdom is a company which beneficially owns not less than 50 per cent. of the entire ordinary share capital of the company paying the dividends, the dividends shall be exempt from any such tax on dividends.

2. Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, there shall not be imposed in that other territory any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

ARTICLE VIII.

1. Any interest or royalty derived from sources within one of the territories by a resident of the other territory, who is subject to tax in that other territory in respect thereof and does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory; but no exemption shall be allowed in respect of interest paid by a company which is a resident of one of the territories to a company which is a resident of the other territory where the latter company controls, either directly or indirectly, more than 50 per cent. of the entire voting power of the former company.

2. In this Article—

(a) The term "interest" includes interest on bonds, securities, notes, debentures or on any other form of indebtedness;

* S.R. & O. 1925 (No. 102) p. 595.

(b) The term "royalty" means any royalty or other amount paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trade mark or other like property, but does not include any royalty or other amount paid in respect of the operation of a mine or quarry or of any other extraction of natural resources.

3. Where any interest or royalty exceeds a fair and reasonable consideration in respect of the indebtedness or rights for which it is paid, the exemption provided by the present Article shall apply only to so much of the interest or royalty as represents such fair and reasonable consideration.

4. Any capital sum derived from one of the territories from the sale of patent rights by a resident of the other territory, who does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

ARTICLE IX.

Income of whatever nature derived from real property within one of the territories (except interest on mortgages secured on real property) shall be chargeable to tax in accordance with the laws of that territory. Where the said income is also chargeable to tax in the other territory, credit for the tax payable in the first-mentioned territory shall be given against the tax payable on that income in the other territory in accordance with Article XVII.

ARTICLE X.

A resident of one of the territories who does not carry on a trade or business in the other territory through a permanent establishment situated therein shall be exempt in that other territory from any tax on gains from the sale, transfer, or exchange of capital assets.

ARTICLE XI.

1. Remuneration, including pensions, paid by, or out of funds created by, one of the High Contracting Parties to any individual in respect of services rendered to that Party in the discharge of governmental functions shall be exempt from tax in the territory of the other High Contracting Party, unless the individual is a national of that other Party without being also a national of the first-mentioned Party.

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

ARTICLE XII.

1. An individual who is a resident of the United Kingdom shall be exempt from Danish tax on profits or remuneration in respect of personal (including professional) services performed within Denmark in any year of assessment if—

(a) he is present within Denmark for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a resident of the United Kingdom, and

(c) the profits or remuneration are subject to United Kingdom tax.

2. An individual who is a resident of Denmark shall be exempt from United Kingdom tax on profits or remuneration in respect of personal

(including professional) services performed within the United Kingdom in any year of assessment, if—

(a) he is present within the United Kingdom for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a resident of Denmark, and

(c) the profits or remuneration are subject to Danish tax.

3. The provisions of this Article shall not apply to the profits or remuneration of public entertainers such as theatre, motion picture or radio artistes, musicians and athletes.

ARTICLE XIII.

1. Any pension (other than a pension of the kind referred to in paragraph 1 of Article XI) and any annuity, derived from sources within Denmark by an individual who is a resident of the United Kingdom and subject to United Kingdom tax in respect thereof, shall be exempt from Danish tax.

2. Any pension (other than a pension of the kind referred to in paragraph 1 of Article XI) and any annuity, derived from sources within the United Kingdom by an individual who is a resident of Denmark and subject to Danish tax in respect thereof, shall be exempt from United Kingdom tax.

3. 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 XIV.

A professor or teacher from one of the territories, who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

ARTICLE XV.

A student or business apprentice from one of the territories, who is receiving full-time education or training in the other territory, shall be exempt from tax in that other territory on payments made to him by persons in the first-mentioned territory for the purposes of his maintenance, education or training.

ARTICLE XVI.

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

2. Individuals who are residents of the United Kingdom shall be entitled to the same personal allowances and reliefs for the purposes of Danish tax as Danish nationals not resident in Denmark.

ARTICLE XVII.

1. The laws of the High Contracting Parties shall continue to govern the taxation of income arising in either of the territories, except where express provision to the contrary is made in this Convention. Where income is subject to tax in both territories, relief from double taxation shall be given in accordance with the following paragraphs—

2. 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, Danish tax payable, whether directly or by deduction, in respect of income from sources within Denmark shall be allowed as a credit against the United Kingdom tax payable in respect of that income. Where such income is an ordinary dividend paid by a company resident in Denmark, the credit shall take into account (in addition to any Danish tax appropriate to the dividend) the Danish tax payable by the company in respect of its profits; and, where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, the Danish tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

3. United Kingdom tax payable, whether directly or by deduction, in respect of income from sources within the United Kingdom shall be allowed as a deduction from the Danish tax payable in respect of that income: Provided that the amount of the deduction shall not exceed the proportion of the Danish tax which such income chargeable to Danish tax bears to the total income chargeable to Danish tax. For the purposes of this paragraph only, the expression "Danish tax" shall include the Danish inter-municipal income tax.

4. In the case of a person who is resident in the United Kingdom for the purposes of United Kingdom tax and is also resident in Denmark for the purposes of Danish tax, the provisions of paragraph 2 of this Article shall apply in relation to income which that person derives from sources within Denmark, and the provisions of paragraph 3 of this Article shall apply in relation to income which he derives from sources within the United Kingdom. If such person derives income from sources outside both the United Kingdom and Denmark, tax may be imposed on that income in both the territories (subject to the laws in force in the territories and to any Convention which may exist between either of the High Contracting Parties and the territory from which the income is derived). A credit shall be allowed in accordance with paragraph 2 of this Article against any United Kingdom tax payable in respect of that income, equal to that proportion of the United Kingdom tax or the Danish tax on that income, whichever is the less, which such person's income from sources within the United Kingdom bears to the sum of his income from sources within the United Kingdom and his income from sources within Denmark; and a deduction shall be allowed in accordance with paragraph 3 of this Article against any Danish tax payable in respect of that income equal to that proportion of the United Kingdom tax or the Danish tax on that income, whichever is the less, which such person's income from sources within Denmark bears to the sum of his income from sources within the United Kingdom and his income from sources within Denmark.

5. For the purposes of this Article, profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

ARTICLE XVIII.

1. The taxation authorities of the High Contracting Parties shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary



for carrying out the provisions of the present Convention or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

2. As used in this Article, the term "taxation authorities" means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representatives; in the case of Denmark, the Director-General of Taxation or his authorised representative; and, in the case of any territory to which the present Convention is extended under Article XX, the competent authority for the administration in such territory of the taxes to which the present Convention applies.

ARTICLE XIX.

1. The nationals of one of the High Contracting Parties shall not be subjected in the territory of the other High Contracting Party to any taxation or any requirement connected therewith which is other, higher, or more burdensome than the taxation and connected requirements to which the nationals of the latter Party are or may be subjected.

2. The enterprises of one of the territories, whether carried on by a company, a body of persons or by individuals alone or in partnership, shall not be subjected in the other territory, in respect of profits or capital attributable to their permanent establishments in that other territory, to any taxation which is other, higher or more burdensome than the taxation to which the enterprises of that other territory similarly carried on are or may be subjected in respect of the like profits or capital.

3. The income, profits and capital of an enterprise of one of the territories, the capital of which is wholly or partly owned or controlled, directly or indirectly, by a resident or residents of the other territory shall not be subjected in the first-mentioned territory to any taxation which is other, higher or more burdensome than the taxation to which other enterprises of that first-mentioned territory are or may be subjected in respect of the like income, profits and capital.

4. Nothing in paragraph 1 or paragraph 2 of this Article shall be construed as obliging one of the High Contracting Parties to grant to nationals of the other High Contracting Party who are not resident in the territory of the former Party the same personal allowances, reliefs and reductions for tax purposes as are granted to his own nationals.

5. In this Article the term "nationals" means—

(a) in relation to Denmark, all Danish citizens and all legal persons, partnerships, associations and other entities deriving their status as such from the law in force in Denmark or in any Danish territory to which the present Convention applies by reason of extension made under Article XX;

(b) in relation to the United Kingdom, all British subjects and British-protected persons residing in the United Kingdom or any British territory to which the present Convention applies by reason of extension made under Article XX, and all legal persons, partnerships, associations and other entities deriving their status as such from the law in force in any British territory to which the present Convention applies.

6. In this Article the term "taxation" means taxes of every kind and description levied on behalf of any authority whatsoever.

ARTICLE XX.

1. The present Convention may be extended, either in its entirety or with modifications, to any territory of one of the High Contracting Parties to which this Article applies and which imposes taxes substantially similar in character to those which are the subject of the present Convention, and 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 High Contracting Parties in notes to be exchanged for this purpose.

2. The termination in respect of Denmark or the United Kingdom of the present Convention under Article XXII shall, unless otherwise expressly agreed by both High Contracting Parties, terminate the application of the present Convention to any territory to which the Convention has been extended under this Article.

3. The territories to which this Article applies are:

(a) in relation to the United Kingdom: any territory other than the United Kingdom for whose international relations the United Kingdom is responsible;

(b) in relation to Denmark: any territory other than Denmark for whose international relations Denmark is responsible.

ARTICLE XXI.

1. The present Convention shall be ratified and the instruments of ratification shall be exchanged at London as soon as possible.

2. Upon exchange of ratifications the present Convention shall have effect—

(a) In the United Kingdom:

as respects income tax for any year of assessment beginning on or after the 6th April, 1949;

as respects surtax for any year of assessment beginning on or after the 6th April, 1948; and

as respects profits tax in respect of the following profits—

(i) profits arising in any chargeable accounting period beginning on or after the 1st April, 1949;

(ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;

(iii) profits not so arising or attributable by reference to which income tax is, or but for the present Convention would be, chargeable for any year of assessment beginning on or after the 6th April, 1949.

(b) In Denmark:

as respects Danish tax for any taxation year beginning on or after the 1st April, 1949.

ARTICLE XXII.

The present Convention shall continue in effect indefinitely but either of the High Contracting Parties may, on or before the 30th June in any calendar year not earlier than the year 1953, give to the other High Contracting Party, through diplomatic channels, written notice of termination and, in such event, the present Convention shall cease to be effective—

(a) In the United Kingdom:

as respects income tax for any year of assessment beginning on or after the 6th April in the calendar year next following that in which the notice is given;

as respects surtax for any year of assessment beginning on or after the 6th April in the calendar year in which the notice is given; and

as respects profits tax in respect of the following profits—

(i) profits arising in any chargeable accounting period beginning on or after the 1st April in the calendar year next following that in which the notice is given;

(ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;

(iii) profits not so arising or attributable by reference to which income tax is chargeable for any year of assessment beginning on or after the 6th April in the next following calendar year.

(b) In Denmark:

as respects Danish tax for any taxation year beginning on or after the 1st April in the calendar year next following that in which the notice is given.

In witness whereof the above-mentioned Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done at London in duplicate, in the English and Danish languages, both texts being equally authentic, on the twenty-seventh day of March, one thousand nine hundred and fifty.

(L.S.)

ERNEST BEVIN.

(L.S.)

E. REVENTLOW.

SECOND SCHEDULE.

Application—

1. (a) The provisions of the Convention incorporated in the First Schedule to this Order shall apply as modified below—

(i) as if the Contracting Parties were Sierra Leone and the Government of Denmark;

(ii) as if the tax concerned in the case of Sierra Leone were the Income tax and the duty on profits charged under the Concessions Ordinance, 1931, and the Diamond Industry Profits Tax;

(iii) as if the taxes concerned in the case of Denmark included the Defence Tax;

(iv) as if references to the date of signature were references to the 22nd day of December, 1954;

(v) as if references to the 6th day of April were references to the 1st day of April;

(b) The extension shall have effect in Sierra Leone as respects tax for the year of assessment 1954-55 and for subsequent years of assessment, (and will have effect in Denmark as respects Danish tax for any taxation year beginning on or after the first day of April, 1954).

(c) The extension shall continue in effect indefinitely but may be terminated as respects Sierra Leone by written notice of termination given on or before the 30th June in any calendar year not earlier than the year 1957 by either of the High Contracting Parties to the Convention to the other High Contracting Party through the diplomatic channel and in such event the extension shall cease to have effect in Sierra Leone as respects tax for the year of assessment beginning in the calendar year next following the date of such notice and for subsequent years of assessment, (and will cease to have effect in Denmark as respects Danish tax for any taxation year beginning on or after the first day of April in the calendar year next following that in which the notice is given).

Modifications—

2. (a) In Article VII (1) of the Convention the words "exempt from United Kingdom Surtax" shall be understood for the purposes of this extension as though they read "shall not be liable to tax in the territory at a rate in excess of the rate applicable to a company".

(b) In Articles VIII and IX all references to interest shall be deemed to be deleted.

NORWAY.

**THE INCOME TAX (DOUBLE TAXATION RELIEF)
(NORWAY) ORDER.**

P.N.
160 of 1957.

* WHEREAS it is provided by sub-section (1) of section 32A of the Income Tax Ordinance that if the Governor in Council by Order declares that arrangements specified in the Order have been made with the Government of any territory outside Sierra Leone with a view to affording relief from Double Taxation in relation to Income Tax and any tax of a similar character imposed by the laws of that territory and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to Income Tax notwithstanding anything in any enactment:

AND WHEREAS by a Convention dated the 2nd day of May, 1951, between the Government of the United Kingdom and the Government of Norway, arrangements were made among other things for the avoidance of Double Taxation:

*Section 32A is renumbered 35.

AND WHEREAS provision is made in the said Convention for the extension by means of an exchange of notes between the Contracting Parties of the said Convention, subject to such modifications and conditions (including conditions as to termination) as may be specified in the exchange of notes, to any territory, for whose international relations the United Kingdom is responsible, which imposes taxes substantially similar in character to those which are the subject of the said Convention:

AND WHEREAS by an Exchange of Notes dated the 18th day of May, 1955, the said Convention with certain modifications was applied to Sierra Leone:

NOW THEREFORE, in exercise of the powers conferred upon the Governor in Council by sub-section (1) of the said section 32A, * the following Order is hereby made—

1. This Order may be cited as the Income Tax (Double Taxation Relief) (Norway) Order in Council, 1957.

2. It is hereby declared—

(a) that the arrangements specified in the First Schedule to this Order, as modified by the provisions of the Second Schedule of this Order, have been made with the Government of Norway;

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

FIRST SCHEDULE.

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM AND THE NORWEGIAN GOVERNMENT FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME.

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Norway,

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

Have agreed as follows—

ARTICLE I.

(1) The taxes which are the subject of the present Convention are—

(a) In Norway:

The national income tax, including the national defence tax on income, the communal income tax, the old age pension tax, the war pension tax, and the seamen's tax, and, for the purposes of Article XIX, the national property

* Section 32A is renumbered 35.

tax, including the national defence tax on property (hereinafter referred to as "Norwegian tax");

(b) In the United Kingdom of Great Britain and Northern Ireland: The income tax (including surtax) and the profits tax (hereinafter referred to as "United Kingdom tax").

(2) The present Convention shall also apply to any other taxes of a substantially similar character imposed in Norway or the United Kingdom subsequently to the date of signature of the present Convention.

ARTICLE II.

(1) In the present Convention, unless the context otherwise requires—

(a) The term "United Kingdom" means Great Britain and Northern Ireland, excluding the Channel Islands and the Isle of Man;

(b) The term "Norway" means the Kingdom of Norway, excluding Spitsbergen and Bear Island and Jan Mayen and the Norwegian dependencies outside Europe;

(c) The terms "one of the territories" and "the other territory" mean the United Kingdom or Norway, as the context requires;

(d) The term "tax" means United Kingdom tax or Norwegian tax, as the context requires;

(e) The term "person" includes any body of persons, corporate or not corporate;

(f) The term "company" means any body corporate;

(g) The terms "resident of the United Kingdom" and "resident of Norway" mean respectively any person who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident in Norway for the purposes of Norwegian tax, and any person who is resident in Norway for the purposes of Norwegian tax and not resident in the United Kingdom for the purposes of United Kingdom tax; a company shall be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom and as resident in Norway if its business is managed and controlled in Norway;

(h) The terms "resident of one of the territories" and "resident of the other territory" mean a person who is a resident of the United Kingdom or a person who is a resident of Norway, as the context requires;

(i) The terms "United Kingdom enterprise" and "Norwegian enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the United Kingdom and an industrial or commercial enterprise or undertaking carried on by a resident of Norway, and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a United Kingdom enterprise or a Norwegian enterprise, as the context requires;

(j) The term "industrial or commercial profits" includes rents or royalties in respect of cinematograph films;

(k) The term "permanent establishment," when used with respect to an enterprise of one of the territories, means a branch, management, factory, or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise

or has a stock of merchandise from which he regularly fills orders on its behalf. In this connection—

(i) An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bona fide* broker or general commission agent acting in the ordinary course of his business as such.

(ii) The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise.

(iii) The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

(2) Where under the present Convention any income is exempt from tax in one of the territories if (with or without other conditions) it is subject to tax in the other territory, and that income is subject to tax in that other territory by reference to the amount thereof which is remitted to or received in that other territory, the exemption to be allowed under this Convention in the first-mentioned territory shall apply only to the amount so remitted or received.

(3) In the application of the provisions of the present Convention by one of the Contracting Parties any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws in force in the territory of that party relating to the taxes which are the subject of the present Convention.

ARTICLE III.

(1) The industrial or commercial profits of a United Kingdom enterprise shall not be subject to Norwegian tax unless the enterprise carries on a trade or business in Norway through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by Norway, but only on so much of them as is attributable to that permanent establishment.

(2) The industrial or commercial profits of a Norwegian enterprise shall not be subject to United Kingdom tax unless the enterprise carries on a trade or business in the United Kingdom through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by the United Kingdom, but only on so much of them as is attributable to that permanent establishment.

(3) Where an enterprise of one of the territories carries on a trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent 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.

(4) Where an enterprise of one of the territories derives profits, under contracts concluded in that territory, from sales of goods or merchandise

stocked in a warehouse in the other territory for convenience of delivery and not for purposes of display, those profits shall not be attributed to a permanent establishment of the enterprise in that other territory, notwithstanding that the offers of purchase have been obtained by an agent in that other territory and transmitted by him to the enterprise for acceptance.

(5) No portion of any profits arising to an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of goods or merchandise within that other territory by the enterprise.

ARTICLE IV.

Where—

(a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory,

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 profit of that enterprise and taxed accordingly.

ARTICLE V.

Notwithstanding the provisions of Articles III and IV, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

ARTICLE VI.

(1) (a) Dividends paid by a company which is a resident of the United Kingdom to a resident of Norway, who is subject to tax in Norway in respect thereof and does not carry on a trade or business in the United Kingdom through a permanent establishment situated therein, shall be exempt from United Kingdom surtax.

(b) Norwegian tax on dividends paid by a company which is a resident of Norway to a resident of the United Kingdom, who is subject to tax in the United Kingdom in respect thereof and does not carry on trade or business in Norway through a permanent establishment situated therein, shall not exceed 5 per cent.

Provided that, where the resident of the United Kingdom is a company which controls, directly or indirectly, not less than 50 per cent, of the entire voting power of the company paying the dividends, the dividends shall be exempt from Norwegian tax.

(2) Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, there shall not be imposed in that other territory any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of an undistributed profits tax on undistributed profits of the company whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

ARTICLE VII.

(1) Any interest or royalty derived from sources within one of the territories by a resident of the other territory, who is subject to tax in that other territory in respect thereof and does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

(2) In this Article—

(a) The term "interest" includes interest on bonds, securities, notes, debentures or on any other form of indebtedness;

(b) The term "royalty" means any royalty or other amount paid as consideration for the use of, or for the privilege of using any copyright, patent, design, secret process or formula, trade mark or other like property but does not include any royalty or other amount paid in respect of the operation of a mine or quarry or of any other extraction of natural resources.

(3) Where any interest or royalty exceeds a fair and reasonable consideration in respect of the indebtedness or rights for which it is paid, the exemption provided by the present Article shall apply only to so much of the interest or royalty as represents such fair and reasonable consideration.

(4) Any capital sum derived from sources within one of the territories from the sale of patent rights by a resident of the other territory, who does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

ARTICLE VIII.

(1) Where under the provisions of the present Convention a resident of the United Kingdom is exempt or entitled to relief from Norwegian tax, similar exemption or relief shall be applied to the undivided estates of deceased persons in so far as one or more of the beneficiaries is a resident of the United Kingdom.

(2) Norwegian tax on the undivided estate of a deceased person shall, in so far as the income accrues to a beneficiary who is resident in the United Kingdom, be allowed as a credit under Article XVI.

ARTICLE IX.

(1) Remuneration, including pensions, paid by, or out of funds created by, one of the Contracting Parties to any individual in respect of services rendered to that Party in the discharge of governmental functions shall be exempt from tax in the territory of the other Contracting Party, unless the individual is a national of that other Party without being also a national of the first-mentioned Party.

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

ARTICLE X.

(1) An individual who is a resident of the United Kingdom shall be exempt from Norwegian tax on profits or remuneration in respect of personal (including professional) services performed within Norway in any year of assessment if—

(a) he is present within Norway for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a resident of the United Kingdom, and

(c) the profits or remuneration are subject to United Kingdom tax.

(2) An individual who is a resident of Norway shall be exempt from United Kingdom tax on profits or remuneration in respect of personal (including professional) services performed within the United Kingdom in any year of assessment, if—

(a) he is present within the United Kingdom for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a resident of Norway, and

(c) the profits or remuneration are subject to Norwegian tax.

(3) The provisions of this article shall not apply to the profits or remuneration of public entertainers such as theatre, motion picture or radio artistes, musicians and athletes.

ARTICLE XI.

A resident of one of the territories shall be exempt from tax in the other territory in respect of remuneration for services performed on ships or aircraft operating outside the other territory.

ARTICLE XII.

(1) Any pension (other than a pension of the kind referred to in paragraph (1) of Article IX) and any annuity, derived from sources within Norway by an individual who is a resident of the United Kingdom and subject to United Kingdom tax in respect thereof, shall be exempt from Norwegian tax.

(2) Any pension (other than a pension of the kind referred to in paragraph (1) of Article IX) and any annuity, derived from sources within the United Kingdom by an individual who is a resident of Norway and subject to Norwegian tax in respect thereof, shall be exempt from United Kingdom tax.

(3) 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 XIII.

A professor or teacher from one of the territories, who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college, school, or other educational institution in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

ARTICLE XIV.

A student or apprentice from one of the territories, who is receiving full-time education or training in the other territory, shall be exempt from tax in that other territory on payments made to him from abroad for the purposes of his maintenance, education or training.

ARTICLE XV.

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

(2) Individuals who are residents of the United Kingdom shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Norwegian tax as Norwegian nationals not resident in Norway.

ARTICLE XVI.

(1) Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax or tax payable in a territory outside the United Kingdom, Norwegian tax payable, whether directly or by deduction, in respect of income from sources within Norway shall be allowed as a credit against any United Kingdom tax payable in respect of that income.

Where such income is an ordinary dividend paid by a company resident in Norway, the credit shall take into account (in addition to any Norwegian tax appropriate to the dividend) the Norwegian tax payable by the company in respect of its profits; and, where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, the Norwegian tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate:

Provided that for the purposes of this paragraph of this Article, the credit to be allowed for Norwegian communal income tax shall not exceed one-half of the said communal income tax.

(2) Where United Kingdom tax is payable, whether directly or by deduction, in respect of income from sources within the United Kingdom and that income is chargeable also to Norwegian tax, the Norwegian tax payable by the person entitled to such income on his total income chargeable to Norwegian tax shall be reduced by an amount which bears the same proportion to that Norwegian tax as the income from sources within the United Kingdom bears to the said total income. Provided that the Norwegian Ministry of Finance and Customs may decide that the deduction shall not exceed the amount of the United Kingdom tax.

Where such income is an ordinary dividend paid by a company resident in the United Kingdom, the deduction, in the event that it is restricted to the amount of the United Kingdom tax, shall take into account (in addition to the United Kingdom tax appropriate to the dividend) the United Kingdom profits tax payable by the company in respect of its profits; and, where it is a dividend paid on participating preference shares and representing both a dividend at a fixed rate to which the shares are entitled and an additional participation in profits, the profits tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

(3) Where income is derived from sources outside both the United Kingdom and Norway by a person who is resident in the United Kingdom for the purposes of United Kingdom tax and also resident in Norway for the purposes of Norwegian tax, the income may be taxed in both countries (subject to any Convention which may exist between either of the Contracting Parties and the territory or territories from which the income is derived). A credit shall be allowed in accordance with paragraph (1) of this Article against any United Kingdom tax payable in respect of that income, equal to

P.N.
31 of 1958.
72 of 1959.

THE INCOME TAX (EXEMPTION OF CONTRACT OFFICERS) ORDER

made by the Governor in Council under sub-section (4) of section 9.

Citation.

1. This Order may be cited as the Income Tax (Exemption of Contract Officers) Order in Council.

Exemption of contract of officers in respect of gratuities.

2. Persons employed by the Sierra Leone Government on contract terms are hereby exempted from the provisions of section 27 of the Income Tax Ordinance in respect of gratuities payable to them on or after the 1st day of April, 1957, on account of such employment.

Exemption of contract officers employed by the West African Examinations Council in respect of gratuities.

3. Persons employed by the West African Examinations Council on contract terms in Sierra Leone are hereby exempted from the provisions of section 25 of the Income Tax Ordinance in respect of gratuities payable to them on or after the 1st day of April, 1957, on account of such employment.

P.N.
97 of 1950.

THE INCOME TAX (PENSION AND PROVIDENT FUND) RULES

made by the Commissioner under paragraph (h) of sub-section (1) of section 10.

Citation.

1. These rules may be cited as the Income Tax (Pension and Provident Fund) Rules.

Definitions.

2. In these rules, unless the context otherwise requires—

“approved fund” means a fund or part of a fund which has been and continues to be approved by the Commissioner in accordance with the provisions of these rules;

“employee” means an employee participating in a fund but does not include a personal or domestic servant, nor in relation to a company under the control of not more than five persons does it include any of such persons or their wives or husbands;

“employer” means a person carrying on a trade, business, profession or vocation or exercising any functions wholly or partly in Sierra Leone;

“ fund ” means a pension, provident or other society or fund;

“ Ordinance ” means the Income Tax Ordinance.

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3. (1) An application for the approval of a fund under paragraph (h) of sub-section (1) of section 10 of the Ordinance shall be made in writing by the Trustees of the fund to the Commissioner and shall be accompanied by a copy of the instrument under which the fund is established, and by two copies of the rules and regulations of the fund and of the accounts of the fund for the last year for which such accounts have been made up.

Application for approval of funds.

(2) The Trustees of the fund shall furnish to the Commissioner such further information as he may consider necessary to determine whether the fund shall be approved.

(3) Any application for approval of a fund for any year of assessment ending not later than the 31st day of March, 1951, shall be made before the 31st day of March, 1951, and any application for approval of a fund for any year of assessment ending after the 31st day of March, 1951, shall be made before the end of the year of assessment for which approval is sought.

(4) Subject to the provisions of sub-rule (5) of this rule approval given by the Commissioner for any year of assessment shall continue to have effect until the end of the year of assessment within which the Trustees give notice under the provisions of sub-rule (5) of rule 4, or until the date specified by the Commissioner in any notice given by him under sub-rule (3) of rule 4.

(5) If any alteration in the rules, regulations, constitution, objects or conditions of a fund are made at any time after the date of application for approval, the Trustees shall forthwith notify the Commissioner in writing of such alteration, and, in default of such notification, any approval given shall, unless the Commissioner otherwise orders, be deemed to have been withdrawn as from the date on which the alteration took effect.

4. (1) The Commissioner may approve, as a fund for the purposes of paragraph (h) of sub-section (1) of section 10 of the Ordinance either as to the whole or as to a part only—

Approval of funds by Commissioner.

(a) any pension scheme which, in his opinion, complies substantially with the conditions set out in the First Schedule hereto;

(b) any provident or other scheme which in his opinion complies substantially with the conditions set out in the Second Schedule hereto;

(c) any scheme falling within the provisions of the Third Schedule hereto.

(2) The Commissioner may at any time withdraw his approval of a fund which, in his opinion, no longer complies substantially with the conditions prescribed by these rules.

(3) The Commissioner shall give to an applicant, in writing, notice of his approval or of the withdrawal of his approval of any fund as from a date specified in such notice, or of his refusal to approve any fund.

(4) The Trustees of any approved fund may at any time give notice to the Commissioner of their desire that approval of the fund should be withdrawn whereupon the Commissioner shall give notice to such Trustees that the approval is withdrawn with effect from the 1st day of April next following the date of receipt of the Trustees' notice.

Return by employer of contributions to fund.

5. Where an employer deducts from the emoluments paid to an employee, or pays on behalf of that employee, any contributions to an approved fund, he shall include all such deductions or payments in the return which he is required, under the provisions of sub-section (2) of section 55 of the Ordinance, to prepare and deliver.

Form of accounts of approved fund.

6. The accounts of an approved fund shall be maintained in such form and for such periods, and shall contain such particulars as the Commissioner may direct.

Information to be supplied by Trustees of fund.

7. The Trustees of any fund approved under paragraphs (a) and (b) of sub-rule (1) of rule 4 shall, when required by notice from the Commissioner, within thirty days from the date of such notice send to the Commissioner—

(a) a return containing—

(i) the name and place of residence of every person resident in Sierra Leone in receipt of a pension or annuity from the fund, and, in the case of a fund established in Sierra Leone, the name and place of residence of every person wherever resident, in receipt of a pension or annuity from the fund, and

(ii) the amount of the pension or annuity payable to each such pensioner or annuitant;

(b) a copy of the accounts of the fund made up to the last date prior to the date of such notice to which such accounts have been made up; and

(c) such further information and particulars in connection with the fund as the Commissioner may require.

8. Nothing in these rules shall be deemed to limit the powers of the Commissioner under section 19 of the Ordinance.

Artificial or
fictitious
transactions.

FIRST SCHEDULE.

Rule 4 (i) (a)

(a) The fund is held under an irrevocable trust.

(b) The fund is established in connection with the carrying on of a trade, business, profession or vocation or the exercise of functions wholly or partly within Sierra Leone.

(c) The fund has for its sole purpose the provision of pensions or annuities for persons employed in connection with such trade, business, profession, vocation or functions, and for no persons other than such employees, on their retiring at a specified age, or on their becoming incapacitated at some earlier age, or, on the death of such persons, for their widows, children or dependants.

(d) The fund is mutually recognised by the employer and by the employee.

(e) The moneys forming the corpus of the fund are so invested that they are not available to the employer for the purposes of the trade, business, profession, vocation or functions in respect of which the fund is created.

(f) The employer shall have no lien on or right of recourse to any contributions once made, or to accumulations thereof.

(g) The employee is not entitled to withdraw any sum from the fund, save upon attaining the specified retiring age or upon ceasing to be employed at a date prior to retirement.

(h) The fund is not one under which the benefits are secured by policies or contracts with life insurance companies for life insurance or deferred annuities.

SECOND SCHEDULE.

Rule 4 (i) (b)

(a) The assets of the fund are vested in two or more Trustees under an irrevocable trust.

(b) The fund is established in connection with the carrying on of a trade, business, profession or vocation or the exercise of functions wholly or partly in Sierra Leone.

(c) Both the employees and the employer are contributors to the fund.

(d) The contributions of the employee are deducted by the employer from the remuneration payable to the employee and are credited to the employee's individual account in the fund.

(e) The annual contribution of the employer in respect of any employee does not exceed by more than 50 per cent. the amount of the annual contribution for the same year of that employee and is payable to the Trustees at intervals not exceeding one year.

(f) The assets of the fund consist of the contributions of the employer and of the employees, of the accumulations of such contributions, of interest

credited in respect of such contributions and accumulations, of donations received by the Trustees, of capital accretions arising from realisation of investments and of securities purchased therewith, and of no other sums.

(g) The moneys forming the corpus of the fund are so invested that they are not available to the employer for the purposes of the trade, business, profession, vocation or functions in respect of which the fund is created.

(h) The fund has for its sole purpose the accumulation of sums as specified in condition (f) for the benefit of employees but of no other persons upon retirement at an age specified in the regulations of the fund or upon leaving the employment prior to the specified age by reason of ill health such benefits being proportionate to the aggregate of the contributions made in respect of each employee by the employer and the employee, and of interest thereon.

(i) The employee is not entitled to withdraw any sum from the fund save upon attaining the specified retiring age or upon leaving the employment at a date prior to retirement.

(j) The employer shall have no lien on or right of recourse to the contributions once made of either the employer or the employee or to accumulations thereof.

Rule 4 (i) (c)

THIRD SCHEDULE.

Any scheme or fund constituted by statutory enactment of any Government which provides benefits similar to those provided by any fund capable of being approved under the First or the Second Schedule.

P.N.
2 of 1949.

INCOME TAX APPEALS RULES.

These rules are printed in the volume containing the Supreme Court Rules and all other Rules of Court.

P.N.
11 of 1955.

THE INCOME TAX (BOARD OF COMMISSIONERS) RULES

made by the Governor under section 65.

Citation.

1. These rules may be cited as the Income Tax (Board of Commissioners) Rules.

Definitions.

2. In these rules—

“accountant” means any person practising accountancy and employed by an appellant in that capacity;

“appellant” means a person appealing to the Board under the provisions of sub-section (1) of section 65 of the Income Tax Ordinance (hereinafter referred to as “the Ordinance”);

“the Board” means the Board of Commissioners appointed under the provisions of sub-section (1) of section 65 of the Ordinance;

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“Commissioner” bears the same meaning as is assigned to it in section 2 of the Ordinance;

“the secretary” means the secretary to the Board appointed under the provisions of sub-section (4) of section 65 of the Ordinance;

“solicitor” means a person for the time being authorised by and according to law to appear and act as a barrister and solicitor of the Supreme Court.

3. In all proceedings before the Board the appellant may be represented by a solicitor or an accountant and the Commissioner may be represented by a solicitor.

Parties may be represented.

4. (1) Within thirty days from the date of service upon the Commissioner of the notice of appeal given under the provisions of sub-section (6) of section 65 of the Ordinance, the appellant shall file one copy of his grounds of appeal with the secretary and shall attach to the grounds of appeal a copy of the assessment appealed against.

Filing of grounds of appeal.

(2) The grounds of appeal shall be signed by the appellant, his accountant or his solicitor, and shall contain a concise statement of the facts and of any points of law upon which the appellant intends to rely in support of his appeal. The grounds of appeal shall show clearly the income on which the appellant claims he should have been assessed.

(3) The grounds of appeal shall contain an address for service within the City of Freetown. If no address for service is given, the grounds of appeal shall not be accepted for filing.

5. Upon the filing of grounds of appeal, the secretary shall endorse thereon the date of such filing and the appeal shall be entered in a register of Income Tax Appeals to be kept for that purpose by the secretary.

Entry of appeal.

6. The secretary shall cause a copy of the grounds of appeal to be served upon the Commissioner.

Service on Commissioner.

Reply.

7. (1) Within fifteen days of the service on him of the grounds of appeal, the Commissioner shall file with the secretary his reply.

(2) The secretary shall cause a copy of the reply of the Commissioner to be served upon the appellant at least fifteen days before the date fixed for the hearing of the appeal.

Notice of hearing.

8. The secretary shall give fifteen days' notice in writing to the parties of the date fixed for the hearing of the appeal.

Method of making applications.

9. Any application to the Board under these rules shall be made in writing signed by the appellant or his solicitor or accountant and addressed to the Board through the secretary.

Appeal out of time.

10. If any person intends to apply to the Board for leave to appeal under the proviso to sub-section (6) of section 65 of the Ordinance he shall support his application by affidavit showing the cause which prevented him from giving notice of appeal within the period prescribed by the sub-section aforesaid, and shall serve a notice of his application with a copy of such affidavit on the Commissioner.

Modes of service of notice.

11. (1) After the appellant has given an address for service it shall be sufficient if, in lieu of serving him personally with any document intended for him, such document is sent by registered letter addressed to him at such address.

(2) An appellant may change his address for service by giving notice of his new address for service to the secretary and to the Commissioner.

(3) Service on the Commissioner shall be effected either personally or by registered letter addressed to him at his office.

DOUBLE TAXATION RELIEF ORDERS

made by the Governor in Council under the section formerly numbered 32A and now renumbered 35.

P.N.
22 of 1948.

THE UNITED KINGDOM.

INCOME TAX (DOUBLE TAXATION RELIEF) (UNITED KINGDOM) ORDER.

1. This Order may be cited as the Income Tax (Double Taxation Relief) (United Kingdom) Order in Council, 1948.

2. It is hereby declared—

(a) That the arrangements specified in the Arrangement set out in the Schedule to this Order have been made with the Government of the United Kingdom with a view to affording relief from double taxation in relation to tax and any tax of a similar character imposed by the laws of the United Kingdom; and

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

SCHEDULE.

Arrangements between Her Majesty's Government in the United Kingdom and the Government of Sierra Leone for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

1. The taxes which are the subject of this Arrangement are—

(a) In the United Kingdom:

The income tax (including sur-tax) and the profits tax (hereinafter referred to as "United Kingdom Tax").

(b) In Sierra Leone:

The income tax, the duty on profits charged under the Concessions Ordinance, the diamond industry profit tax, and the profits tax charged under the Tonkolili Agreement Ordinance (hereinafter referred to as "Colonial tax").

Cap. 121.

Cap. 202.

This Arrangement shall also apply to any other taxes of a substantially similar character imposed in the United Kingdom or Sierra Leone after this Arrangement has come into force.

2. (1) In this Arrangement, unless the context otherwise requires—

(a) The term "United Kingdom" means Great Britain and Northern Ireland, excluding the Channel Islands and the Isle of Man.

(b) The term "the Colony" means the Colony and Protectorate of Sierra Leone.

(c) The term "one of the territories" and "the other territory" mean the United Kingdom or the Colony, as the context requires.

(d) The term "tax" means United Kingdom tax or Colonial tax, as the context requires.

(e) The term "person" includes any body of persons, corporate or not corporate.

(f) The term "company" includes any body corporate.

(g) The terms "resident of the United Kingdom" and "resident of the Colony" mean respectively any person who is resident in the United Kingdom for the purposes of the United Kingdom tax and not resident in the Colony for the purposes of Colonial tax and any person who is resident in the Colony for the purposes of Colonial tax and not resident in the United Kingdom for the purposes of the United Kingdom tax; and a company shall be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom and as

resident in the Colony if its business is managed and controlled in the Colony.

(h) The terms "resident of one of the territories" and "resident of the other territory" mean a person who is a resident of the United Kingdom or a person who is a resident of the Colony, as the context requires.

(i) The terms "United Kingdom enterprise" and "Colonial enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the United Kingdom and an industrial or commercial enterprise or undertaking carried on by a resident of the Colony; and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a United Kingdom enterprise or a Colonial enterprise, as the context requires.

(j) The term "industrial or commercial profits" includes rentals in respect of cinematograph films.

(k) The term "permanent establishment", when used with respect to an enterprise of one of the territories, means a branch, management or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its behalf.

An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bona fide* broker or general commission agent acting in the ordinary course of his business as such.

The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise.

The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which is engaged in trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

(2) Where under this Arrangement any income is exempt from tax in one of the territories if (with or without other conditions) it is subject to tax in the other territory, and that income is subject to tax in that other territory by reference to the amount thereof which is remitted to or received in that other territory, the exemption to be allowed under this Arrangement in the first-mentioned territory shall apply only to the amount so remitted or received.

(3) In the application of the provisions of this Arrangement by the United Kingdom or the Colony, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of the United Kingdom, or, as the case may be, the Colony, relating to the taxes which are the subject of this Arrangement.

3. (1) The industrial or commercial profits of a United Kingdom enterprise shall not be subject to Colonial tax unless the enterprise is engaged in trade or business in the Colony through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by the

Colony but only on so much of them as is attributable to that permanent establishment.

(2) The industrial or commercial profits of a Colonial enterprise shall not be subject to United Kingdom tax unless the enterprise is engaged in trade or business in the United Kingdom through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by the United Kingdom, but only on so much of them as is attributable to that permanent establishment: Provided that nothing in this paragraph shall effect any provisions of the law of the United Kingdom regarding the imposition of excess profits tax and profits tax in the case of inter-connected companies.

(3) Where an enterprise of one of the territories is engaged in trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive from its activities in that other territory if it were an independent 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.

(4) No portion of any profits arising from the sale of goods or merchandise by an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase and transportation of the goods or merchandise within that other territory, and the mere purchase and transportation of goods or merchandise outside that other territory shall not prevent the attribution to the permanent establishment of the whole profits arising from the sale of the goods or merchandise through the permanent establishment.

4. Where—

(a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory, and

(c) 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.

5. Notwithstanding the provisions of paragraphs 3 and 4, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

6. (1) Dividends paid by a company resident in one of the territories to a resident of the other territory, who is subject to tax in that other territory in respect thereof and not engaged in trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from any tax in that first-mentioned territory which is chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company.

(2) Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, the Government of that other territory shall not impose any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, by reason of the fact that those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

7. (1) Any royalty derived from sources within one of the territories by a resident of the other territory, who is subject to tax in that other territory in respect thereof and is not engaged in trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory; but no exemption shall be allowed under this paragraph in respect of so much of any royalty as exceeds an amount which represents a fair and reasonable consideration for the rights for which the royalty is paid.

(2) In this paragraph the term "royalty" means any royalty or other amount paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trade-mark or other like property, but does not include a royalty or other amount paid in respect of the operation of a mine or quarry or of other extraction of natural resources.

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

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

9. (1) An individual who is a resident of the United Kingdom shall be exempt from Colonial tax on profits or remuneration in respect of personal (including professional) services performed within the Colony in any year of assessment if—

(a) he is present within the Colony for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a person resident in the United Kingdom, and

(c) the profits or remuneration are subject to United Kingdom tax.

(2) An individual who is a resident of the Colony shall be exempt from United Kingdom tax on profits or remuneration in respect of personal (including professional) services performed within the United Kingdom in any year of assessment if—

(a) he is present within the United Kingdom for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a person resident in the Colony, and

(c) the profits or remuneration are subject to Colonial tax.

(3) The provisions of this paragraph shall not apply to the profits or remuneration of public entertainers such as stage, motion picture or radio artists, musicians and athletes.

10. (1) Any pension (other than a pension paid by the Government of the Colony for services rendered to it in the discharge of governmental functions) and any annuity, derived from sources within the Colony by an individual who is a resident of the United Kingdom and subject to United Kingdom tax in respect thereof, shall be exempt from Colonial tax.

(2) Any pension (other than a pension paid by the Government of the United Kingdom for services rendered to it in the discharge of governmental functions) and any annuity, derived from sources within the United Kingdom by an individual who is a resident of the Colony and subject to Colonial tax in respect thereof, shall be exempt from United Kingdom tax.

(3) 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 consideration of money paid.

11. The remuneration derived by a professor or teacher who is ordinarily resident in one of the territories, for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall be exempt from tax in that other territory.

12. A student or business apprentice from one of the territories who is receiving full-time education or training in the other territory shall be exempt from tax in that other territory on payments made to him by persons in the first-mentioned territory for the purposes of his maintenance, education or training.

13. (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, Colonial tax payable, whether directly or by deduction, in respect of income from sources within the Colony shall be allowed as a credit against any United Kingdom tax payable in respect of that income.

(2) Subject to the provisions of the law of the Colony regarding the allowance as a credit against Colonial tax of tax payable in a territory outside the Colony, United Kingdom tax payable, whether directly or by deduction, in respect of income from sources within the United Kingdom shall be allowed as a credit against any Colonial tax payable in respect of that income. Where such income is an ordinary dividend paid by a company resident in the United Kingdom, the credit shall take into account (in addition to any United Kingdom income tax appropriate to the dividend) the United Kingdom profits tax payable by the company in respect of its profits, and where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, the profits tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

(3) For the purposes of this paragraph profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

14. (1) The taxation authorities of the United Kingdom and the Colony shall exchange such information (being information available under their respective taxation laws) as is necessary for carrying out the provisions of

this Arrangement 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 Arrangement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of this Arrangement. No information shall be exchanged which would disclose any trade secret or trade process.

(2) As used in this paragraph, the term "taxation authorities" means the Commissioners of Inland Revenue or their authorised representative in the case of the United Kingdom and the Commissioner for Income Tax or his authorised representative in the case of the Colony.

15. This Arrangement shall come into force on the date on which the last of all such things shall have been done in the United Kingdom and the Colony as are necessary to give the Arrangement the force of law in the United Kingdom and the Colony respectively, and shall thereupon have effect—

(a) in the United Kingdom, as respects income tax for the year of assessment beginning on the 6th day of April, 1946, and subsequent years; as respects surtax for the year of assessment beginning on the 6th day of April, 1945, and subsequent years; and as respects profits tax for any chargeable accounting period beginning on or after the 1st day of January, 1947, and for the unexpired portion of any chargeable accounting period current at that date;

(b) In the Colony, as respects, Colonial tax for the year of assessment beginning on the 1st day of April, 1946, and subsequent years.

16. This Arrangement shall continue in effect indefinitely but either of the Governments may, on or before the 30th day of September in any calendar year after the year 1947, give notice of termination to the other Government and, in such event, this Arrangement shall cease to be effective—

(a) in the United Kingdom as respects income tax for any year of assessment beginning on or after the 6th day of April in the calendar year next following that in which such notice is given; as respects surtax for any year of assessment beginning on or after the 6th day of April in the calendar year in which such notice is given; and as respects profits tax for any chargeable accounting period beginning on or after the 1st day of January in the calendar year next following that in which such notice is given and for the unexpired portion of any chargeable accounting period current at that date;

(b) in the Colony, as respects Colonial tax for any year of assessment beginning on or after the 1st day of April in the calendar year next following that in which such notice is given.



THE FEDERATION OF NIGERIA.

The Order which follows was made when the Federation of Nigeria was the Colony and Protectorate of Nigeria.

THE DOUBLE TAXATION RELIEF (NIGERIA) ORDER.

P.N.
26 of 1950.

1. This Order may be cited as the Double Taxation Relief (Nigeria) Order in Council, 1950.

2. It is hereby declared—

(a) That the arrangements specified in the Arrangement set out in the Schedule to this Order have been made with the Government of Nigeria with a view to affording relief from double taxation in relation to tax and any tax of a similar character imposed by the laws of Nigeria; and

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

SCHEDULE.

Arrangement between the Government of Nigeria and the Government of Sierra Leone for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

1. (1) The taxes which are the subject of this Arrangement are—

(a) In Nigeria:

The Income Tax (hereinafter referred to as "Nigerian tax").

(b) In Sierra Leone:

The Income Tax (hereinafter referred to as "Sierra Leone tax").

(2) This Arrangement shall also apply to any other taxes of a substantially similar character imposed in Nigeria or Sierra Leone after this arrangement has come into force.

2. (1) In this Arrangement, unless the context otherwise requires—

(a) The term "Nigeria" means the Colony and Protectorate of Nigeria, including the Cameroons under United Kingdom Trusteeship.

(b) The term "Sierra Leone" means the Colony and Protectorate of Sierra Leone.

(c) The terms "one of the territories" and "the other territory" mean Nigeria or Sierra Leone, as the context requires.

(d) The term "tax" means Nigerian tax or Sierra Leone tax, as the context requires.

(e) The term "person" includes any body of persons, corporate or not corporate.

(f) The term "company" includes any body corporate.

(g) The terms "resident of Nigeria" and "resident of Sierra Leone" mean respectively any person who is resident in Nigeria for the purposes of Nigerian tax and not resident in Sierra Leone for the purposes of Sierra Leone tax and any person who is resident in Sierra Leone for the purposes of Sierra Leone tax and not resident in Nigeria for the purposes of Nigerian tax; and a company shall be regarded as resident in Nigeria if its business is managed and controlled in Nigeria and as resident in Sierra Leone if its business is managed and controlled in Sierra Leone.

(h) The terms "resident of one of the territories" and "resident of the other territory" mean a person who is a resident of Nigeria or a person who is a resident of Sierra Leone as the context requires.

(i) The terms "Nigeria enterprise" and "Sierra Leone enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of Nigeria and an industrial or commercial enterprise or undertaking carried on by a resident of Sierra Leone; and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a Nigerian enterprise or a Sierra Leone enterprise, as the context requires.

(j) The term "industrial or commercial profits" includes rentals in respect of cinematograph films.

(k) The term "permanent establishment," when used with respect to an enterprise of one of the territories, means a branch, management or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its behalf.

An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bona fide* broker or general commission agent acting in the ordinary course of his business as such.

The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise.

The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which is engaged in trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

(2) Where under this Arrangement any income is exempt from tax in one of the territories if (with or without other conditions) it is subject to tax in the other territory, and that income is subject to tax in that other territory by reference to the amount thereof which is remitted to or received in that other territory, the exemption to be allowed under this Arrangement in the first-mentioned territory shall apply only to the amount so remitted or received.

(3) In the application of the provisions of this Arrangement by Nigeria or Sierra Leone, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of Nigeria or, as the case may be, Sierra Leone, relating to the taxes which are the subject of this Arrangement.

3. (1) The industrial or commercial profits of a Nigerian enterprise shall not be subject to Sierra Leone tax unless the enterprise is engaged in trade or business in Sierra Leone through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Sierra Leone but only on so much of them as is attributable to that permanent establishment.

(2) The industrial or commercial profits of a Sierra Leone enterprise shall not be subject to Nigerian tax unless the enterprise is engaged in trade or business in Nigeria through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Nigeria but only on so much of them as is attributable to that permanent establishment.

(3) Where an enterprise of one of the Territories is engaged in trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive from its activities in that other territory if it were an independent 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.

(4) No portion of any profits arising from the sale of goods or merchandise by an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase and transportation of the goods or merchandise within that other territory, and the mere purchase and transportation of goods or merchandise outside that other territory shall not prevent the attribution to the permanent establishment of the whole profit arising from the sale of the goods or merchandise through the permanent establishment.

4. Where—

(a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory, and

(c) 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.

5. Notwithstanding the provisions of paragraphs 3 and 4, profits which a resident of one of the territories derives from operating ships, aircraft or road transport vehicles shall be exempt from tax in the other territory.

6. (1) Dividends paid by a company resident in one of the territories to a resident of the other territory, who is subject to tax in that other territory in respect thereof and not engaged in trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from any tax in that first-mentioned territory which is chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company.

(2) Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, the Government of

that other territory shall not impose any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, by reason of the fact that those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

7. (1) Any royalty derived from sources within one of the territories by a resident of the other territory, who is subject to tax in that other territory in respect thereof and is not engaged in trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory but no exemption shall be allowed under this paragraph in respect of so much of any royalty as exceeds an amount which represents a fair and responsible consideration for the rights for which the royalty is paid.

(2) In this paragraph the term "royalty" means any royalty or other amount paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trade-mark, or other like property, but does not include a royalty or other amount paid in respect of the operation of a mine or quarry or of other extraction or natural resources.

8. (1) Remuneration, excluding pensions, paid by the Government of one of the territories or by an employer who is a resident of one of the territories and who has no permanent establishment in the other territory to any individual for services rendered to that Government or that employer in the discharge of functions of the Government or of the employer, shall be exempt from tax in the other territory if the individual is not resident in that other territory or is resident in that other territory solely for the purpose of rendering those services.

(2) In determining, for any period subsequent to the end of a period during which the individual was present in the other territory solely for the purpose of rendering governmental services, whether he is liable to tax in that other territory, the periods spent in that other territory solely for the purpose of rendering governmental services shall not be taken into consideration.

9. (1) An individual who is a resident of Nigeria shall be exempt from Sierra Leone tax on profits or remuneration in respect of personal (including professional) services performed within Sierra Leone in any year of assessment if—

(a) he is present within Sierra Leone for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a person resident in Nigeria, and

(c) the profits or remuneration are subject to Nigerian tax.

(2) An individual who is a resident of Sierra Leone shall be exempt from Nigerian tax on profits or remuneration in respect of personal (including professional) services performed within Nigeria in any year of assessment if—

(a) he is present within Nigeria for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a person resident in Sierra Leone, and

(c) the profits or remuneration are subject to Sierra Leone tax.

(3) The provisions of this paragraph shall not apply to the profits or remuneration of public entertainers such as stage, motion picture or radio artists, musicians and athletes.

10. (1) Any pension and any annuity, derived from sources within Sierra Leone by an individual who is a resident of Nigeria and subject to Sierra Leone tax in respect thereof, shall be exempt from Nigerian tax.

(2) Any pension and any annuity, derived from sources within Nigeria by an individual who is a resident of Sierra Leone and subject to Nigerian tax in respect thereof, shall be exempt from Sierra Leone tax.

(3) 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 consideration of money paid.

11. The remuneration derived by a professor or teacher who is ordinarily resident in one of the territories, for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall be exempt from tax in that other territory.

12. A student or business apprentice from one of the territories who is receiving full time education or training in the other territory shall be exempt from tax in that other territory on payments made to him by persons in the first-mentioned territory for the purposes of his maintenance, education or training and, in determining, for any period subsequent to the completion of such education or training, whether the individual is liable to tax in the other territory, any periods spent in the other territory for the purposes of education or training shall not be taken into consideration.

13. (1) Subject to the provisions of the law of Nigeria regarding the allowance as a credit against Nigerian tax of tax payable in a territory outside Nigeria, Sierra Leone tax payable, whether directly or by deduction, in respect of income from sources within Sierra Leone shall be allowed as a credit against any Nigerian tax payable in respect of that income.

(2) Subject to the provisions of the law of Sierra Leone regarding the allowance as a credit against Sierra Leone tax of tax payable in a territory outside Sierra Leone, Nigerian tax payable, whether directly or by deduction, in respect of income from sources within Nigeria shall be allowed as a credit against any Sierra Leone tax payable in respect of that income.

(3) For the purposes of this paragraph profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory and the services of an individual whose services are wholly or mainly performed in ships, aircraft or road transport vehicles operated by a resident of one of the territories shall be deemed to be performed in that territory.

14. (1) The taxation authorities of Nigeria and Sierra Leone shall exchange such information (being information available under their respective taxation laws) as is necessary for carrying out the provisions of this Arrangement 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 arrangement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of this Arrangement. No information shall be exchanged which would disclose any trade secret or trade process.

(2) As used in this paragraph, the term "taxation authorities" means the Commissioner of Income Tax as defined in section 2 of the Income Tax Ordinance, 1943.

Sierra Leone
No. 1 of 1943
Nigeria No.
29 of 1943.

15. This Arrangement shall come into force on the date on which the last of all such things shall have been done in Nigeria and Sierra Leone as are necessary to give the Arrangement the force of law in Nigeria and Sierra Leone respectively, and shall thereupon have effect for the year of assessment beginning on the first day of April, 1949 and subsequent years.

16. This Arrangement shall continue in effect indefinitely but either of the Governments may, on or before the thirtieth day of September in any calendar year after the year 1950, give notice of termination to the other Government and in such event, this arrangement shall cease to be effective for any year of assessment beginning on or after the first day of April in the calendar year next following that in which such notice is given.

GHANA.

*The Order which follows was made when Ghana was
the Gold Coast.*

R.N.
27 of 1950.

DOUBLE TAXATION RELIEF (GOLD COAST) ORDER.

1. This Order may be cited as the Double Taxation Relief (Gold Coast) Order in Council, 1950.

2. It is hereby declared—

(a) That the arrangements specified in the Arrangement set out in the Schedule to this Order have been made with the Government of the Gold Coast with a view to affording relief from double taxation in relation to tax and any tax of a similar character imposed by the laws of the Gold Coast; and

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

SCHEDULE.

Arrangement between the Government of the Gold Coast and the Government of Sierra Leone for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

1. (1) The taxes which are the subject of this Arrangement are—

(a) In the Gold Coast:

The Income Tax (hereinafter referred to as "Gold Coast tax").

(b) In Sierra Leone:

The Income Tax (hereinafter referred to as "Sierra Leone tax").

(2) This Arrangement shall also apply to any other taxes of a substantially similar character imposed in the Gold Coast or Sierra Leone after this arrangement has come into force.

2. (1) In this Arrangement, unless the context otherwise requires—

(a) The term “the Gold Coast” means the Gold Coast including Togoland under United Kingdom Trusteeship.

(b) The term “Sierra Leone” means the Colony and Protectorate of Sierra Leone.

(c) The terms “one of the territories” and “the other territory” mean the Gold Coast or Sierra Leone, as the context requires.

(d) The term “tax” means Gold Coast tax or Sierra Leone tax, as the context requires.

(e) The term “person” includes any body of persons, corporate or not corporate.

(f) The term “company” includes any body corporate.

(g) The terms “resident of the Gold Coast” and “resident of Sierra Leone” mean respectively any person who is resident in the Gold Coast for the purposes of Gold Coast tax and not resident in Sierra Leone for the purposes of Sierra Leone tax and any person who is resident in Sierra Leone for the purposes of Sierra Leone tax and not resident in the Gold Coast for the purposes of Gold Coast tax; and a company shall be regarded as resident in the Gold Coast if its business is managed and controlled in Gold Coast and as resident in Sierra Leone if its business is managed and controlled in Sierra Leone.

(h) The terms “resident of one of the territories” and “resident of the other territory” mean a person who is a resident of the Gold Coast or a person who is a resident of Sierra Leone as the context requires.

(i) The terms “Gold Coast enterprise” and “Sierra Leone enterprise” mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the Gold Coast and an industrial or commercial enterprise or undertaking carried on by a resident of Sierra Leone; and the terms “enterprise of one of the territories” and “enterprise of the other territory” mean a Gold Coast enterprise or a Sierra Leone enterprise, as the context requires.

(j) The term “industrial or commercial profits” includes rentals in respect of cinematograph films.

(k) The term “permanent establishment,” when used with respect to an enterprise of one of the territories, means a branch, management or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its behalf.

An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bona fide* broker or general commission agent acting in the ordinary course of his business as such.

The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise.

The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which is engaged in trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

(2) Where under this Arrangement any income is exempt from tax in one of the territories if (with or without other conditions) it is subject to tax in the other territory, and that income is subject to tax in that other territory by reference to the amount thereof which is remitted to or received in that other territory, the exemption to be allowed under this Arrangement in the first-mentioned territory shall apply only to the amount so remitted or received.

(3) In the application of the provisions of this Arrangement by the Gold Coast or Sierra Leone, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of the Gold Coast or, as the case may be, Sierra Leone, relating to the taxes which are the subject of this Arrangement.

3. (1) The industrial or commercial profits of a Gold Coast enterprise shall not be subject to Sierra Leone tax unless the enterprise is engaged in trade or business in Sierra Leone through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Sierra Leone but only on so much of them as is attributable to that permanent establishment.

(2) The industrial or commercial profits of a Sierra Leone enterprise shall not be subject to Gold Coast tax unless the enterprise is engaged in trade or business in the Gold Coast through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by the Gold Coast, but only on so much of them as is attributable to that permanent establishment.

(3) Where an enterprise of one of the territories is engaged in trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive from its activities in that other territory if it were an independent 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.

(4) No portion of any profits arising from the sale of goods or merchandise by an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase and transportation of the goods or merchandise within that other territory, and the mere purchase and transportation of goods or merchandise outside that other territory shall not prevent the attribution to the permanent establishment of the whole profit arising from the sale of the goods or merchandise through the permanent establishment.

4. Where—

(a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory, and

(c) 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 these 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.

5. Notwithstanding the provisions of paragraphs 3 and 4, profits which a resident of one of the territories derives from operating ships, aircraft or road transport vehicles shall be exempt from tax in the other territory.

6. (1) Dividends paid by a company resident in one of the territories to a resident of the other territory, who is subject to tax in that other territory in respect thereof and not engaged in trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from any tax in that first-mentioned territory which is chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company.

(2) Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, the Government of that other territory shall not impose any form of taxation, on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, by reason of the fact that those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

7. (1) Any royalty derived from sources within one of the territories by a resident of the other territory, who is subject to tax in that other territory in respect thereof and is not engaged in trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory but no exemption shall be allowed under this paragraph in respect of so much of any royalty as exceeds an amount which represents a fair and reasonable consideration for the rights for which the royalty is paid.

(2) In this paragraph the term "royalty" means any royalty or other amount paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trade-mark, or other like property, but does not include a royalty or other amount paid in respect of the operation of a mine or quarry or of other extraction or natural resources.

8. (1) Remuneration, excluding pensions, paid by the Government of one of the territories or by an employer who is a resident of one of the territories and who has no permanent establishment in the other territory to any individual for services rendered to that Government or that employer in the discharge of functions of the Government or of the employer, shall be exempt from tax in the other territory if the individual is not resident in that territory or is resident in other territory solely for the purpose of rendering those Services.

(2) In determining, for any period subsequent to the end of a period during which the individual was present in the other territory solely for the purpose of rendering governmental services, whether he is liable to tax in that other territory, the periods spent in that other territory solely for the purpose of rendering governmental services shall not be taken into consideration.

9. (1) An individual who is a resident of the Gold Coast shall be exempt from Sierra Leone tax on profits or remuneration in respect of personal (including professional) services performed within Sierra Leone in any year of assessment if—

(a) he is present within Sierra Leone for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a person resident in the Gold Coast, and

(c) the profits or remuneration are subject to Gold Coast tax.

(2) An individual who is a resident of Sierra Leone shall be exempt from Gold Coast tax on profits or remuneration in respect of personal (including professional) services performed within the Gold Coast in any year of assessment if—

(a) he is present within the Gold Coast for a period or periods not exceeding in the aggregate 183 days during that year and

(b) the services are performed for or on behalf of a person resident in Sierra Leone, and

(c) the profits or remuneration are subject to Sierra Leone tax.

(3) The provisions of this paragraph shall not apply to the profits or remuneration of public entertainers such as stage, motion picture or radio artists, musicians and athletes.

10. (1) Any pension and any annuity, derived from sources within Sierra Leone by an individual who is a resident of the Gold Coast and subject to Sierra Leone tax in respect thereof, shall be exempt from Gold Coast tax.

(2) Any pension and any annuity, derived from sources within the Gold Coast by an individual who is a resident of Sierra Leone and subject to Gold Coast tax in respect thereof, shall be exempt from Sierra Leone tax.

(3) 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 consideration of money paid.

11. The remuneration derived by a professor or teacher who is ordinarily resident in one of the territories, for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall be exempt from tax in that other territory.

12. A student or business apprentice from one of the territories who is receiving full time education or training in the other territory shall be exempt from tax in that other territory on payments made to him by persons in the first-mentioned territory for the purposes of his maintenance, education or training and, in determining, for any period subsequent to the completion of such education or training, whether the individual is liable to tax in the other territory, any periods spent in the other territory for the purposes of education or training shall not be taken into consideration.

13. (1) Subject to the provisions of the law of the Gold Coast regarding the allowance as a credit against Gold Coast tax or tax payable in a territory outside the Gold Coast, Sierra Leone tax payable, whether directly or by deduction, in respect of income from sources within Sierra Leone shall be allowed as a credit against any Gold Coast tax payable in respect of that income.

(2) Subject to the provisions of the law of Sierra Leone regarding the allowance as a credit against Sierra Leone tax of tax payable in a territory outside Sierra Leone, Gold Coast tax payable, whether directly or by deduction, in respect of income from sources within the Gold Coast shall be allowed as a credit against any Sierra Leone tax payable in respect of that income.

(3) For the purposes of this paragraph profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, and the services of an individual whose services are wholly or mainly performed in ships, aircraft or road transport vehicles operated by a resident of one of the territories shall be deemed to be performed in that territory.

14. (1) The taxation authorities of the Gold Coast and Sierra Leone shall exchange such information (being information available under their respective taxation laws) as is necessary for carrying out the provisions of this Arrangement 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 Arrangement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of this Arrangement. No information shall be exchanged which would disclose any trade secret or trade process.

(2) As used in this paragraph, the term "taxation authorities" means the Commissioner of Income Tax as defined in section 2 of the Income Tax Ordinance, 1943.

Sierra Leone
No. 1 of 1943
Gold Coast
No. 27 of
1943.

15. This Arrangement shall come into force on the date on which the last of all such things shall have been done in the Gold Coast and Sierra Leone as are necessary to give the Arrangement the force of law in the Gold Coast and Sierra Leone respectively, and shall thereupon have effect for the year of assessment beginning on the first day of April, 1949 and subsequent years.

16. This Arrangement shall continue in effect indefinitely but either of the Governments may, on or before the thirtieth day of September in any calendar year after the year 1950, give notice of termination to the other Government and, in such event, this arrangement shall cease to be effective for any year of assessment beginning on or after the first day of April in the calendar year next following that in which such notice is given.

THE COLONY AND PROTECTORATE OF THE GAMBIA.

THE DOUBLE TAXATION RELIEF (GAMBIA) ORDER.

P.N.
28 of 1950.

1. This Order may be cited as the Double Taxation Relief (Gambia) Order in Council, 1950.

2. It is hereby declared—

(a) That the arrangements specified in the Arrangement set out in the Schedule to this Order have been made with the Government of the Gambia with a view to affording relief from double taxation in relation to tax and any tax of a similar character imposed by the laws of the Gambia; and

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

SCHEDULE.

Arrangement between the Government of the Gambia and the Government of Sierra Leone for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

1. (1) The taxes which are the subject of this Arrangement are—

(a) In the Gambia:

The Income Tax (hereinafter referred to as “ Gambian tax ”).

(b) In Sierra Leone:

The Income Tax (hereinafter referred to as “ Sierra Leone tax ”).

(2) This Arrangement shall also apply to any other taxes of a substantially similar character imposed in the Gambia or Sierra Leone after this arrangement has come into force.

2. (1) In this Arrangement, unless the context otherwise requires—

(a) The term “ The Gambia ” means the Colony and Protectorate of the Gambia.

(b) The terms “ Sierra Leone ” means the Colony and Protectorate of Sierra Leone.

(c) The terms “ one of the territories ” and “ the other territory ” mean the Gambia or Sierra Leone, as the context requires.

(d) the term “ tax ” means Gambian tax or Sierra Leone tax, as the context requires.

(e) the term “ person ” includes any body of persons, corporate or not corporate.

(f) The term “ company ” includes any body corporate.

(g) The terms “ resident of the Gambia ” and “ resident of Sierra Leone ” mean respectively any person who is resident in the Gambia for the purposes of Gambian tax and not resident in Sierra Leone for the purposes of Sierra Leone tax and any person who is resident in Sierra Leone for the purposes of Sierra Leone tax and not resident in the Gambia for the purposes of Gambian tax; and a company shall be regarded as resident in the Gambia if its business is managed and controlled in the Gambia and as resident in Sierra Leone if its business is managed and controlled in Sierra Leone.

(h) The terms “ resident of one of the territories ” and “ resident of the other territory ” mean a person who is a resident of the Gambia or a person who is a resident of Sierra Leone as the context requires.

(i) The terms “ Gambian enterprise ” and “ Sierra Leone enterprise ” mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the Gambia and an industrial or commercial enterprise or undertaking carried on by a resident of Sierra Leone; and the terms “ enterprise of one of the territories ” and “ enterprise of the other territory ” mean a Gambian enterprise or a Sierra Leone enterprise, as the context requires.

(j) The term “ industrial or commercial profits ” includes rentals in respect of cinematograph films.

(k) The terms “ permanent establishment,” when used with respect to an enterprise of one of the territories, means a branch, management or other fixed place of business, but does not include an agency unless

the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its behalf.

An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bona fide* broker or general commission agent acting in the ordinary course of his business as such.

The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise.

The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which is engaged in trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

(2) Where under this Arrangement any income is exempt from tax in one of the territories if (with or without other conditions) it is subject to tax in the other territory, and that income is subject to tax in that other territory by reference to the amount thereof which is remitted to or received in that other territory, the exemption to be allowed under this Arrangement in the first-mentioned territory shall apply only to the amount so remitted or received.

(3) In the application of the provisions of this Arrangement by the Gambia or Sierra Leone, any terms not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of the Gambia or, as the case may be, Sierra Leone, relating to the taxes which are the subject of this Arrangement.

3. (1) The industrial or commercial profits of a Gambian enterprise shall not be subject to Sierra Leone tax unless the enterprise is engaged in trade or business in Sierra Leone through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Sierra Leone but only on so much of them as is attributable to that permanent establishment.

(2) The industrial or commercial profits of a Sierra Leone enterprise shall not be subject to Gambian tax unless the enterprise is engaged in trade or business in the Gambia through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by the Gambia but only on so much of them as is attributable to that permanent establishment.

(3) Where an enterprise of one of the territories is engaged in trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive from its activities in that other territory if it were an independent 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.

(4) No portion of any profits arising from the sale of goods or merchandise by an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere

purchase and transportation of the goods or merchandise within that other territory, and the mere purchase and transportation of goods or merchandise outside that other territory shall not prevent the attribution to the permanent establishment of the whole profit arising from the sale of the goods or merchandise through the permanent establishment.

4. Where—

(a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory, and

(c) 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.

5. Notwithstanding the provisions of paragraphs 3 and 4, profits which a resident of one of the territories derives from operating ships, aircraft or road transport vehicles shall be exempt from tax in the other territory.

6. (1) Dividends paid by a company resident in one of the territories to a resident of the other territory, who is subject to tax in that other territory in respect thereof and not engaged in trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from any tax in that first-mentioned territory which is chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company.

(2) Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, the Government of that other territory shall not impose any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, by reason of the fact that those dividends or undistributed profits represent in whole or in part, profits or income so derived.

7. (1) Any royalty derived from sources within one of the territories by a resident of the other territory, who is subject to tax in that other territory in respect thereof and is not engaged in trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory but no exemption shall be allowed under this paragraph in respect of so much of any royalty as exceeds an amount which represents a fair and reasonable consideration for the rights for which the royalty is paid.

(2) In this paragraph the term "royalty" means any royalty or other amount paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trade-mark, or other like property, but does not include a royalty or other amount paid in respect of the operation of a mine or quarry or of other extraction of natural resources.

8. (1) Remuneration, excluding pensions, paid by the Government of one of the territories or by an employer who is a resident of one of the territories and who has no permanent establishment in the other territory to any individual for services rendered to that Government or that employer in the discharge of functions of the Government or of the employer, shall be exempt from tax in the other territory if the individual is not resident in that other territory or is resident in that other territory solely for the purpose of rendering those services.

(2) In determining, for any period subsequent to the end of a period during which the individual was present in the other territory solely for the purpose of rendering governmental services, whether he is liable to tax in that other territory, the periods spent in that other territory solely for the purpose of rendering governmental services shall not be taken into consideration.

9. (1) An individual who is a resident of the Gambia shall be exempt from Sierra Leone tax on profits or remuneration in respect of personal (including professional) services performed within Sierra Leone in any year of assessment if—

(a) he is present within Sierra Leone for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a person resident in the Gambia, and

(c) the profits or remuneration are subject to Gambian tax.

(2) An individual who is a resident of Sierra Leone shall be exempt from Gambian tax on profits or remuneration in respect of personal (including professional) services performed within the Gambia in any year of assessment if—

(a) he is present within the Gambia for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a person resident in Sierra Leone, and

(c) the profits or remuneration are subject to Sierra Leone tax.

(3) The provisions of this paragraph shall not apply to the profits or remuneration of public entertainers such as stage, motion picture or radio artists, musicians and athletes.

10. (1) Any pension and any annuity, derived from sources within Sierra Leone by an individual who is a resident of the Gambia and subject to Sierra Leone tax in respect thereof, shall be exempt from Gambian tax.

(2) Any pension and any annuity, derived from sources within the Gambia by an individual who is a resident of Sierra Leone and subject to Gambian tax in respect thereof, shall be exempt from Sierra Leone tax.

(3) 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 consideration of money paid.

11. The remuneration derived by a professor or teacher who is ordinarily resident in one of the territories, for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall be exempt from tax in that other territory.

12. A student or business apprentice from one of the territories who is receiving full-time education or training in the other territory shall be exempt

from tax in that other territory on payments made to him by persons in the first-mentioned territory for the purposes of his maintenance, education or training and, in determining, for any period subsequent to the completion of such education or training, whether the individual is liable to tax in the other territory, any periods spent in the other territory for the purposes of education or training shall not be taken into consideration.

13. (1) Subject to the provisions of the law of the Gambia regarding the allowance as a credit against Gambian tax of tax payable in a territory outside the Gambia, Sierra Leone tax payable, whether directly or by deduction, in respect of income from sources within Sierra Leone shall be allowed as a credit against any Gambian tax payable in respect of that income.

(2) Subject to the provisions of the law of Sierra Leone regarding the allowance as a credit against Sierra Leone tax or tax payable in a territory outside Sierra Leone, Gambian tax payable, whether directly or by deduction in respect of income from sources within the Gambia shall be allowed as a credit against any Sierra Leone tax payable in respect of that income.

(3) For the purposes of this paragraph profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, and the services of an individual whose services are wholly or mainly performed in ships, aircraft or road transport vehicles operated by a resident of one of the territories shall be deemed to be performed in that territory.

14. (1) The taxation authorities of the Gambia and Sierra Leone shall exchange such information (being information available under their respective taxation laws) as is necessary for carrying out the provisions of this arrangement 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 Arrangement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of this Arrangement. No information shall be exchanged which would disclose any trade secret or trade process.

(2) As used in this paragraph, the term "taxation authorities" means the Commissioner of Income Tax as defined in section 2 of the Gambian Income Tax Ordinance, No. 26 of 1948, and in section 2 of the Sierra Leone Income Tax Ordinance, No. 1 of 1943.

15. This Arrangement shall come into force on the date on which the last of all such things shall have been done in the Gambia and Sierra Leone as are necessary to give the Arrangement the force of law in the Gambia and Sierra Leone respectively, and shall thereupon have effect—

(a) in the Gambia for the year of assessment beginning on the first day of January, 1949, and subsequent years;

(b) in Sierra Leone for the year of assessment beginning on the first day of April, 1949, and subsequent years.

16. This Arrangement shall continue in effect indefinitely but either of the Governments may, on or before the thirtieth day of September in any calendar year after the year 1950, give notice of termination to the other Government and, in such event, this arrangement shall cease to be effective—

(a) in the Gambia for any year of assessment beginning on or after the first day of January in the calendar year next following that in which such notice is given;

(b) in Sierra Leone for any year of assessment beginning on or after the first day of April in the calendar year next following that in which such notice is given.

THE DOMINION OF CANADA.

THE INCOME TAX (DOUBLE TAXATION RELIEF) (CANADA) ORDER.

P.N.
14 of 1953.

1. This Order may be cited as the Income Tax (Double Taxation Relief) (Canada) Order in Council, 1953.

2. It is hereby declared—

(a) that the arrangements specified in the arrangement set out in the Schedule to this Order have been made with the Government of Canada with a view to affording relief from double taxation in relation to income tax, and taxes of a similar character imposed by the laws of Canada; and

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

SCHEDULE.

ARRANGEMENT BETWEEN THE GOVERNMENT OF SIERRA LEONE
AND THE GOVERNMENT OF CANADA FOR THE AVOIDANCE
OF DOUBLE TAXATION AND THE PREVENTION OF
FISCAL EVASION WITH RESPECT TO
TAXES ON INCOME.

1. (1) The taxes which are the subject of this arrangement are—

(a) In Canada:

The income taxes, including surtaxes, and excess profits tax imposed by Canada (hereinafter referred to as "Canadian tax").

(b) In Sierra Leone:

The income tax (hereinafter referred to as "Sierra Leone tax").

(2) This arrangement shall also apply to any other taxes of a substantially similar character imposed in Canada or Sierra Leone after this arrangement has come into force.

2. (1) In this Arrangement, unless the context otherwise requires—

(a) The term "Sierra Leone" means the Colony and Protectorate of Sierra Leone.

(b) The term "Canada" means the Dominion of Canada.

(c) The terms "one of the territories" and "the other territory" mean Sierra Leone or Canada, as the context requires.

(d) The term "tax" means Sierra Leone tax or Canadian tax, as the context requires.

(e) The term "person" includes any body of persons, corporate or not corporate.

(f) The term "company" includes any body corporate.

(g) The terms "resident of Sierra Leone" and "resident of Canada" mean respectively any person who is resident in Sierra Leone for the purposes of Sierra Leone tax and not resident in Canada for the purposes of Canadian tax and any person who is resident in Canada for the purposes of Canadian tax and not resident in Sierra Leone for the purposes of Sierra Leone tax; and a company shall be regarded as resident in Sierra Leone if its business is managed and controlled in Sierra Leone and as resident in Canada if its business is managed and controlled in Canada.

(h) The terms "resident of one of the territories" and "resident of the other territory" mean a person who is a resident of Sierra Leone or a person who is a resident of Canada, as the context requires.

(i) The terms "Sierra Leone enterprise" and "Canadian enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of Canada; and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a Sierra Leone enterprise or a Canadian enterprise, as the context requires.

(j) The term "permanent establishment", when used with respect to an enterprise of one of the territories, means a branch or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its behalf.

An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bona fide* broker or general commission agent acting in the ordinary course of his business as such.

The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise.

The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which is engaged in trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

(2) The term "industrial or commercial profits", as used in this Arrangement, does not include income in the form of dividends, interest, rents or royalties, management charges, or remuneration for labour or personal services.

(3) In the application of the provisions of this Arrangement by Canada or Sierra Leone any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the law of Canada or Sierra Leone relating to the taxes which are the subject of this Arrangement.

3. (1) The industrial or commercial profits of a Sierra Leone enterprise shall not be subject to Canadian tax unless the enterprise is engaged in trade

or business in Canada through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Canada, but only on so much of them as is attributable to that permanent establishment.

(2) The industrial or commercial profits of a Canadian enterprise shall not be subject to Sierra Leone tax unless the enterprise is engaged in trade or business in Sierra Leone through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Sierra Leone, but only on so much of them as is attributable to that permanent establishment.

(3) Where an enterprise of one of the territories is engaged in trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to such permanent establishment the industrial or commercial profits which it might be expected to derive if it were an independent 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.

(4) No portion of any profits arising from the sale of goods or merchandise by an enterprise of one of the territories shall be deemed to arise in the other territory by reason of the mere purchase of the goods or merchandise within that other territory.

(5) Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, the Government of that other territory shall not impose any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, by reason of the fact that those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

4. Where—

(a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory, and

(c) 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.

5. Notwithstanding the provisions of paragraphs 3 and 4, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

6. (1) The rate of Canadian tax on income (other than earned income) derived from sources within Canada by a resident of Sierra Leone, who is subject to Sierra Leone tax in respect thereof and not engaged in trade or business in Canada through a permanent establishment situated therein, shall not exceed 15 per cent.

(2) Notwithstanding the provisions of the foregoing paragraph, dividends paid to a company which is a resident of Sierra Leone by a Canadian company,

all of whose shares (less directors' qualifying shares) which have under all circumstances full voting rights are beneficially owned by the former company, shall be exempt from Canadian tax:

Provided that exemption shall not be allowed if ordinarily more than one-quarter of the gross income of the Canadian company is derived from interest and dividends other than interest and dividends from any wholly-owned subsidiary company.

(3) Income (other than earned income) derived from sources within Sierra Leone by an individual who is a resident of Canada, subject to Canadian tax in respect of the income, and not engaged in trade or business in Sierra Leone through a permanent establishment situated therein, shall be exempt from Sierra Leone tax.

7. Copyright royalties and other like payments made in respect of the production or reproduction of any literary, dramatic, musical or artistic work (but not including rents or royalties in respect of motion picture films) and derived from sources within one of the territories by a resident of the other territory, who is liable to tax in that other territory in respect thereof and not engaged in trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

8. (1) Remuneration (other than pensions) paid by the Government of one of the territories to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from tax in the territory of the other Government if the individual is not ordinarily resident in that territory or is ordinarily resident in that territory solely for the purpose of rendering those services.

(2) Any pension paid by the Government of one of the territories to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from tax in the territory of the other Government, if immediately prior to the cessation of those services the remuneration therefor was exempt from tax in that territory, whether under sub-paragraph (1) of this paragraph or otherwise, or would have been exempt under that sub-paragraph if this Arrangement had been in force at the time when the remuneration was paid.

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

9. (1) An individual who is a resident of Sierra Leone shall be exempt from Canadian tax on profits or remuneration in respect of personal (including professional) services performed within Canada in any taxation year if—

(a) he is present within Canada for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a person resident in Sierra Leone, and

(c) the profits or remuneration are subject to Sierra Leone tax.

(2) An individual who is a resident of Canada shall be exempt from Sierra Leone tax on profits or remuneration in respect of personal (including professional) services performed within Sierra Leone in any year of assessment if—

(a) he is present within Sierra Leone for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a person resident in Canada, and

(c) the profits or remuneration are subject to Canadian tax.

(3) The provisions of this paragraph shall not apply to the profits or remuneration of public entertainers such as stage, motion picture or radio artists, musicians and athletes.

10. (1) Any pension (other than a pension paid by the Government of Canada for services rendered to it in the discharge of governmental functions) and any annuity, derived from sources within Canada by an individual who is a resident of Sierra Leone and subject to Sierra Leone tax in respect thereof, shall be exempt from Canadian tax.

(2) Any pension (other than a pension paid by the Government of Sierra Leone for services rendered to it in the discharge of governmental functions) and any annuity, derived from sources within Sierra Leone by an individual who is a resident of Canada and subject to Canadian tax in respect thereof, shall be exempt from Sierra Leone tax.

(3) 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 consideration of money paid.

11. A professor or teacher from one of the territories who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

12. A student or business apprentice from one of the territories who is receiving full-time education or training in the other territory shall be exempt from tax in that other territory on payments made to him by persons in the first-mentioned territory for the purposes of his maintenance, education or training.

13. (1) Subject to the provisions of the law of Sierra Leone regarding the allowance as a credit against Sierra Leone tax of tax payable in a territory outside Sierra Leone, Canadian tax payable in respect of income from sources within Canada shall be allowed as a credit against any Sierra Leone tax payable in respect of that income. Where such income is an ordinary dividend paid by a Canadian debtor, the credit shall take into account (in addition to any Canadian income tax chargeable directly or by deduction in respect of the dividend) the Canadian income tax payable in respect of its profits by the company paying the dividend, and where it is a dividend paid on participating preference shares and representing both a dividend at a fixed rate to which the shares are entitled and an additional participation in profits, the Canadian income tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

(2) For the purposes of the foregoing paragraph and of the aforesaid provisions of the law of Sierra Leone, so much of the tax chargeable under the law of Canada relating to excess profits tax as is chargeable otherwise than by reference to excess profits shall be treated as income tax and not as excess profits tax.

(3) Subject to the provisions of the law of Canada regarding the deduction from tax payable in Canada of tax paid in a territory outside Canada, Sierra Leone tax payable in respect of income from sources within Sierra Leone shall be deducted from any Canadian tax payable in respect of that income. Where such income is an ordinary dividend paid by a company resident in Sierra Leone, the deduction shall take into account (in addition to any Sierra Leone income tax appropriate to the dividend) the Sierra Leone contribution payable by the company in respect of its profits, and where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, the national defence contribution so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

(4) For the purposes of this paragraph, profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

14. (1) The taxation authorities of Canada and Sierra Leone shall exchange such information (being information available under the respective taxation laws) as is necessary for carrying out the provisions of this Arrangement 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 Arrangement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of this Arrangement. No information shall be exchanged which would disclose any trade secret or trade process.

(2) The taxation authorities of Canada and Sierra Leone may consult together as may be necessary for the purpose of carrying out the provisions of this Arrangement and, in particular, the provisions of paragraphs 3 and 4.

(3) As used in this paragraph, the term "taxation authorities" means, in the case of Canada, the Minister of National Revenue or his authorised representative; in the case of Sierra Leone, the Commissioner of Income Tax or his authorised representative.

15. This Arrangement shall come into force on the date on which the last of all such things shall have been done in Sierra Leone and Canada as are necessary to give the Arrangement the force of law in Sierra Leone and Canada respectively, and shall thereupon have effect—

(a) in Sierra Leone as respects income tax for the year of assessment beginning on the 1st day of April, 1951, and subsequent years.

(b) in Canada as respects income taxes, including surtaxes, for the taxation year 1951 and subsequent years, and as respects excess profits tax for any fiscal period beginning on or after the first day of January, 1951, and for the unexpired portion of any fiscal period current at that date.

16. This Arrangement shall continue in effect until terminated by the Government of the United Kingdom or the Government of Canada in accordance with an Agreement made between those Governments on the 5th day of June, 1946.

NEW ZEALAND.

THE INCOME TAX (DOUBLE TAXATION RELIEF)
(NEW ZEALAND) ORDER.

P.N.
15 of 1953.

1. This Order may be cited as the Income Tax (Double Taxation Relief) (New Zealand) Order in Council, 1953.

2. It is hereby declared—

(a) that the arrangements specified in the Arrangement set out in the Schedule to this Order have been made with the Government of New Zealand with a view to affording relief from double taxation in relation to tax imposed under the provisions of the Income Tax Ordinance, and taxes of a similar character imposed by the laws of New Zealand; and

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

SCHEDULE.

ARRANGEMENT BETWEEN THE GOVERNMENT OF SIERRA LEONE
AND THE GOVERNMENT OF NEW ZEALAND FOR THE
AVOIDANCE OF DOUBLE TAXATION AND THE
PREVENTION OF FISCAL EVASION WITH
RESPECT TO TAXES ON INCOME.

1. (1) The taxes which are the subject of this Arrangement are—

(a) In New Zealand :

The income tax and the social security charge (hereinafter referred to as "New Zealand tax").

(b) In Sierra Leone:

The income tax (hereinafter referred to as "Sierra Leone tax").

(2) This Arrangement shall also apply to any other taxes of a substantially similar character imposed in New Zealand or Sierra Leone after this Arrangement has come into force.

2. (1) In this Arrangement, unless the context otherwise requires—

(a) The term "Sierra Leone" means the Colony and Protectorate of Sierra Leone.

(b) The term "New Zealand" includes all islands and territories within the limits thereof for the time being, including the Cook Islands.

(c) The terms "one of the territories" and "the other territory" mean Sierra Leone or New Zealand, as the context requires.

(d) The term "tax" means Sierra Leone tax or New Zealand tax, as the context requires.

(e) The term "person" includes any body of persons, corporate or not corporate.

(f) The term "company" means any body corporate.

(g) The terms "resident of Sierra Leone" and "resident of New Zealand" mean respectively any person who is resident in Sierra Leone for the purposes of Sierra Leone tax and not resident in New Zealand for the purposes of New Zealand tax and any person who is resident in New Zealand for the purposes of New Zealand tax and not resident in Sierra Leone for the purposes of Sierra Leone tax; and a company shall be regarded as resident in Sierra Leone and not resident in New Zealand if its business is managed and controlled in Sierra Leone and as resident in New Zealand and not resident in Sierra Leone if its business is managed and controlled in New Zealand.

(h) The terms "resident of one of the territories" and "resident of the other territory" mean a person who is a resident of Sierra Leone or a person who is a resident of New Zealand, as the context requires.

(i) The terms "Sierra Leone enterprise" and "New Zealand enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of Sierra Leone and an industrial or commercial enterprise or undertaking carried on by a resident of New Zealand; and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a Sierra Leone enterprise or a New Zealand enterprise, as the context requires.

(j) The term "industrial or commercial enterprise or undertaking" includes an enterprise or undertaking engaged in mining, agricultural or pastoral activities, or in the business of banking, insurance, life insurance or dealing in investments, and the term "industrial or commercial profits" includes profits from such activities or business but does not include income in the form of dividends, interest, rents, royalties, management charges, or remuneration for personal services.

(k) The term "permanent establishment", when used with respect to an enterprise of one of the territories, means a branch, management, factory, mine, farm, or other fixed place of business, but does not include an agency in the other territory unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or regularly fills orders on its behalf from a stock of goods or merchandise in that other territory.

An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bona fide* broker or general commission agent acting in the ordinary course of his business as such and receiving remuneration in respect of those dealings at a rate not less than that customary in the class of business in question.

The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise.

The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which is engaged in trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

(2) The terms "New Zealand tax" and "Sierra Leone tax", as used in this Arrangement, do not include any tax payable in New Zealand or Sierra Leone which represents a penalty imposed under the law of New Zealand or Sierra Leone relating to the taxes which are the subject of this Arrangement.

(3) In the application of the provisions of this Arrangement by New Zealand or Sierra Leone any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of New Zealand, or, as the case may be, Sierra Leone, relating to the taxes which are the subject of this Arrangement.

3. (1) The industrial or commercial profits of a Sierra Leone enterprise shall not be subject to New Zealand tax unless the enterprise is engaged in trade or business in New Zealand through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by New Zealand, but only on so much of them as is attributable to that permanent establishment: Provided that nothing in this sub-paragraph shall affect any provisions of the law of New Zealand regarding the taxation of income from the business of insurance.

(2) The industrial or commercial profits of a New Zealand enterprise shall not be subject to Sierra Leone tax unless the enterprise is engaged in trade or business in the Colony through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Sierra Leone, but only on so much of them as is attributable to that permanent establishment.

(3) Where an enterprise of one of the territories is engaged in trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent enterprise engaged in the same or similar activities and its dealings with the enterprise of which it is a permanent establishment were dealings at arm's length with that enterprise or an independent enterprise; and the profits so attributed shall be deemed to be income derived from sources in that other territory.

If the information available to the taxation authority concerned is inadequate to determine the profits to be attributed to the permanent establishment, nothing in this sub-paragraph shall affect the application of the law of either territory in relation to the liability of the permanent establishment to pay tax on an amount determined by the exercise of a discretion or the making of an estimate by the taxation authority of that territory: Provided that such discretion shall be exercised or such estimate shall be made, so far as the information available to the taxation authority permits, in accordance with the principle stated in this sub-paragraph.

(4) Profits derived by an enterprise of one of the territories from sales, under contracts concluded in that territory, of goods or merchandise stocked in a warehouse in the other territory for convenience of delivery and not for purposes of display shall not be attributed to a permanent establishment of the enterprise in that other territory, notwithstanding that the offers of purchase have been obtained by an agent of the enterprise in that other territory and transmitted by him to the enterprise for acceptance.

(5) No portion of any profits arising from the sale of goods or merchandise by an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of the goods or merchandise within that other territory.

4. (1) Where—

(a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory and

(c) in either case conditions are operative between the two enterprises in their commercial or financial relations which differ from those which might be expected to operate between independent enterprises dealing at arm's length with one another.

then, if by reason of those conditions profits which might be expected to accrue to one of the enterprises do not accrue to that enterprise, there may be included in the profits of that enterprise the profits which would have accrued to it if it were an independent enterprise and its dealings with the other enterprise were dealings at arm's length with that enterprise or an independent enterprise.

(2) Profits included in the profits of an enterprise of one of the territories under sub-paragraph (1) of this paragraph shall be deemed to be income derived from sources in that territory and shall be taxed accordingly.

(3) If the information available to the taxation authority concerned is inadequate to determine, for the purposes of sub-paragraph (1) of this paragraph the profits which might be expected to accrue to an enterprise, nothing in that sub-paragraph shall affect the application of the law of either territory in relation to the liability of that enterprise to pay tax on an amount determined by the exercise of a discretion or the making of an estimate by the taxation authority of that territory: Provided that such discretion shall be exercised or such estimate shall be made, so far as the information available to the taxation authority permits, in accordance with the principle stated in that sub-paragraph.

5. Notwithstanding the provisions of paragraphs 3 and 4, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

6. (1) Dividends paid by a company resident in one of the territories to a resident of the other territory, who is subject to tax in that other territory in respect thereof and not engaged in trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from any tax in that first-mentioned territory which is chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company: Provided that dividends paid by a company resident in New Zealand to a person who is a resident of Sierra Leone may be included in that person's total income for the purposes of determining the amount of any New Zealand tax payable in respect of income of that person other than such dividends.

(2) Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, the Government of that other territory shall not impose any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, by reason of the fact that those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

7. (1) Any royalty derived from sources within one of the territories by a resident of the other territory, who is subject to tax in that other territory in respect thereof and not engaged in trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory but no exemption shall be allowed under this paragraph in respect of so much of any such royalty as exceeds an amount which represents a fair and reasonable consideration for the rights for which the royalty is paid.

(2) In this paragraph the term "royalty" means any royalty or other amount paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trade-mark, or other like property, but does not include royalties or other amounts paid in respect of the operation of mines or quarries or of the extraction or removal of timber or other natural resources or rents or royalties in respect of motion picture films.

8. (1) Remuneration (other than pensions) paid by the Government of one of the territories to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from tax in the territory of the other Government if the individual is not ordinarily resident in that territory or is ordinarily resident in that territory solely for the purpose of rendering those services.

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

9. (1) An individual who is a resident of Sierra Leone shall be exempt from New Zealand tax on profits or remuneration in respect of personal (including professional) services performed within New Zealand in any income year if—

(a) he is present within New Zealand for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a person resident in Sierra Leone, and

(c) the profits or remuneration are subject to Sierra Leone tax.

(2) An individual who is a resident of New Zealand shall be exempt from Sierra Leone tax on profits or remuneration in respect of personal (including professional) services performed within Sierra Leone in any year of assessment if—

(a) he is present within Sierra Leone for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a person resident in New Zealand, and

(c) the profits or remuneration are subject to New Zealand tax.

(3) The provisions of this paragraph shall not apply to the profits or remuneration of public entertainers such as stage, motion picture or radio artists, musicians and athletes.

10. (1) Any pension or annuity, derived from sources within one of the territories by an individual who is a resident of the other territory and liable to tax in that other territory in respect thereof, shall be exempt from tax in the first-mentioned territory.

(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 consideration of money paid.

11. A professor or teacher from one of the territories who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

12. A student or business or trade apprentice from one of the territories who is receiving full-time education or training in the other territory shall be exempt from tax in that other territory on payments made to him by persons in the first-mentioned territory for the purposes of his maintenance, education or training.

13. Income of a person who is a resident of Sierra Leone (other than dividends paid by a company resident in New Zealand) which is exempt from New Zealand tax under any provision of this Arrangement shall not be included in that person's total income for the purposes of determining the amount of any New Zealand tax payable in respect of income of that person which is assessable to New Zealand tax.

14. (1) Subject to the provisions of the law of Sierra Leone regarding the allowance as a credit against Sierra Leone tax of tax payable in a territory outside Sierra Leone, New Zealand tax payable, whether directly or by deduction, in respect of income from sources within New Zealand shall be allowed as a credit against any Sierra Leone tax payable in respect of that income. Where such income is an ordinary dividend paid by a company resident in New Zealand, the credit shall take into account the New Zealand tax payable in respect of its profits by the company paying the dividend, and where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, the New Zealand tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

For the purposes of this paragraph any amount which is included in a person's taxable income under any provision of the Law of New Zealand regarding the taxation of income from the business of insurance shall be deemed to be derived from sources in New Zealand.

(2) Where New Zealand tax is payable in respect of income derived from sources in Sierra Leone by a person who is a resident of New Zealand, being income in respect of which Sierra Leone tax is payable, whether directly or by deduction, the Sierra Leone tax so payable (reduced by the amount of any relief or repayment attributable to that income to which that person is entitled under the Law of Sierra Leone) shall, subject to such provisions (which shall not affect the general principle hereof) as may be enacted in New Zealand, be allowed as a credit against the New Zealand tax (other than the social security charge) payable in respect of that income:

Provided that where the income is a dividend paid by a company resident in Sierra Leone the credit shall be allowed only if the recipient elects for the purposes of this paragraph to have the amount of such dividend together with the Sierra Leone tax (as so reduced) included in his assessable income for the purposes of New Zealand tax.

(3) For the purposes of this paragraph profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

15. (1) The taxation authorities of New Zealand and Sierra Leone shall exchange such information (being information available under their respective taxation laws) as is necessary for carrying out the provisions of this Arrangement or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than persons (including a Court) concerned with the assessment or collection of, or the determination of appeals in relation to the taxes which are the subject of this Arrangement. No information shall be exchanged which would disclose any trade secret or trade process.

(2) As used in this paragraph, the term "taxation authorities" means, in the case of New Zealand, the Commissioner of Taxes or his authorised representative; in the case of Sierra Leone, the Commissioner of Income Tax or his authorised representative.

16. This Arrangement shall come into force on the date on which the last of all such things shall have been done in Sierra Leone and New Zealand as are necessary to give the Arrangement the force of law in Sierra Leone and New Zealand respectively, and shall thereupon have effect—

(a) in Sierra Leone as respects income tax for the year of assessment beginning on the 1st day of April, 1951, and subsequent years.

(b) in New Zealand, as respects income tax for the year of assessment beginning on the 1st day of April, 1951, and subsequent years; as respects social security charge on salaries and wages as from the 1st day of April, 1951; and as respects social security charge on income other than salaries and wages for the financial year beginning on the 1st day of April, 1950, and subsequent years.

17. This Arrangement shall continue in effect until terminated by the Government of the United Kingdom or the Government of New Zealand in accordance with an Agreement made between those Governments on the 27th day of May, 1947.

S.R. & O.
and S.I.
Vol. 10,
page 448.

SWEDEN.

THE INCOME TAX (DOUBLE TAXATION RELIEF) (SWEDEN) ORDERS.

P.N.
110 of 1954.

WHEREAS it is provided by sub-section (1) of section 32A of the Income Tax Ordinance that if the Governor in Council by Order declares that arrangements specified in the Order have been made with the Government of any territory outside Sierra Leone with a view to affording relief from Double

* Section 32A has been renumbered 35.

Taxation in relation to Income Tax and any tax of a similar character imposed by the laws of that territory and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to Income Tax notwithstanding anything in any enactment:

AND WHEREAS by a Convention dated the 30th day of March, 1949 between His Majesty in respect of the United Kingdom and His Majesty the King of Sweden, arrangements were made among other things for the avoidance of Double Taxation:

AND WHEREAS provision is made in the said Convention for the extension by means of an exchange of notes between the High Contracting Parties of the said Convention, subject to such modifications and conditions (including conditions as to termination) as may be specified in the exchange of notes, to any territory, for whose foreign relations the United Kingdom is responsible, which imposes taxes substantially similar in character to those which are the subject of the said Convention:

AND WHEREAS by a notification dated the 18th day of December, 1953, the said Convention with certain modifications was applied to Sierra Leone:

NOW, THEREFORE in exercise of the powers conferred upon the Governor in Council by sub-section (1) of the said section 32A, the following Order is hereby made—

1. This Order may be cited as the Income Tax (Double Taxation Relief) (Sweden) Order in Council, 1954.

2. It is hereby declared—

(a) that the arrangements specified in the First Schedule to this Order, as modified by the provisions of the Second Schedule to this Order have been made with the Government of Sweden;

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

* Section 32A has been renumbered 35.

FIRST SCHEDULE.

CONVENTION BETWEEN HIS MAJESTY IN RESPECT OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN
IRELAND AND HIS MAJESTY THE KING OF SWEDEN
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

London, 30th March, 1949

His Majesty the King of Great Britain, Northern Ireland and the British Dominions beyond the Seas and His Majesty the King of Sweden,

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

Have appointed for that purpose as their Plenipotentiaries:

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas:

For the United Kingdom of Great Britain and Northern Ireland:

Sir William Strang, K.C.B., K.C.M.G., M.B.E., Permanent Under-Secretary of State for Foreign Affairs;

His Majesty the King of Sweden;

His Excellency Monsieur Bo Gunnar Richardsson Hagglof, His Majesty's Ambassador Extraordinary and Plenipotentiary in London;

Who, having exhibited their respective full powers, found in good and due form, have agreed as follows—

ARTICLE I.

1. The taxes which are the subject of the present Convention are—

(a) In Sweden:

The State Income tax (including coupon tax) and the tax on the undistributed profits of companies (Ersattningskatt), and, for the purposes of Articles XXII, paragraph (3), and XXIII to XXV inclusive, the State capital tax (hereinafter referred to as "Swedish tax").

(b) In the United Kingdom of Great Britain and Northern Ireland:

The income tax (including surtax) and the profits tax (hereinafter referred to as "United Kingdom tax").

2. The present Convention shall also apply to any other taxes of a substantially similar character imposed in the United Kingdom or Sweden subsequently to the date of signature of the present Convention.

ARTICLE II.

1. In the present Convention, unless the context otherwise requires—

(a) The term "United Kingdom" means Great Britain and Northern Ireland, excluding the Channel Islands and the Isle of Man;

(b) The terms "one of the territories" and "the other territory" mean the United Kingdom or Sweden, as the context requires;

(c) The term "tax" means United Kingdom tax or Swedish tax, as the context requires;

(d) The term "person" includes any body of persons, corporate or not corporate;

(e) The term "company" means any body corporate;

(f) The terms "resident of the United Kingdom" and "resident of Sweden" mean respectively any person who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident in Sweden for the purposes of Swedish tax, and any person who is resident in Sweden for the purposes of Swedish tax and not resident in the United Kingdom for the purposes of United Kingdom tax; a company shall be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom and as resident in Sweden if it is incorporated under the laws of Sweden and its business is not managed and controlled in the United Kingdom, or if it is not so incorporated but its business is managed and controlled in Sweden;

(g) The terms "resident of one of the territories" and "resident of the other territory" mean a person who is a resident of the United Kingdom or a person who is a resident of Sweden, as the context requires;

(h) The terms "United Kingdom enterprise" and "Swedish enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the United Kingdom and an industrial or commercial enterprise or undertaking carried on by a resident of Sweden, and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a United Kingdom enterprise or a Swedish enterprise, as the context requires;

(i) The term "industrial or commercial profits" includes rents or royalties in respect of cinematograph films;

(j) The term "permanent establishment", when used with respect to an enterprise of one of the territories, means a branch, management, factory, or other fixed place of business, a mine, quarry or any other place of natural resources subject to exploitation. It also includes a place where building construction is carried on by contract for a period of at least one year, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of the enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. In this connection—

(i) An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bona fide* broker or general commission agent acting in the ordinary course of his business as such;

(ii) The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purpose of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise.

(iii) The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

2. Where under this Convention any income is exempt from tax in one of the territories if (with or without other conditions) it is subject to tax in the other territory, and that income is subject to tax in that other territory by reference to the amount thereof which is remitted to or received in that other territory, the exemption to be allowed under this Convention in the first-mentioned territory shall apply only to the amount so remitted or received.

3. In the application of the provisions of the present Convention by one of the High Contracting Parties any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws in force in the territory of that Party relating to the taxes which are the subject of the present Convention.

ARTICLE III.

1. The industrial or commercial profits of a United Kingdom enterprise shall not be subject to Swedish tax unless the enterprise carries on a trade or business in Sweden through a permanent establishment therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by Sweden, but only on so much of them as is attributable to that permanent establishment.

2. The industrial or commercial profits of a Swedish enterprise shall not be subject to United Kingdom tax unless the enterprise carries on a trade or business in the United Kingdom through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by the United Kingdom, but only on so much of them as is attributable to that permanent establishment.

3. Where an enterprise of one of the territories carries on a trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent 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.

4. Where an enterprise of one of the territories derives profits under contracts concluded in that territory, from sales of goods or merchandise stocked in a warehouse in the other territory for convenience of delivery and not for purposes of display, those profits shall not be attributed to a permanent establishment of the enterprise in that other territory.

5. No portion of any profits arising to an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of goods or merchandise within that other territory by the enterprise.

ARTICLE IV.

Where—

(a) an enterprise of one of the territories participates directly or indirectly in the management, control, or capital of an enterprise of the other territory; or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory;

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 V.

1. The industrial and commercial profits of a Swedish enterprise shall, so long as undistributed profits of United Kingdom enterprises are effectively charged to United Kingdom profits tax at a lower rate than distributed profits of such enterprises, be charged to United Kingdom profits tax only at that lower rate.

2. Where a company which is a resident of Sweden controls, directly or indirectly, not less than 50 per cent. of the entire voting power of a company which is a resident of the United Kingdom, distributions by the latter company to the former company shall be left out of account in computing United Kingdom profits tax effectively chargeable on the latter company at the rate appropriate to distributed profits.

ARTICLE VI.

Notwithstanding the provisions of Articles III, IV and V, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

ARTICLE VII.

1. (a) Dividends paid by a company which is a resident of the United Kingdom to a resident of Sweden, who is subject to tax in Sweden in respect thereof and does not carry on a trade or business in the United Kingdom through a permanent establishment situated therein, shall be exempt from United Kingdom surtax.

(b) The Swedish coupon tax on dividends paid by a company which is a resident of Sweden to a resident of the United Kingdom, who is subject to tax in the United Kingdom in respect thereof and does not carry on a trade or business in Sweden through a permanent establishment situated therein, shall not exceed 5 per cent.:

Provided that where the resident of the United Kingdom is a company which controls, directly or indirectly, not less than 50 per cent. of the entire voting power of the company paying the dividends, the dividends shall be exempt from coupon tax.

2. Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, there shall not be imposed in that other territory any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the

nature of undistributed profits tax on undistributed profits of the company whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

ARTICLE VIII

1. Any interest derived from sources within one of the territories by a resident of the other territory, who is subject to tax in that other territory in respect thereof and does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

2. In this article, the term "interest" includes interest on bonds, securities, notes, debentures or any other form of indebtedness.

3. Where any interest exceeds a fair and reasonable consideration in respect of the indebtedness for which it is paid, the exemption provided by the present Article shall apply only to so much of the interest as represents such fair and reasonable consideration.

ARTICLE IX

1. Any royalty derived from sources within one of the territories by a resident of the other territory, who is subject to tax in that other territory in respect thereof and does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

2. In this Article, the term "royalty" means any royalty or other amount paid as consideration for the use of, or for the privilege of using, any copyright, patent, design secret process or formula, trade-mark, or other like property, but does not include any royalty or other amount paid in respect of the operation of a mine or quarry or of any other extraction of natural resources.

3. Where any royalty exceeds a fair and reasonable consideration in respect of the rights for which it is paid, the exemption provided by the present Article shall apply only to so much of the royalty as represents such fair and reasonable consideration.

4. Any capital sum derived from sources within one of the territories from the sale of patent rights by a resident of the other territory, who does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

ARTICLE X

1. Income of whatever nature derived from real property within the territory of the United Kingdom (other than income from mortgages or bonds secured by real property) by a resident of Sweden who is subject to tax in the United Kingdom in respect thereof shall be exempt from tax in Sweden.

2. Any royalty or other amount paid in respect of the operation of a mine or quarry or of any other extraction of natural resources within the territory of the United Kingdom to a resident of Sweden, who is subject to tax in the United Kingdom in respect thereof, shall be exempt from tax in Sweden.

3. Swedish tax payable in respect of income of the kind referred to in the preceding paragraphs, derived from sources within Sweden by a resident of the United Kingdom who is liable to tax in the United Kingdom in respect

thereof, shall in accordance with Article XIX be allowed as a credit against the United Kingdom tax payable in respect of that income.

ARTICLE XI

1. Where under the provisions of this Convention a resident of the United Kingdom is exempt or entitled to relief from Swedish tax, similar exemption or relief shall be applied to the undivided estates of deceased persons in so far as one or more of the beneficiaries is a resident of the United Kingdom.

2. Swedish tax on the undivided estate of a deceased person shall, in so far as the income accrues to a beneficiary who is resident in the United Kingdom, be allowed as a credit under Article XIX.

ARTICLE XII

A resident of one of the territories who does not carry on a trade or business in the other territory through a permanent establishment situated therein shall be exempt in that other territory from any tax on gains from the sale, transfer, or exchange of capital assets.

ARTICLE XIII

1. Remuneration or pensions paid by, or out of funds created by, one of the High Contracting Parties to any individual in respect of services rendered to that Party in the discharge of governmental functions shall be exempt from tax in the territory of the other High Contracting Party unless the individual is a national of that other Party without being also a national of the first-mentioned Party.

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

ARTICLE XIV

1. An individual who is a resident of the United Kingdom shall be exempt from Swedish tax on profits or remuneration in respect of personal (including professional) services performed within Sweden in any year of assessment if—

(a) he is present within Sweden for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a resident of the United Kingdom, and

(c) the profits or remuneration are subject to United Kingdom tax.

2. An individual who is a resident of Sweden shall be exempt from United Kingdom tax on profits or remuneration in respect of personal (including professional) services performed within the United Kingdom in any year of assessment, if—

(a) he is present within the United Kingdom for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a resident of Sweden, and

(c) the profits or remuneration are subject to Swedish tax.

3. The provisions of this Article shall not apply to the profits or remuneration of public entertainers such as theatre, motion picture or radio artistes, musicians and athletes.

ARTICLE XV

1. Any pension (other than a pension of the kind referred to in paragraph 1 of Article XIII) and any annuity, derived from sources within Sweden by an individual who is a resident of the United Kingdom and subject to United Kingdom tax in respect thereof, shall be exempt from Swedish tax.

2. Any pension (other than a pension of the kind referred to in paragraph 1 of Article XIII) and any annuity, derived from sources within the United Kingdom by an individual who is a resident of Sweden and subject to Swedish tax in respect thereof, shall be exempt from United Kingdom tax.

3. 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 XVI

A professor or teacher from one of the territories, who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college or other establishment for further education in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

ARTICLE XVII

A student or business apprentice from one of the territories, who is receiving full-time education or training in the other territory, shall be exempt from tax in that other territory on payments made to him by persons in the first-mentioned territory for the purposes of his maintenance, education or training.

ARTICLE XVIII

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

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

ARTICLE XIX

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, Swedish tax payable under the laws of Sweden and in accordance with this Convention, whether directly or by deduction, in respect of income from sources within Sweden shall be allowed as a credit against any United Kingdom tax payable in respect of that income. Where such income is an ordinary dividend paid by a company which is a resident of Sweden the credit shall take into account (in addition to any Swedish tax appropriate to the dividend) the Swedish tax payable by the company in respect of its profits; and where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, the Swedish tax so payable by the Company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

2. Income from sources within the United Kingdom which under the laws of the United Kingdom and in accordance with this Convention is subject to tax in the United Kingdom either directly or by deduction shall be exempt from Swedish tax:

Provided that where such income is a dividend paid by a company being a resident of the United Kingdom to a person resident in Sweden, not being a company, whether or not he is also resident in the United Kingdom, Swedish tax may be charged on the amount of the dividend after deduction of United Kingdom income tax, but the amount of Swedish tax chargeable shall be reduced by a sum equal to 20 per cent. of the amount of the dividend so charged.

3. Where income is derived from sources outside both the United Kingdom and Sweden by a person who is resident in the United Kingdom for the purposes of United Kingdom tax and also resident in Sweden for the purposes of Swedish tax, the income may be taxed in both countries (subject to any Convention which may exist between either of the High Contracting Parties and the territory or territories from which the income is derived), but the Swedish tax on that income shall be limited to tax on the proportion of such income represented by the proportion which such person's income from sources in Sweden bears to the sum of his income from sources in Sweden and of his income from sources in the United Kingdom, and the United Kingdom tax on that income shall be reduced by a credit, in accordance with paragraph 1 of this Article, for the Swedish tax on the proportion of that income so computed.

4. The special tax payable in Sweden by public entertainers such as theatre and radio artistes, musicians and athletes (bevillningsavgift for vissa offentliga forestallningar) shall be regarded, for the purposes of this Article, as Swedish tax.

5. For the purposes of this Article, profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

6. The graduated rate of Swedish tax to be imposed on residents of Sweden may be calculated as though income exempted under this Convention were included in the amount of the total income.

ARTICLE XX

1. The taxation authorities of the High Contracting Parties shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

2. As used in this Article, the term "taxation authorities" means, in the case of the United Kingdom, the Commissioners of Inland Revenue; in the

case of Sweden, the Finance Ministry; and, in the case of any territory to which the present Convention is extended under Article XXIII, the competent authority for the administration in such territory of the taxes to which the present Convention applies.

ARTICLE XXI.

The following agreements between the United Kingdom and Sweden shall not have effect for any period for which the present Convention has effect, that is to say—

(a) the agreement dated 19th December, 1924,* for the reciprocal exemption from income tax in certain cases of profits accruing from the business of shipping;

(b) the agreement dated 6th July, 1931,† for the reciprocal exemption from taxes in certain cases of profits arising through agencies.

ARTICLE XXII.

1. The nationals of one of the High Contracting Parties shall not be subjected in the territory of the other High Contracting Party to any taxation or any requirement connected therewith which is other, higher, or more burdensome than the taxation and connected requirements to which the nationals of the latter Party are or may be subjected.

2. The enterprises of one of the territories shall not be subjected in the other territory, in respect of profits attributable to their permanent establishments in that other territory, to any taxation which is other, higher or more burdensome than the taxation to which the enterprises of that other territory are or may be subjected in respect of the like profits.

3. An individual or company being a resident of one of the territories shall not be subject to any tax on capital in the other territory which is other, higher or more burdensome than the tax on capital to which an individual or, as the case may be, a company, being a resident of that other territory is or may be subjected.

4. Nothing in paragraph 1 or paragraph 2 of this Article shall be construed as obliging one of the High Contracting Parties to grant to nationals of the other High Contracting Party who are not resident in the territory of the former Party the same personal allowances, reliefs and reductions for tax purposes as are granted to His own nationals.

5. In this Article the term "nationals" means—

(a) in relation to Sweden, all Swedish subjects and all legal persons, partnerships and associations deriving their status as such from the law in force in Sweden;

(b) in relation to the United Kingdom, all British subjects and British protected persons residing in the United Kingdom or any British territory to which the present Convention applies by reason of extension made under Article XXIII and all legal persons, partnerships and associations deriving their status as such from law in force in any British territory to which the present Convention applies.

6. In this Article the term "taxation" means taxes of every kind and description levied on behalf of any authority whatsoever.

Note—* "Treaty Series No. 11 (1925)," Comd. 2322.

† "Treaty Series No. 31 (1931)," Comd. 3923.

ARTICLE XXIII.

1. The present Convention may be extended, either in its entirety or with modifications, to any territory for whose foreign relations the United Kingdom is responsible and which imposes taxes substantially similar in character to those which are the subject of the present Convention, and 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 High Contracting Parties in notes to be exchanged for this purpose.

2. The termination in respect of Sweden or the United Kingdom of the present Convention under Article XXV shall, unless otherwise expressly agreed by both High Contracting Parties, terminate the application of the present Convention to any territory to which the Convention has been extended under this Article.

ARTICLE XXIV.

1. The present Convention shall be ratified by the High Contracting Parties. Ratification by His Majesty the King of Sweden shall be subject to the consent of the Riksdag.

2. The instruments of ratification shall be exchanged at Stockholm as soon as possible.

3. Upon exchange of ratifications the present Convention shall have effect—

(a) In Sweden:

as respects tax on income which is assessed in or after the calendar year beginning on 1st January, 1950, being income for which preliminary tax is payable during the period 1st March, 1949, to 28th February, 1950; or any succeeding period;

as respects coupon tax payable on or after 1st January, 1949;

as respects capital tax which is assessed in or after the calendar year beginning on 1st January, 1950.

(b) In the United Kingdom:

as respects income tax for any year of assessment beginning on or after 6th April, 1949;

as respects surtax for any year of assessment beginning on or after 6th April, 1948; and

as respects profits tax in respect of the following profits—

(i) profits arising in any chargeable accounting period beginning on or after 1st April, 1949;

(ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;

(iii) profits not so arising or attributable by reference to which income tax is, or but for the present Convention would be, chargeable for any year of assessment beginning on or after 6th April, 1949.

ARTICLE XXV.

The present Convention shall continue in effect indefinitely but either of the High Contracting Parties may, on or before 30th June in any calendar year not earlier than the year 1953, give to the other High Contracting Party, through diplomatic channels, written notice of termination and, in such event, the present Convention shall cease to be effective—

(a) In Sweden:

as respects tax on income for which preliminary tax is payable after the last day of February in the calendar year next following that in which the notice is given:

as respects coupon tax payable on or after 1st January in the calendar year next following that in which the notice is given;

as respects capital tax assessed in or after the second calendar year following that in which the notice is given.

(b) In the United Kingdom:

as respects income tax for any year of assessment beginning on or after 6th April in the calendar year next following that in which the notice is given;

as respects surtax for any year of assessment beginning on or after 6th April in the calendar year in which the notice is given; and

as respects profits tax in respect of the following profits—

(i) profits arising in any chargeable accounting period beginning on or after 1st April in the calendar year next following that in which the notice is given;

(ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;

(iii) profits not so arising or attributable by reference to which income tax is chargeable for any year of assessment beginning on or after 6th April in the next following calendar year.

In witness whereof the above-mentioned Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done at London, in duplicate, in the English and Swedish languages, both texts being equally authentic, on the thirtieth day of March, one thousand nine hundred and forty-nine.

(L.S.)

WILLIAM STRANG.

(L.S.)

GUNNAR HAGGLOF.

SECOND SCHEDULE.

APPLICATION—

1. (a) The provisions of the Convention incorporated in the First Schedule to this Order shall apply as modified below—

(i) as if the contracting parties were Sierra Leone and the Government of Sweden; and as if the tax concerned in the case of Sierra Leone were the Income Tax and the duty on profits charged under the Concessions Ordinance, 1931 and the Diamond Industry Profits Tax;

(ii) as if references to the date of signature were references to the 18th day of December, 1953.

(b) The extension shall have effect in Sierra Leone as respects tax for the year of assessment beginning in the calendar year next following the date of this Order and for subsequent years of assessment.

(c) The extension shall continue in effect indefinitely but may be terminated as respects Sierra Leone by written notice of termination given on or before the 30th June in any calendar year by either of the High Contracting Parties to the Convention to the other High Contracting Party through the diplomatic channel and in such event the extension shall cease to have effect in Sierra Leone as respects tax for the year of assessment beginning in the calendar year next following the date of such notice and for subsequent years of assessment.

MODIFICATIONS—

2. (a) In Article VII (1) of the Convention the words “ exempt from United Kingdom Surtax ” shall be understood for the purposes of this extension as though they read “ shall not be liable to tax in the territory at a rate in excess of the rate applicable to a company ”.

(b) Article VIII shall be deemed to be deleted.

DENMARK.

THE INCOME TAX (DOUBLE TAXATION RELIEF) (DENMARK) ORDER.

P.N.
129 of 1955.

* WHEREAS it is provided by sub-section (1) of section 32A of the Income Tax Ordinance that if the Governor in Council by Order declares that arrangements specified in the Order have been made with the Government of any territory outside Sierra Leone with a view to affording relief from Double Taxation in relation to Income Tax and any tax of a similar character imposed by the laws of that territory and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to Income Tax notwithstanding anything in any enactment:

AND WHEREAS by a Convention dated the 27th day of March, 1950, between the Government of the United Kingdom and the Government of Denmark, arrangements were made among other things for the avoidance of Double Taxation:

AND WHEREAS provision is made in the said Convention for the extension by means of an exchange of notes between the High Contracting Parties of the said Convention, subject to such modifications and conditions (including conditions as to

* Section 32A has been renumbered 35.

termination) as may be specified in the exchange of notes, to any territory, for whose international relations the United Kingdom is responsible, which imposes taxes substantially similar in character to those which are the subject of the said Convention:

AND WHEREAS by an Exchange of Notes dated respectively the 18th November and the 22nd December, 1954, the said Convention with certain modifications was applied to Sierra Leone:

NOW, THEREFORE, in exercise of the powers conferred upon the Governor in Council by sub-section (1) of the said section 32A, * the following Order is hereby made—

1. This Order may be cited as the Income Tax (Double Taxation Relief) (Denmark) Order in Council, 1955.

2. It is hereby declared—

(a) that the arrangements specified in the First Schedule to this Order, as modified by the provisions of the Second Schedule to this Order, have been made with the Government of Denmark;

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

FIRST SCHEDULE.

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

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Denmark,

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

Have appointed for that purpose as their Plenipotentiaries:

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

The Right Honourable Ernest Bevin, M.P., Principal Secretary of State for Foreign Affairs;

The Government of the Kingdom of Denmark:

His Excellency Count Eduard Reventlow, Ambassador Extraordinary and Plenipotentiary of Denmark in London;

Who, having exhibited their respective full powers, found in good and due form, have agreed as follows—

* Section 32A is renumbered 35.

ARTICLE I.

1. The taxes which are the subject of the present Convention are:

(a) In Denmark: The national income tax (including the extraordinary company tax) (hereinafter referred to as "Danish tax").

(b) In the United Kingdom of Great Britain and Northern Ireland: The income tax (including surtax) and the profits tax (hereinafter referred to as "United Kingdom tax").

2. The present Convention shall also apply to any other taxes of a substantially similar character imposed in Denmark or the United Kingdom subsequently to the date of signature of the present Convention.

ARTICLE II.

1. In the present Convention, unless the context otherwise requires:

(a) The term "United Kingdom" means Great Britain and Northern Ireland, excluding the Channel Islands and the Isle of Man;

(b) The term "Denmark" means the Kingdom of Denmark, excluding the Faroe Islands and Greenland;

(c) The terms "one of the territories" and "the other territory" mean the United Kingdom or Denmark, as the context requires;

(d) The term "tax" means United Kingdom tax or Danish tax, as the context requires;

(e) The term "person" includes any body of persons, corporate or not corporate;

(f) The term "company" means any body corporate;

(g) The terms "resident of the United Kingdom" and "resident of Denmark" mean respectively any person who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident in Denmark for the purposes of Danish tax, and any person who is resident in Denmark for the purposes of Danish tax and not resident in the United Kingdom for the purposes of United Kingdom tax; a company shall be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom and as resident in Denmark if its business is managed and controlled in Denmark;

(h) The terms "resident of one of the territories" and "resident of the other territory" mean a person who is a resident of the United Kingdom or a person who is a resident of Denmark, as the context requires;

(i) The terms "United Kingdom enterprise" and "Danish enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the United Kingdom and an industrial or commercial enterprise or undertaking carried on by a resident of Denmark, and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a United Kingdom enterprise or a Danish enterprise, as the context requires;

(j) The term "industrial or commercial profits" includes rents or royalties in respect of cinematograph films;

(k) The term "permanent establishment," when used with respect to an enterprise of one of the territories, means a branch, management, factory, or other fixed place of business, but does not include an agency

unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. In this connection—

(i) An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bona fide* broker or general commission agent acting in the ordinary course of his business as such;

(ii) The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise;

(iii) The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

2. Where under this Convention any income is exempt from tax in one of the territories if (with or without other conditions) it is subject to tax in the other territory, and that income is subject to tax in that other territory by reference only to the amount thereof which is remitted to or received in that other territory, the exemption to be allowed under this Convention in the first-mentioned territory shall apply only to the amount so remitted or received.

3. In the application of the provisions of the present Convention by one of the High Contracting Parties any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws in force in the territory of that Party relating to the taxes which are the subject of the present Convention.

ARTICLE III.

1. The industrial or commercial profits of a United Kingdom enterprise shall not be subject to Danish tax unless the enterprise carries on a trade or business in Denmark through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by Denmark, but only on so much of them as is attributable to that permanent establishment.

2. The industrial or commercial profits of a Danish enterprise shall not be subject to United Kingdom tax unless the enterprise carries on a trade or business in the United Kingdom through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by the United Kingdom, but only on so much of them as is attributable to that permanent establishment.

3. Where an enterprise of one of the territories carries on a trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent 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.

4. Where an enterprise of one of the territories derives profits, under contract concluded in that territory, from sales of goods or merchandise stocked in a warehouse in the other territory for convenience of delivery and not for purposes of display, those profits shall not be attributed to a permanent establishment of the enterprise in that other territory, notwithstanding that the offers of purchase have been obtained by an agent in that other territory and transmitted by him to the enterprise for acceptance.

5. No portion of any profits arising to an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of goods or merchandise within that other territory by the enterprise.

ARTICLE IV.

Where—

(a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory.

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 V.

1. The industrial and commercial profits of a company which is a resident of Denmark shall, so long as undistributed profits of United Kingdom enterprises are affectively charged to United Kingdom Profits Tax at a lower rate than distributed profits of such enterprises, be charged to United Kingdom Profits Tax only at that lower rate.

2. Where a company which is a resident of Denmark controls, directly or indirectly, not less than 50 per cent. of the entire voting power of a company which is a resident of the United Kingdom, distributions by the latter company to the former company shall be left out of account in computing United Kingdom Profits Tax effectively chargeable on the latter company at the rate appropriate to distributed profits.

3. If the industrial and commercial profits of a company which is a resident of the United Kingdom become chargeable to a form of Danish tax under which, in the case of companies which are residents of Denmark, the undistributed or undistributable income is charged to tax at a lower rate than the distributed or distributable income of such companies, these industrial and commercial profits shall be charged to Danish tax only at the lower rate.

4. Where a company which is a resident of the United Kingdom beneficially owns not less than 50 per cent. of the entire ordinary share capital of a company which is a resident of Denmark, distributed or distributable

income payable by the latter company to the former company shall be left out of account in computing the liability of the latter company to Danish tax at any higher rate appropriate to distributed or distributable income, and this shall apply, in particular, in computing the liability of the latter company to that part of the Danish extraordinary tax on companies known as Udbytterate.

ARTICLE VI.

1. Notwithstanding the provisions of Articles III, IV and V, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

2. The Agreement dated 18th December, 1924*, between the United Kingdom and Denmark for the reciprocal exemption from Income Tax in certain cases of profits accruing from the business of shipping shall not have effect for any year or period for which the present Convention has effect.

ARTICLE VII.

1. (a) Dividends paid by a company which is a resident of the United Kingdom to a resident of Denmark, who is subject to tax in Denmark in respect thereof and does not carry on a trade or business in the United Kingdom through a permanent establishment situated therein, shall be exempt from United Kingdom surtax.

(b) Dividends paid by a company which is a resident of Denmark to a resident of the United Kingdom, who is subject to tax in the United Kingdom in respect thereof and does not carry on a trade or business in Denmark through a permanent establishment situated therein, shall not be chargeable to tax in addition to the tax on the profits out of which the dividends are paid at a rate exceeding 5 per cent.: Provided that where the resident of the United Kingdom is a company which beneficially owns not less than 50 per cent. of the entire ordinary share capital of the company paying the dividends, the dividends shall be exempt from any such tax on dividends.

2. Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, there shall not be imposed in that other territory any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

ARTICLE VIII.

1. Any interest or royalty derived from sources within one of the territories by a resident of the other territory, who is subject to tax in that other territory in respect thereof and does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory; but no exemption shall be allowed in respect of interest paid by a company which is a resident of one of the territories to a company which is a resident of the other territory where the latter company controls, either directly or indirectly, more than 50 per cent. of the entire voting power of the former company.

2. In this Article—

(a) The term "interest" includes interest on bonds, securities, notes, debentures or on any other form of indebtedness;

* S.R. & O. 1925 (No. 102) p. 595.

(b) The term "royalty" means any royalty or other amount paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trade mark or other like property, but does not include any royalty or other amount paid in respect of the operation of a mine or quarry or of any other extraction of natural resources.

3. Where any interest or royalty exceeds a fair and reasonable consideration in respect of the indebtedness or rights for which it is paid, the exemption provided by the present Article shall apply only to so much of the interest or royalty as represents such fair and reasonable consideration.

4. Any capital sum derived from one of the territories from the sale of patent rights by a resident of the other territory, who does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

ARTICLE IX.

Income of whatever nature derived from real property within one of the territories (except interest on mortgages secured on real property) shall be chargeable to tax in accordance with the laws of that territory. Where the said income is also chargeable to tax in the other territory, credit for the tax payable in the first-mentioned territory shall be given against the tax payable on that income in the other territory in accordance with Article XVII.

ARTICLE X.

A resident of one of the territories who does not carry on a trade or business in the other territory through a permanent establishment situated therein shall be exempt in that other territory from any tax on gains from the sale, transfer, or exchange of capital assets.

ARTICLE XI.

1. Remuneration, including pensions, paid by, or out of funds created by, one of the High Contracting Parties to any individual in respect of services rendered to that Party in the discharge of governmental functions shall be exempt from tax in the territory of the other High Contracting Party, unless the individual is a national of that other Party without being also a national of the first-mentioned Party.

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

ARTICLE XII.

1. An individual who is a resident of the United Kingdom shall be exempt from Danish tax on profits or remuneration in respect of personal (including professional) services performed within Denmark in any year of assessment if—

(a) he is present within Denmark for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a resident of the United Kingdom, and

(c) the profits or remuneration are subject to United Kingdom tax.

2. An individual who is a resident of Denmark shall be exempt from United Kingdom tax on profits or remuneration in respect of personal

(including professional) services performed within the United Kingdom in any year of assessment, if—

(a) he is present within the United Kingdom for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a resident of Denmark, and

(c) the profits or remuneration are subject to Danish tax.

3. The provisions of this Article shall not apply to the profits or remuneration of public entertainers such as theatre, motion picture or radio artistes, musicians and athletes.

ARTICLE XIII.

1. Any pension (other than a pension of the kind referred to in paragraph 1 of Article XI) and any annuity, derived from sources within Denmark by an individual who is a resident of the United Kingdom and subject to United Kingdom tax in respect thereof, shall be exempt from Danish tax.

2. Any pension (other than a pension of the kind referred to in paragraph 1 of Article XI) and any annuity, derived from sources within the United Kingdom by an individual who is a resident of Denmark and subject to Danish tax in respect thereof, shall be exempt from United Kingdom tax.

3. 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 XIV.

A professor or teacher from one of the territories, who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

ARTICLE XV.

A student or business apprentice from one of the territories, who is receiving full-time education or training in the other territory, shall be exempt from tax in that other territory on payments made to him by persons in the first-mentioned territory for the purposes of his maintenance, education or training.

ARTICLE XVI.

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

2. Individuals who are residents of the United Kingdom shall be entitled to the same personal allowances and reliefs for the purposes of Danish tax as Danish nationals not resident in Denmark.

ARTICLE XVII.

1. The laws of the High Contracting Parties shall continue to govern the taxation of income arising in either of the territories, except where express provision to the contrary is made in this Convention. Where income is subject to tax in both territories, relief from double taxation shall be given in accordance with the following paragraphs—

2. 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, Danish tax payable, whether directly or by deduction, in respect of income from sources within Denmark shall be allowed as a credit against the United Kingdom tax payable in respect of that income. Where such income is an ordinary dividend paid by a company resident in Denmark, the credit shall take into account (in addition to any Danish tax appropriate to the dividend) the Danish tax payable by the company in respect of its profits; and, where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, the Danish tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

3. United Kingdom tax payable, whether directly or by deduction, in respect of income from sources within the United Kingdom shall be allowed as a deduction from the Danish tax payable in respect of that income: Provided that the amount of the deduction shall not exceed the proportion of the Danish tax which such income chargeable to Danish tax bears to the total income chargeable to Danish tax. For the purposes of this paragraph only, the expression "Danish tax" shall include the Danish inter-municipal income tax.

4. In the case of a person who is resident in the United Kingdom for the purposes of United Kingdom tax and is also resident in Denmark for the purposes of Danish tax, the provisions of paragraph 2 of this Article shall apply in relation to income which that person derives from sources within Denmark, and the provisions of paragraph 3 of this Article shall apply in relation to income which he derives from sources within the United Kingdom. If such person derives income from sources outside both the United Kingdom and Denmark, tax may be imposed on that income in both the territories (subject to the laws in force in the territories and to any Convention which may exist between either of the High Contracting Parties and the territory from which the income is derived). A credit shall be allowed in accordance with paragraph 2 of this Article against any United Kingdom tax payable in respect of that income, equal to that proportion of the United Kingdom tax or the Danish tax on that income, whichever is the less, which such person's income from sources within the United Kingdom bears to the sum of his income from sources within the United Kingdom and his income from sources within Denmark; and a deduction shall be allowed in accordance with paragraph 3 of this Article against any Danish tax payable in respect of that income equal to that proportion of the United Kingdom tax or the Danish tax on that income, whichever is the less, which such person's income from sources within Denmark bears to the sum of his income from sources within the United Kingdom and his income from sources within Denmark.

5. For the purposes of this Article, profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

ARTICLE XVIII.

1. The taxation authorities of the High Contracting Parties shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary



for carrying out the provisions of the present Convention or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

2. As used in this Article, the term "taxation authorities" means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representatives; in the case of Denmark, the Director-General of Taxation or his authorised representative; and, in the case of any territory to which the present Convention is extended under Article XX, the competent authority for the administration in such territory of the taxes to which the present Convention applies.

ARTICLE XIX.

1. The nationals of one of the High Contracting Parties shall not be subjected in the territory of the other High Contracting Party to any taxation or any requirement connected therewith which is other, higher, or more burdensome than the taxation and connected requirements to which the nationals of the latter Party are or may be subjected.

2. The enterprises of one of the territories, whether carried on by a company, a body of persons or by individuals alone or in partnership, shall not be subjected in the other territory, in respect of profits or capital attributable to their permanent establishments in that other territory, to any taxation which is other, higher or more burdensome than the taxation to which the enterprises of that other territory similarly carried on are or may be subjected in respect of the like profits or capital.

3. The income, profits and capital of an enterprise of one of the territories, the capital of which is wholly or partly owned or controlled, directly or indirectly, by a resident or residents of the other territory shall not be subjected in the first-mentioned territory to any taxation which is other, higher or more burdensome than the taxation to which other enterprises of that first-mentioned territory are or may be subjected in respect of the like income, profits and capital.

4. Nothing in paragraph 1 or paragraph 2 of this Article shall be construed as obliging one of the High Contracting Parties to grant to nationals of the other High Contracting Party who are not resident in the territory of the former Party the same personal allowances, reliefs and reductions for tax purposes as are granted to his own nationals.

5. In this Article the term "nationals" means—

(a) in relation to Denmark, all Danish citizens and all legal persons, partnerships, associations and other entities deriving their status as such from the law in force in Denmark or in any Danish territory to which the present Convention applies by reason of extension made under Article XX;

(b) in relation to the United Kingdom, all British subjects and British-protected persons residing in the United Kingdom or any British territory to which the present Convention applies by reason of extension made under Article XX, and all legal persons, partnerships, associations and other entities deriving their status as such from the law in force in any British territory to which the present Convention applies.

6. In this Article the term "taxation" means taxes of every kind and description levied on behalf of any authority whatsoever.

ARTICLE XX.

1. The present Convention may be extended, either in its entirety or with modifications, to any territory of one of the High Contracting Parties to which this Article applies and which imposes taxes substantially similar in character to those which are the subject of the present Convention, and 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 High Contracting Parties in notes to be exchanged for this purpose.

2. The termination in respect of Denmark or the United Kingdom of the present Convention under Article XXII shall, unless otherwise expressly agreed by both High Contracting Parties, terminate the application of the present Convention to any territory to which the Convention has been extended under this Article.

3. The territories to which this Article applies are:

(a) in relation to the United Kingdom: any territory other than the United Kingdom for whose international relations the United Kingdom is responsible;

(b) in relation to Denmark: any territory other than Denmark for whose international relations Denmark is responsible.

ARTICLE XXI.

1. The present Convention shall be ratified and the instruments of ratification shall be exchanged at London as soon as possible.

2. Upon exchange of ratifications the present Convention shall have effect—

(a) In the United Kingdom:

as respects income tax for any year of assessment beginning on or after the 6th April, 1949;

as respects surtax for any year of assessment beginning on or after the 6th April, 1948; and

as respects profits tax in respect of the following profits—

(i) profits arising in any chargeable accounting period beginning on or after the 1st April, 1949;

(ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;

(iii) profits not so arising or attributable by reference to which income tax is, or but for the present Convention would be, chargeable for any year of assessment beginning on or after the 6th April, 1949.

(b) In Denmark:

as respects Danish tax for any taxation year beginning on or after the 1st April, 1949.

ARTICLE XXII.

The present Convention shall continue in effect indefinitely but either of the High Contracting Parties may, on or before the 30th June in any calendar year not earlier than the year 1953, give to the other High Contracting Party, through diplomatic channels, written notice of termination and, in such event, the present Convention shall cease to be effective—

(a) In the United Kingdom:

as respects income tax for any year of assessment beginning on or after the 6th April in the calendar year next following that in which the notice is given;

as respects surtax for any year of assessment beginning on or after the 6th April in the calendar year in which the notice is given; and

as respects profits tax in respect of the following profits—

(i) profits arising in any chargeable accounting period beginning on or after the 1st April in the calendar year next following that in which the notice is given;

(ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;

(iii) profits not so arising or attributable by reference to which income tax is chargeable for any year of assessment beginning on or after the 6th April in the next following calendar year.

(b) In Denmark:

as respects Danish tax for any taxation year beginning on or after the 1st April in the calendar year next following that in which the notice is given.

In witness whereof the above-mentioned Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done at London in duplicate, in the English and Danish languages, both texts being equally authentic, on the twenty-seventh day of March, one thousand nine hundred and fifty.

(L.S.)

ERNEST BEVIN.

(L.S.)

E. REVENTLOW.

SECOND SCHEDULE.

Application—

1. (a) The provisions of the Convention incorporated in the First Schedule to this Order shall apply as modified below—

(i) as if the Contracting Parties were Sierra Leone and the Government of Denmark;

(ii) as if the tax concerned in the case of Sierra Leone were the Income tax and the duty on profits charged under the Concessions Ordinance, 1931, and the Diamond Industry Profits Tax;

(iii) as if the taxes concerned in the case of Denmark included the Defence Tax;

(iv) as if references to the date of signature were references to the 22nd day of December, 1954;

(v) as if references to the 6th day of April were references to the 1st day of April;

(b) The extension shall have effect in Sierra Leone as respects tax for the year of assessment 1954-55 and for subsequent years of assessment, (and will have effect in Denmark as respects Danish tax for any taxation year beginning on or after the first day of April, 1954).

(c) The extension shall continue in effect indefinitely but may be terminated as respects Sierra Leone by written notice of termination given on or before the 30th June in any calendar year not earlier than the year 1957 by either of the High Contracting Parties to the Convention to the other High Contracting Party through the diplomatic channel and in such event the extension shall cease to have effect in Sierra Leone as respects tax for the year of assessment beginning in the calendar year next following the date of such notice and for subsequent years of assessment, (and will cease to have effect in Denmark as respects Danish tax for any taxation year beginning on or after the first day of April in the calendar year next following that in which the notice is given).

Modifications—

2. (a) In Article VII (1) of the Convention the words "exempt from United Kingdom Surtax" shall be understood for the purposes of this extension as though they read "shall not be liable to tax in the territory at a rate in excess of the rate applicable to a company".

(b) In Articles VIII and IX all references to interest shall be deemed to be deleted.

NORWAY.

THE INCOME TAX (DOUBLE TAXATION RELIEF) (NORWAY) ORDER.

P.N.
160 of 1957.

* WHEREAS it is provided by sub-section (1) of section 32A of the Income Tax Ordinance that if the Governor in Council by Order declares that arrangements specified in the Order have been made with the Government of any territory outside Sierra Leone with a view to affording relief from Double Taxation in relation to Income Tax and any tax of a similar character imposed by the laws of that territory and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to Income Tax notwithstanding anything in any enactment:

AND WHEREAS by a Convention dated the 2nd day of May, 1951, between the Government of the United Kingdom and the Government of Norway, arrangements were made among other things for the avoidance of Double Taxation:

*Section 32A is renumbered 35.

AND WHEREAS provision is made in the said Convention for the extension by means of an exchange of notes between the Contracting Parties of the said Convention, subject to such modifications and conditions (including conditions as to termination) as may be specified in the exchange of notes, to any territory, for whose international relations the United Kingdom is responsible, which imposes taxes substantially similar in character to those which are the subject of the said Convention:

AND WHEREAS by an Exchange of Notes dated the 18th day of May, 1955, the said Convention with certain modifications was applied to Sierra Leone:

NOW THEREFORE, in exercise of the powers conferred upon the Governor in Council by sub-section (1) of the said section 32A, * the following Order is hereby made—

1. This Order may be cited as the Income Tax (Double Taxation Relief) (Norway) Order in Council, 1957.

2. It is hereby declared—

(a) that the arrangements specified in the First Schedule to this Order, as modified by the provisions of the Second Schedule of this Order, have been made with the Government of Norway;

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

FIRST SCHEDULE.

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM AND THE
NORWEGIAN GOVERNMENT FOR THE AVOIDANCE OF DOUBLE
TAXATION AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME.

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Norway,

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

Have agreed as follows—

ARTICLE I.

(1) The taxes which are the subject of the present Convention are—

(a) In Norway:

The national income tax, including the national defence tax on income, the communal income tax, the old age pension tax, the war pension tax, and the seamen's tax, and, for the purposes of Article XIX, the national property

* Section 32A is renumbered 35.

tax, including the national defence tax on property (hereinafter referred to as "Norwegian tax");

(b) In the United Kingdom of Great Britain and Northern Ireland:

The income tax (including surtax) and the profits tax (hereinafter referred to as "United Kingdom tax").

(2) The present Convention shall also apply to any other taxes of a substantially similar character imposed in Norway or the United Kingdom subsequently to the date of signature of the present Convention.

ARTICLE II.

(1) In the present Convention, unless the context otherwise requires—

(a) The term "United Kingdom" means Great Britain and Northern Ireland, excluding the Channel Islands and the Isle of Man;

(b) The term "Norway" means the Kingdom of Norway, excluding Spitsbergen and Bear Island and Jan Mayen and the Norwegian dependencies outside Europe;

(c) The terms "one of the territories" and "the other territory" mean the United Kingdom or Norway, as the context requires;

(d) The term "tax" means United Kingdom tax or Norwegian tax, as the context requires;

(e) The term "person" includes any body of persons, corporate or not corporate;

(f) The term "company" means any body corporate;

(g) The terms "resident of the United Kingdom" and "resident of Norway" mean respectively any person who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident in Norway for the purposes of Norwegian tax, and any person who is resident in Norway for the purposes of Norwegian tax and not resident in the United Kingdom for the purposes of United Kingdom tax; a company shall be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom and as resident in Norway if its business is managed and controlled in Norway;

(h) The terms "resident of one of the territories" and "resident of the other territory" mean a person who is a resident of the United Kingdom or a person who is a resident of Norway, as the context requires;

(i) The terms "United Kingdom enterprise" and "Norwegian enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the United Kingdom and an industrial or commercial enterprise or undertaking carried on by a resident of Norway, and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a United Kingdom enterprise or a Norwegian enterprise, as the context requires;

(j) The term "industrial or commercial profits" includes rents or royalties in respect of cinematograph films;

(k) The term "permanent establishment," when used with respect to an enterprise of one of the territories, means a branch, management, factory, or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise

or has a stock of merchandise from which he regularly fills orders on its behalf. In this connection—

(i) An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bona fide* broker or general commission agent acting in the ordinary course of his business as such.

(ii) The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise.

(iii) The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

(2) Where under the present Convention any income is exempt from tax in one of the territories if (with or without other conditions) it is subject to tax in the other territory, and that income is subject to tax in that other territory by reference to the amount thereof which is remitted to or received in that other territory, the exemption to be allowed under this Convention in the first-mentioned territory shall apply only to the amount so remitted or received.

(3) In the application of the provisions of the present Convention by one of the Contracting Parties any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws in force in the territory of that party relating to the taxes which are the subject of the present Convention.

ARTICLE III.

(1) The industrial or commercial profits of a United Kingdom enterprise shall not be subject to Norwegian tax unless the enterprise carries on a trade or business in Norway through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by Norway, but only on so much of them as is attributable to that permanent establishment.

(2) The industrial or commercial profits of a Norwegian enterprise shall not be subject to United Kingdom tax unless the enterprise carries on a trade or business in the United Kingdom through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by the United Kingdom, but only on so much of them as is attributable to that permanent establishment.

(3) Where an enterprise of one of the territories carries on a trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent 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.

(4) Where an enterprise of one of the territories derives profits, under contracts concluded in that territory, from sales of goods or merchandise

stocked in a warehouse in the other territory for convenience of delivery and not for purposes of display, those profits shall not be attributed to a permanent establishment of the enterprise in that other territory, notwithstanding that the offers of purchase have been obtained by an agent in that other territory and transmitted by him to the enterprise for acceptance.

(5) No portion of any profits arising to an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of goods or merchandise within that other territory by the enterprise.

ARTICLE IV.

Where—

(a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory,

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 profit of that enterprise and taxed accordingly.

ARTICLE V.

Notwithstanding the provisions of Articles III and IV, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

ARTICLE VI.

(1) (a) Dividends paid by a company which is a resident of the United Kingdom to a resident of Norway, who is subject to tax in Norway in respect thereof and does not carry on a trade or business in the United Kingdom through a permanent establishment situated therein, shall be exempt from United Kingdom surtax.

(b) Norwegian tax on dividends paid by a company which is a resident of Norway to a resident of the United Kingdom, who is subject to tax in the United Kingdom in respect thereof and does not carry on trade or business in Norway through a permanent establishment situated therein, shall not exceed 5 per cent.

Provided that, where the resident of the United Kingdom is a company which controls, directly or indirectly, not less than 50 per cent. of the entire voting power of the company paying the dividends, the dividends shall be exempt from Norwegian tax.

(2) Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, there shall not be imposed in that other territory any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of an undistributed profits tax on undistributed profits of the company whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

ARTICLE VII.

(1) Any interest or royalty derived from sources within one of the territories by a resident of the other territory, who is subject to tax in that other territory in respect thereof and does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

(2) In this Article—

(a) The term "interest" includes interest on bonds, securities, notes, debentures or on any other form of indebtedness;

(b) The term "royalty" means any royalty or other amount paid as consideration for the use of, or for the privilege of using any copyright, patent, design, secret process or formula, trade mark or other like property but does not include any royalty or other amount paid in respect of the operation of a mine or quarry or of any other extraction of natural resources.

(3) Where any interest or royalty exceeds a fair and reasonable consideration in respect of the indebtedness or rights for which it is paid, the exemption provided by the present Article shall apply only to so much of the interest or royalty as represents such fair and reasonable consideration.

(4) Any capital sum derived from sources within one of the territories from the sale of patent rights by a resident of the other territory, who does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

ARTICLE VIII.

(1) Where under the provisions of the present Convention a resident of the United Kingdom is exempt or entitled to relief from Norwegian tax, similar exemption or relief shall be applied to the undivided estates of deceased persons in so far as one or more of the beneficiaries is a resident of the United Kingdom.

(2) Norwegian tax on the undivided estate of a deceased person shall, in so far as the income accrues to a beneficiary who is resident in the United Kingdom, be allowed as a credit under Article XVI.

ARTICLE IX.

(1) Remuneration, including pensions, paid by, or out of funds created by, one of the Contracting Parties to any individual in respect of services rendered to that Party in the discharge of governmental functions shall be exempt from tax in the territory of the other Contracting Party, unless the individual is a national of that other Party without being also a national of the first-mentioned Party.

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

ARTICLE X.

(1) An individual who is a resident of the United Kingdom shall be exempt from Norwegian tax on profits or remuneration in respect of personal (including professional) services performed within Norway in any year of assessment if—

(a) he is present within Norway for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a resident of the United Kingdom, and

(c) the profits or remuneration are subject to United Kingdom tax.

(2) An individual who is a resident of Norway shall be exempt from United Kingdom tax on profits or remuneration in respect of personal (including professional) services performed within the United Kingdom in any year of assessment, if—

(a) he is present within the United Kingdom for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a resident of Norway, and

(c) the profits or remuneration are subject to Norwegian tax.

(3) The provisions of this article shall not apply to the profits or remuneration of public entertainers such as theatre, motion picture or radio artistes, musicians and athletes.

ARTICLE XI.

A resident of one of the territories shall be exempt from tax in the other territory in respect of remuneration for services performed on ships or aircraft operating outside the other territory.

ARTICLE XII.

(1) Any pension (other than a pension of the kind referred to in paragraph (1) of Article IX) and any annuity, derived from sources within Norway by an individual who is a resident of the United Kingdom and subject to United Kingdom tax in respect thereof, shall be exempt from Norwegian tax.

(2) Any pension (other than a pension of the kind referred to in paragraph (1) of Article IX) and any annuity, derived from sources within the United Kingdom by an individual who is a resident of Norway and subject to Norwegian tax in respect thereof, shall be exempt from United Kingdom tax.

(3) 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 XIII.

A professor or teacher from one of the territories, who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college, school, or other educational institution in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

ARTICLE XIV.

A student or apprentice from one of the territories, who is receiving full-time education or training in the other territory, shall be exempt from tax in that other territory on payments made to him from abroad for the purposes of his maintenance, education or training.

ARTICLE XV.

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

(2) Individuals who are residents of the United Kingdom shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Norwegian tax as Norwegian nationals not resident in Norway.

ARTICLE XVI.

(1) Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax or tax payable in a territory outside the United Kingdom, Norwegian tax payable, whether directly or by deduction, in respect of income from sources within Norway shall be allowed as a credit against any United Kingdom tax payable in respect of that income.

Where such income is an ordinary dividend paid by a company resident in Norway, the credit shall take into account (in addition to any Norwegian tax appropriate to the dividend) the Norwegian tax payable by the company in respect of its profits; and, where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, the Norwegian tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate:

Provided that for the purposes of this paragraph of this Article, the credit to be allowed for Norwegian communal income tax shall not exceed one-half of the said communal income tax.

(2) Where United Kingdom tax is payable, whether directly or by deduction, in respect of income from sources within the United Kingdom and that income is chargeable also to Norwegian tax, the Norwegian tax payable by the person entitled to such income on his total income chargeable to Norwegian tax shall be reduced by an amount which bears the same proportion to that Norwegian tax as the income from sources within the United Kingdom bears to the said total income. Provided that the Norwegian Ministry of Finance and Customs may decide that the deduction shall not exceed the amount of the United Kingdom tax.

Where such income is an ordinary dividend paid by a company resident in the United Kingdom, the deduction, in the event that it is restricted to the amount of the United Kingdom tax, shall take into account (in addition to the United Kingdom tax appropriate to the dividend) the United Kingdom profits tax payable by the company in respect of its profits; and, where it is a dividend paid on participating preference shares and representing both a dividend at a fixed rate to which the shares are entitled and an additional participation in profits, the profits tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

(3) Where income is derived from sources outside both the United Kingdom and Norway by a person who is resident in the United Kingdom for the purposes of United Kingdom tax and also resident in Norway for the purposes of Norwegian tax, the income may be taxed in both countries (subject to any Convention which may exist between either of the Contracting Parties and the territory or territories from which the income is derived). A credit shall be allowed in accordance with paragraph (1) of this Article against any United Kingdom tax payable in respect of that income, equal to

that proportion of the United Kingdom tax or the Norwegian tax, whichever is the less, which such person's income from sources within the United Kingdom bears to the sum of his income from sources within the United Kingdom and his income from sources within Norway; and a deduction shall be allowed in accordance with paragraph (2) of this Article against any Norwegian tax payable in respect of that income equal to that proportion of the United Kingdom tax or the Norwegian tax, whichever is the less, which such person's income from sources within Norway bears to the sum of his income from sources within the United Kingdom and his income from sources within Norway.

(4) For the purposes of this Article, profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, except that the remuneration of a director of a company shall be deemed to be income from sources within the territory in which the company is resident, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

ARTICLE XVII.

(1) The taxation authorities of the Contracting Parties shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than persons (including a Court) concerned with the assessment, determination and collection of the taxes which are the subject of the present Convention. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

(2) As used in this Article, the term "taxation authorities" means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative; in the case of Norway, the Ministry of Finance and Customs; and, in the case of any territory to which the present Convention is extended under Article XX, the competent authority for the administration in such territory of the taxes to which the present Convention applies.

ARTICLE XVIII.

The Agreement of 18th December, 1924,* between Great Britain and Norway for the reciprocal exemption from income tax in certain cases of profits accruing from the business of shipping, and the Agreement of 21st December, 1938,† between the United Kingdom and Norway for the reciprocal exemption from taxes in certain cases of profits arising through agencies, shall not have effect—

(a) in Norway, for any period for which the present Convention has effect in that country;

(b) in the United Kingdom, in relation to any tax for any period for which the present Convention has effect as respects that tax.

*S.R. & O. 1925 (103), p. 600.

†S.R. & O. 939 (No. 1319) II, p. 1734.

ARTICLE XIX.

(1) The nationals of one of the Contracting Parties shall not be subjected in the territory of the other Contracting Party to any taxation or any requirement connected therewith which is other, higher or more burdensome than the taxation and connected requirements to which the nationals of the latter Party are or may be subjected.

(2) The enterprises of one of the territories shall not be subjected in the other territory, in respect of profits or capital attributable to their permanent establishments in that other territory, to any taxation which is other higher or more burdensome than the taxation to which the enterprise of that other territory is or may be subjected in respect of the like profits or capital.

(3) The income, profits and capital of an enterprise of one of the territories, the capital of which is wholly or partly owned or controlled, directly or indirectly, by a resident or residents of the other territory shall not be subjected in the first-mentioned territory to any taxation which is other, higher or more burdensome than the taxation to which other enterprises of that first-mentioned territory are or may be subjected in respect of the like income profits and capital.

(4) Nothing in paragraph (1) or paragraph (2) of this Article shall be construed as obliging one of the Contracting Parties to grant to nationals of the other Contracting Party who are not resident in the territory of the former Party the same personal allowances, reliefs and reductions for tax purposes as are granted to its own nationals.

(5) In this Article the term "nationals" means—

(a) in relation to Norway, all Norwegian citizens and all juridical persons domiciled in Norway;

(b) in relation to the United Kingdom, all British subjects and British protected persons residing in the United Kingdom or any British territory to which the present Convention applies by reason of extension made under Article XX, and all legal persons, partnerships and associations deriving their status as such from the law in force in any British territory which the present Convention applies.

(6) In this Article the term "taxation" means taxes of every kind and description levied on behalf of any authority whatsoever.

ARTICLE XX.

(1) The present Convention may be extended, either in its entirety or with modifications, to any territory for whose international relations the United Kingdom is responsible and which imposes taxes substantially similar in character to those which are the subject of the present Convention, and 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 Parties in notes to be exchanged for this purpose.

(2) The termination in respect of Norway or the United Kingdom of the present Convention under Article XXII shall, unless otherwise expressly agreed by both Contracting Parties, terminate the application of the present Convention to any territory to which the Convention as been extended under this Article.

ARTICLE XXI.

(1) The present Convention shall be ratified and the instruments of ratifications shall be exchanged at Oslo as soon as possible.

(2) The present Convention shall enter into force upon the exchange of ratifications and the foregoing provisions thereof shall have effect—

(a) In the United Kingdom:

as respects income tax for any year of assessment beginning on or after 6th April, 1950;

as respects surtax for any year of assessment beginning on or after 6th April, 1949; and

as respects profits tax in respect of the following profits—

(i) profits arising in any chargeable accounting period beginning on or after 1st April, 1950;

(ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;

(iii) profits not so arising or attributable by reference to which income tax is, or but for the present Convention would be, chargeable for any year of assessment beginning on or after 6th April, 1950;

(b) In Norway:

for the taxable years beginning on or after 1st January, 1950.

ARTICLE XXII.

The present Convention shall continue in force indefinitely but either of the Contracting Parties may, on or before 30th June in any calendar year not earlier than the year 1954, give to the other Contracting Party, through diplomatic channels, written notice of termination, provided that such notice of termination may be given in any year before 1954 if there should be any important change in the laws of the other Contracting Party affecting the application of Article XVI. In such event, the present Convention shall cease to be effective—

(a) In the United Kingdom:

as respects income tax for any year of assessment beginning on or after 6th April in the calendar year next following that in which the notice is given;

as respects surtax for any year of assessment beginning on or after 6th April in the calendar year in which the notice is given: and as respects profits tax, in respect of the following profits—

(i) profits arising in any chargeable accounting period beginning on or after 1st April in the calendar year next following that in which the notice is given;

(ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;

(iii) profits not so arising or attributable by reference to which income tax is chargeable for any year of assessment beginning on or after 6th April in the next following calendar year;

(b) In Norway:

for the taxable years beginning on or after 1st January in the calendar year next following that in which the notice is given.

In witness whereof the undersigned, being duly authorised by their respective Governments, have signed the present Convention and have affixed thereto their seals.

Done at London, in duplicate, in the English and Norwegian languages, both texts being equally authoritative, on the 2nd day of May, 1951.

(L.S.)

HERBERT MORRISON.

(L.S.)

P. PREBENSEN.

SECOND SCHEDULE.

Application—

1. (a) The provisions of the Convention incorporated in the First Schedule to this Order shall apply as modified below—

(i) as if the Contracting Parties were Sierra Leone and the Government of Norway; and as if the tax concerned in the case of Sierra Leone were the Income Tax and the duty on profits charged under the Concessions Ordinance, 1931, and the Diamond Industry Profits Tax;

(ii) as if references to the date of signature were references to the 18th day of May, 1955.

(b) The extension shall have effect in Sierra Leone as respects tax for the year of assessment 1955-56 and for subsequent years of assessment, (and will have effect in Norway as respects Norwegian tax for the taxable years beginning on or after 1st January, 1954).

(c) The extension shall continue in effect indefinitely but may be terminated as respects Sierra Leone by written notice of termination given on or before the 30th June in any calendar year not earlier than the year 1957 by either of the Contracting Parties to the Convention to the other Contracting Party through the diplomatic channel and in such event the extension shall cease to have effect in Sierra Leone as respects tax for the year of assessment beginning in the calendar year next following the date of such notice for and for subsequent years of assessment, (and for the taxable years beginning on or after 1st January in the calendar year in which the notice is given).

Modifications:

2. (a) In article VI (1) of the Convention the words "shall be exempt from United Kingdom Surtax" shall be understood for the purposes of this extension as though they read "shall not be liable to tax in the territory at a rate in excess of the rate applicable to a company."

(b) (i) In Article VII all references to interest shall be deemed to be deleted; and

(ii) in paragraph 2 of Article XVI references to income (except in the phrase "total income") shall be deemed not to include interest.

UNITED STATES OF AMERICA.

P.N.
129 of 1958.

**THE INCOME TAX (DOUBLE TAXATION RELIEF) (U.S.A.)
ORDER IN COUNCIL, 1958.**

* WHEREAS it is provided by sub-section (1) of section 32A of the Income Tax Ordinance that if the Governor in Council by Order declares that arrangements specified in the Order have been made with the Government of any territory outside Sierra Leone with a view to affording relief from Double Taxation in relation to Income Tax and any tax of a similar character imposed by the laws of that territory and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to Income Tax notwithstanding anything in any enactment:

AND WHEREAS by a Convention dated the 16th day of April, 1945, and a protocol thereto dated the 6th day of June, 1946, and a further protocol thereto dated the 25th May, 1954, and a further protocol thereto dated the 19th day of August, 1957, between the Government of the United Kingdom and the Government of the United States, arrangements were made among other things for the avoidance of Double Taxation:

AND WHEREAS provision is made in the said Convention as amended by the said protocols for the application by means of a notification of extension given by either of the said Governments to the other Government and acceptance thereof by the other Government of the said Convention as amended, subject to such modifications, if any, as may be specified in the notification, to all or any of its Colonies, overseas territories, protectorates or territories in respect of which it exercises a mandate or trusteeship, which impose taxes substantially similar in character to those which are the subject of the said Convention:

AND WHEREAS by acceptance of a notification dated the 3rd day of December, 1958, the said Convention as amended, with certain modifications, was applied to Sierra Leone:

NOW, THEREFORE, in exercise of the powers conferred upon the Governor in Council by sub-section (1) of the said section 32A, the following Order is hereby made—

1. This Order may be cited as the Income Tax (Double Taxation Relief) (U.S.A.) Order in Council, 1958.

2. It is hereby declared—

(a) that the arrangements specified in the First Schedule to this Order, as modified by the provisions of the Second Schedule to this Order, have been made with the Government of the United States of America;

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

FIRST SCHEDULE.

PART I.

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

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America,

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

Have appointed for that purpose as their Plenipotentiaries:

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

The Right Honourable the Earl of Halifax, K.G., Ambassador Extraordinary in Washington; and

The Government of the United States of America:

Mr. Edward R. Stettinius, Junior Secretary of State;

Who, having exhibited their respective full powers, found in good and due form, have agreed as follows—

ARTICLE I.

1. The taxes which are the subject of the present Convention are—

(a) In the United States of America:

The Federal income taxes, including surtaxes and excess profits taxes (hereinafter referred to as United States tax).

(b) In the United Kingdom of Great Britain and Northern Ireland:

The income tax (including surtax), the excess profits tax and the national defence contribution (hereinafter referred to as United Kingdom tax).

2. The present Convention shall also apply to any other taxes of a substantially similar character imposed by either Contracting Party subsequently to the date of signature of the present Convention or by the Government of any territory to which the present Convention is extended under Article XXII.

ARTICLE II.

1. In the present Convention, unless the context otherwise requires—

(a) The term "United States" means the United States of America, and when used in a geographical sense means the States, the Territories of Alaska and of Hawaii, and the District of Columbia.

(b) The term "United Kingdom" means Great Britain and Northern Ireland, excluding the Channel Islands and the Isle of Man.

(c) The terms "territory of one of the Contracting Parties" and "territory of the other Contracting Party" mean the United States or the United Kingdom as the context requires.

(d) The term "United States corporation" means a corporation, association or other like entity created or organised in or under the laws of the United States.

(e) The terms "United Kingdom corporation" means any kind of juridical person created under the laws of the United Kingdom.

(f) The terms "corporation of one Contracting Party" and "corporation of the other Contracting Party" mean a United States corporation or a United Kingdom corporation as the context requires.

(g) The term "resident of the United Kingdom" means any person (other than a citizen of the United States or a United States corporation) who is a resident in the United Kingdom for the purposes of United Kingdom tax and not resident in the United States for the purposes of United States tax. A corporation is to be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom.

(h) The term "resident of the United States" means any individual who is resident in the United States for the purposes of United States tax and not resident in the United Kingdom for the purposes of United Kingdom tax, and any United States corporation and any partnership created or organised in or under the laws of the United States, being a corporation or partnership which is not resident in the United Kingdom for the purposes of United Kingdom tax.

(i) The term "United Kingdom enterprise" means an industrial or commercial enterprise or undertaking carried on by a resident of the United Kingdom.

(j) The term "United States enterprise" means an industrial or commercial enterprise or undertaking carried on by a resident of the United States.

(k) The terms "enterprise of one of the Contracting Parties" and "enterprise of the other Contracting Party" mean a United States enterprise or a United Kingdom enterprise, as the context requires.

(l) The term "permanent establishment" when used with respect to an enterprise of one of the Contracting Parties means a branch, management, factory or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. An enterprise of one of the Contracting Parties shall not be deemed to have a permanent establishment in the territory of the other Contracting Party merely because it carries on business

dealings in the territory of such other Contracting Party through a *bona fide* commission agent, broker or custodian acting in the ordinary course of his business as such. The fact that an enterprise of one of the Contracting Parties maintains in the territory of the other Contracting Party a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute such fixed place of business a permanent establishment of such enterprise. The fact that a corporation of one Contracting Party has a subsidiary corporation which is a corporation of the other Contracting Party or which is engaged in trade or business in the territory of such other Contracting Party (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary corporation a permanent establishment of its parent corporation.

2. For the purposes of Articles VI, VII, VIII, IX and XIV a resident of the United Kingdom shall not be deemed to be engaged in trade or business in the United States in any taxable year unless such resident has a permanent establishment situated therein in such taxable year. The same principle shall be applied, *mutatis mutandis*, by the United Kingdom in the case of a resident of the United States.

3. In the application of the provisions of the present Convention by one of the Contracting Parties any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting Party relating to the taxes which are subject of the present Convention.

ARTICLE III.

1. A United Kingdom enterprise shall not be subject to United States tax in respect of its industrial or commercial profits unless it is engaged in trade or business in the United States through a permanent establishment situated therein. If it is so engaged, United States tax may be imposed upon the entire income of such enterprise from sources within the United States.

2. A United States enterprise shall not be subject to United Kingdom tax in respect of its industrial or commercial profits unless it is engaged in trade or business in the United Kingdom through a permanent establishment situated therein. If it is so engaged, United Kingdom tax may be imposed upon the entire income of such enterprise from sources within the United Kingdom: Provided that nothing in this paragraph shall affect any provisions of the law of the United Kingdom regarding the imposition of United Kingdom excess profits tax and national defence contribution in the case of inter-connected companies.

3. Where an enterprise of one of the Contracting Parties is engaged in trade or business in the territory of the other Contracting Party through a permanent establishment situated therein, there shall be attributed to such permanent establishment the industrial or commercial profits which it might be expected to derive if it were an independent 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, and the profits so attributed shall, subject to the law of such other Contracting Party, be deemed to be income from sources within the territory of such other Contracting Party.

4. In determining the industrial or commercial profits from sources within the territory of one of the Contracting Parties of an enterprise of the

other Contracting Party, no profits shall be deemed to arise from the mere purchase of goods or merchandise within the territory of the former Contracting Party by such enterprise.

ARTICLE IV.

Where an enterprise of one of the Contracting Parties, by reason of its participation in the management, control or capital of an enterprise of the other Contracting Party, makes with or imposes on the latter, in their commercial or financial relations, conditions different from those, which would be made with an independent enterprise, 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 V.

1. Notwithstanding the provisions of Articles III and IV of the present Convention, profits, which an individual (other than a citizen of the United States) resident in the United Kingdom or a United Kingdom corporation derives from operating ships documented or aircraft registered under the laws of the United Kingdom, shall be exempt from United States tax.

2. Notwithstanding the provisions of Articles III and IV of the present Convention, profits, which a citizen of the United States not resident in the United Kingdom or a United States corporation derives from operating ships documented or aircraft registered under the laws of the United States, shall be exempt from United Kingdom tax.

3. This Article shall be deemed to have superseded, on and after the first day of January, 1945, as to United States tax, and on and after the 6th day of April, 1945, as to United Kingdom tax, the arrangements relating to reciprocal exemption of shipping profits from income tax effected between the Government of the United States and the Government of the United Kingdom by exchange of Notes dated August 11, 1924, November 18, 1924, November 26, 1924, January 15, 1925, February 13, 1925, and March 16, 1925, which shall accordingly cease to have effect.

ARTICLE VI.

1. The rate of United States tax on dividends derived from a United States corporation by a resident of the United Kingdom who is subject to United Kingdom tax on such dividends and not engaged in trade or business in the United States shall not exceed 15 per cent.: Provided that such rate of tax shall not exceed 5 per cent. if such resident is a corporation controlling, directly or indirectly, at least 95 per cent. of the entire voting power in the corporation paying the dividend, and not more than 25 per cent. of the gross income of each paying corporation is derived from interest and dividends, other than interest and dividends received from its own subsidiary corporations. Such reduction of the rate to 5 per cent. shall not apply if the relationship of the two corporations has been arranged or is maintained primarily with the intention of securing such reduced rate.

2. Dividends derived from sources within the United Kingdom by an individual, who is (a) a resident of the United States, (b) subject to United States tax with respect to such dividends and (c) not engaged in trade or business in the United Kingdom, shall be exempt from United Kingdom surtax.

3. Either of the Contracting Parties may terminate this Article by giving written notice of termination to the other Contracting Party, through diplomatic channels, on or before the thirtieth day of June in any year after the year 1945, and in such event paragraph (1) hereof shall cease to be effective as to United States tax on and after the first day of January, and paragraph (2) hereof shall cease to be effective as to the United Kingdom tax on and after the 6th day of April, in the year next following that in which such notice is given.

ARTICLE VII.

1. Interest (on bonds, securities, notes, debentures, or on any other form of indebtedness) derived from sources within the United States by a resident of the United Kingdom who is subject to United Kingdom tax on such interest and not engaged in trade or business in the United States, shall be exempt from United States tax; but such exemption shall not apply to such interest paid by a United States corporation to a corporation resident in the United Kingdom controlling, directly or indirectly, more than 50 per cent. of the entire voting power in the paying corporation.

2. Interest (on bonds, securities, notes, debentures, or on any other form of indebtedness) derived from sources within the United Kingdom by a resident of the United States who is subject to United States tax on such interest and not engaged in trade or business in the United Kingdom, shall be exempt from United Kingdom tax; but such exemption shall not apply to such interest paid by a corporation resident in the United Kingdom to a United States corporation controlling, directly or indirectly, more than 50 per cent. of the entire voting power in the paying corporation.

ARTICLE VIII.

1. Royalties and other amounts paid as consideration for the use of, or for the privilege of using, copyrights, patents, designs, secret processes and formulae, trade-marks, and other like property, and derived from sources within the United States by a resident of the United Kingdom who is subject to United Kingdom tax on such royalties or other amounts and not engaged in trade or business in the United States, shall be exempt from United States tax.

2. Royalties and other amounts paid as consideration for the use of, or for the privilege of using, copyrights, patents, designs, secret processes and formulae, trade-marks, and other like property, and derived from sources within the United Kingdom by a resident of the United States who is subject to United States tax on such royalties or other amounts and not engaged in trade or business in the United Kingdom, shall be exempted from United Kingdom tax.

3. For the purposes of this Article the term "royalties" shall be deemed to include rentals in respect of motion picture films.

ARTICLE IX.

1. The rate of United States tax on royalties in respect of the operation of mines or quarries or of other extraction of natural resources, and on rentals from real property or from an interest in such property, derived from sources within the United States by a resident of the United Kingdom who is subject to United Kingdom tax with respect to such royalties or rentals and not engaged in trade or business in the United States, shall not exceed 15 per cent.: Provided that any such resident may elect for any taxable year to be subject to United States tax as if such resident were engaged in trade or business in the United States.

2. Royalties in respect of the operation of mines or quarries or of other extraction of natural resources, and rentals from real property or from an interest in such property, derived from sources within the United Kingdom by an individual who is (a) a resident of the United States, (b) subject to United States tax with respect to such royalties and rentals, and (c) not engaged in trade or business in the United Kingdom, shall be exempt from United Kingdom surtax.

ARTICLE X.

1. Any salary, wage, similar remuneration, or pension, paid by the Government of the United States to an individual (other than a British subject who is not also a citizen of the United States) in respect of services rendered to the United States in the discharge of governmental functions, shall be exempt from United Kingdom tax.

2. Any salary, wage, similar remuneration, or pension, paid by the Government of the United Kingdom to an individual (other than a citizen of the United States who is not also a British subject) in respect of services rendered to the United Kingdom in the discharge of governmental functions, shall be exempt from United States tax.

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

ARTICLE XI.

1. An individual who is a resident of the United Kingdom shall be exempt from United States tax upon compensation for personal (including professional) services performed during the taxable year within the United States if (a) he is present within the United States for a period or periods not exceeding in the aggregate 183 days during such taxable year, and (b) such services are performed for or on behalf of a person resident in the United Kingdom.

2. An individual who is a resident of the United States shall be exempt from United Kingdom tax upon profits, emoluments or other remuneration in respect of personal (including professional) services performed within the United Kingdom in any year of assessment if (a) he is present within the United Kingdom for a period or periods not exceeding in the aggregate 183 days during that year, and (b) such services are performed for or on behalf of a person resident in the United States.

3. The provisions of this Article shall not apply to the compensation, profits, emoluments or other remuneration of public entertainers such as stage, motion picture or radio artists, musicians and athletes.

ARTICLE XII.

1. Any pension (other than a pension to which Article X applies), and any life annuity, derived from sources within the United States by an individual who is a resident of the United Kingdom shall be exempt from United States tax.

2. Any pension (other than a pension to which Article X applies), and any life annuity, derived from sources within the United Kingdom by an individual who is a resident of the United States shall be exempt from United Kingdom tax.

3. The term "life 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 consideration of money paid.

ARTICLE XIII.

1. Subject to section 131 of the United States Internal Revenue Code as in effect on the first day of January, 1945, United Kingdom tax shall be allowed as a credit against United States tax. For this purpose, the recipient of a dividend paid by a corporation which is a resident of the United Kingdom shall be deemed to have paid the United Kingdom income tax appropriate to such dividend if such recipient elects to include in his gross income for the purposes of United States tax the amount of such United Kingdom income tax.

2. Subject to such provisions (which shall not affect the general principle hereof) as may be enacted in the United Kingdom, United States tax payable in respect of income from sources within the United States shall be allowed as a credit against any United Kingdom tax payable in respect of that income. Where such income is an ordinary dividend paid by a United States corporation, such credit shall take into account (in addition to any United States income tax deducted from or imposed on such dividend) the United States income tax imposed on such corporation in respect of its profits, and where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, such tax on profits shall likewise be taken into account in so far as the dividend exceeds such fixed rate.

3. For the purposes of this Article, compensation, profits, emoluments and other remuneration for personal (including professional) services shall be deemed to be income from sources within the territory of the Contracting Party where such services are performed.

ARTICLE XIV.

A resident of the United Kingdom not engaged in trade or business in the United States shall be exempt from United States tax on gains from the sale or exchange of capital assets.

ARTICLE XV.

Dividends and interest paid on or after the first day of January, 1945, by a United Kingdom corporation shall be exempt from United States tax except where the recipient is a citizen of or a resident of the United States or a United States corporation.

ARTICLE XVI.

A United Kingdom corporation shall be exempt from United States tax on its accumulated or undistributed earnings, profits, income or surplus, if individuals who are residents of the United Kingdom control, directly or indirectly, throughout the last half of the taxable year, more than 50 per cent. of the entire voting power in such corporation.

ARTICLE XVII.

1. The United States income tax liability for any taxable year beginning prior to the 1st January, 1936, of any individual (other than a citizen of the United States) resident in the United Kingdom, or of any United Kingdom

corporation, remaining unpaid on the date of signature of the present Convention, may be adjusted on a basis satisfactory to the United States Commissioner of Internal Revenue: Provided that the amount to be paid in settlement of such liability shall not exceed the amount of the liability which would have been determined if—

(a) the United States Revenue Act of 1936 (except in the case of a United Kingdom corporation in which more than 50 per cent. of the entire voting power was controlled, directly or indirectly, throughout the later half of the taxable year, by citizens or residents of the United States), and

(b) Articles XV and XVI of the present Convention had been in effect for such year. If the taxpayer was not, within the meaning of such Revenue Act, engaged in trade or business in the United States and had no office or place of business therein during the taxable year, the amount of interest and penalties shall not exceed 50 per cent. of the amount of the tax with respect to which such interest and penalties have been computed.

2. The United States income tax unpaid on the date of signature of the present Convention for any taxable year beginning after the thirty-first day of December, 1935, and prior to the first day of January, 1945, in the case of an individual (other than a citizen of the United States) resident of the United Kingdom, or in the case of any United Kingdom corporation shall be determined as if the provisions of Articles XV and XVI of the present Convention had been in effect for such taxable year.

3. The provisions of paragraph (1) of this Article shall not apply—

(a) unless the taxpayer files with the Commissioner of Internal Revenue on or before the thirty-first day of December, 1947, a request that such tax liability be so adjusted and furnishes such information as the Commissioner may require; or

(b) in any case in which the Commissioner is satisfied that any deficiency in tax is due to fraud with intent to evade the tax.

ARTICLE XVIII.

A professor or teacher from the territory of one of the Contracting Parties who visits the territory of the other Contracting Party for the purpose of teaching, for a period not exceeding two years, at a university, college, school or other educational institution in the territory of such other Contracting Party shall be exempted by such other Contracting Party from tax on his remuneration for such teaching for such period.

ARTICLE XIX.

A student or business apprentice from the territory of one of the Contracting Parties who is receiving full-time education or training in the territory of the other Contracting Party shall be exempted by such other Contracting Party from tax on payments made to him by persons within the territory of the former Contracting Party for the purposes of his maintenance, education or training.

ARTICLE XX.

1. The taxation authorities of the Contracting Parties shall exchange such information (being information available under the respective taxation laws of the Contracting Parties) as is necessary for carrying out the provisions of the present 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 the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information shall be exchanged which would disclose any trade secret or trade process.

2. As used in this Article, the term "taxation authorities" means, in the case of the United States, the Commissioner of Internal Revenue or his authorised representative; in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative; and, in the case of any territory to which the present Convention is extended under Article XXII, the competent authority for the administration in such territory of the taxes to which the present Convention applies.

ARTICLE XXI.

1. The nationals of one of the Contracting Parties shall not, while resident in the territory of the other Contracting Party, be subjected therein to other or more burdensome taxes than are the nationals of such other Contracting Party resident in its territory.

2. The term "nationals" as used in this Article means—

(a) In relation to the United Kingdom, all British subjects and British protected persons, from the United Kingdom or any territory with respect to which the present Convention is applicable by reason of extension made by the United Kingdom under Article XXII; and

(b) In relation to the United States, United States citizens, and all persons under the protection of the United States, from the United States or any territory to which the present Convention is applicable by reason of extension made by the United States under Article XXII;

and includes all legal persons, partnerships and associations deriving their status as such from, or created or organised under, the laws in force in any territory of the Contracting Parties to which the present Convention applies.

3. In this Article the word "taxes" means taxes of every kind or description, whether national, federal, state, provincial or municipal.

ARTICLE XXII.

1. Either of the Contracting Parties may, at the time of exchange of instruments of ratification or thereafter while the present Convention continues in force, by a written notification of extension given to the other Contracting Party through diplomatic channels, declare its desire that the operation of the present Convention shall extend to all or any of its colonies, overseas territories, protectorates, or territories in respect of which it exercises a mandate, which impose taxes substantially similar in character to those which are the subject of the present Convention. The present Convention shall apply to the territory or territories named in such notification on the date or dates specified in the notification (not being less than sixty days from the date of the notification) or, if no date is specified in respect of any such territory, on the sixtieth day after the date of such notification, unless, prior to the date on which the Convention would otherwise become applicable to a particular territory, the Contracting Party to whom notification is given shall have informed the other Contracting Party in writing through diplomatic channels that it does not accept such notification as to that territory. In the absence of such extension, the present Convention shall not apply to any such territory.

2. At any time after the expiration of one year from the entry into force of an extension under paragraph (1) of this Article, either of the Contracting Parties may, by written notice of termination given to the other Contracting Party through diplomatic channels, terminate the application of the present Convention to any territory to which it has been extended under paragraph (1), and in such event the present Convention shall cease to apply, six months after the date of such notice, to the territory or territories named therein, but without affecting its continued application to the United States, the United Kingdom or to any other territory to which it has been extended under paragraph (1) hereof.

3. In the application of the present Convention in relation to any territory to which it is extended by notification by the United Kingdom or the United States references to the "United Kingdom" or, as the case may be, the "United States" shall be construed as references to that territory.

4. The termination in respect of the United States or the United Kingdom of the present Convention under Article XXIV or of Article VI shall, unless otherwise expressly agreed by both Contracting Parties, terminate the application of the present Convention or, as the case may be, that Article to any territory to which the Convention has been extended by the United States or the United Kingdom.

5. The provisions of the preceding paragraphs of this Article shall apply to the Channel Islands and the Isle of Man as if they were colonies of the United Kingdom.

ARTICLE XXIII.

1. The present Convention shall be ratified and the instruments of ratification shall be exchanged at Washington as soon as possible.

2. Upon exchange of ratifications, the present Convention shall have effect—

(a) as respects United States tax, for the taxable years beginning on or after the first day of January, 1945;

(b) (i) as respects United Kingdom income tax, for the year of assessment beginning on the 6th day of April, 1945, and subsequent years; (ii) as respects United Kingdom surtax, for the year of assessment beginning on the 6th day of April, 1944, and subsequent years; and (iii) as respects United Kingdom excess profits tax and national defence contribution, for any chargeable accounting period beginning on or after the first day of April, 1945, and for the unexpired portion of any chargeable accounting period current at that date.

ARTICLE XXIV.

1. The present Convention shall continue in effect indefinitely but either of the Contracting Parties may, on or before the 30th day of June in any year after the year 1946, give to the other Contracting Party, through diplomatic channels, notice of termination, and in such event, the present Convention shall cease to be effective—

(a) as respects United States tax for the taxable years beginning on or after the first day of January in the year next following that in which such notice is given;

(b) (i) as respects United Kingdom income tax, for any year of assessment beginning on or after the 6th day of April in the year next following

that in which such notice is given; (ii) as respects United Kingdom surtax for any year of assessment beginning on or after the 6th day of April in the year in which such notice is given; and (iii) as respects United Kingdom excess profits tax and national defence contribution, for any chargeable accounting period beginning on or after the first day of April in the year next following that in which such notice is given and for the unexpired portion of any chargeable accounting period current at that date.

2. The termination of the present Convention or of any Article thereof shall not have the effect of reviving any treaty or arrangement abrogated by the present Convention or by treaties previously concluded between the Contracting Parties.

In witness whereof the above-mentioned Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done at Washington in duplicate, on the sixteenth day of April, one thousand nine hundred and forty-five.

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

(L.S.)

HALIFAX.

For the Government of the United States of America:

(L.S.)

E. R. STETTINIUS, JR.

PART II.—PROTOCOL.

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America.

Desiring to conclude a supplementary Protocol modifying in certain respects the Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income which was signed at Washington on April 16th, 1945,

Have agreed as follows:

ARTICLE I.

Paragraph (3) of Article XI of the Convention of April 16th, 1945, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income shall be deemed to be deleted and of no effect.

ARTICLE II.

This Protocol, which shall be regarded as an integral part of the said Convention, shall be ratified and the instruments of ratification thereof shall be exchanged at Washington.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being authorised thereto by their respective Governments, have signed this Protocol and have affixed thereto their seals.

DONE at Washington, in duplicate, this sixth day of June, 1946.

FOR THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND:

JOHN BALFOUR,

*His Majesty's Envoy Extraordinary and
Minister Plenipotentiary in Washington.*

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

JAMES F. BYRNES,

*Secretary of State of the United States of
America.*

SUPPLEMENTARY PROTOCOL AMENDING THE CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, SIGNED AT WASHINGTON ON THE 16TH APRIL, 1945, AS MODIFIED BY THE SUPPLEMENTARY PROTOCOL, SIGNED AT WASHINGTON ON THE 6TH JUNE, 1946.

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America.

Desiring to conclude a further supplementary Protocol amending the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect of Taxes on Income, signed at Washington on the 16th April, 1945, as modified by the Supplementary Protocol, signed at Washington on the 6th June, 1946.

Have agreed as follows:

ARTICLE I.

Paragraph (1) of Article XXII of the Convention of the 16th April, 1945, for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income is hereby amended to read as follows:

“(1) Either of the Contracting Parties may, at any time while the present Convention continues in force, by a written notification given to the other Contracting Party through the diplomatic channel, declare its desire that the operation of the present Convention, either in whole or in part or with such modifications as may be found necessary for special application in a particular case, shall extend to all or any of its territories for whose international relations it is responsible, which impose taxes substantially similar in character to those which are the subject of the present Convention. When the other Contracting Party has, by a written communication through the diplomatic channel, signified to the first Contracting Party that such notification is accepted in respect of such territory or territories, the present Convention, in whole or in part or with such modifications as may be found necessary for special application in a particular case, as specified in the notification, shall apply to the territory or territories named in the notification on and after the date or dates specified therein. None of the provisions of the present Convention shall apply to any such territory in the absence of such acceptance in respect of that territory.”

ARTICLE II.

This supplementary Protocol, which shall be regarded as an integral part of the said Convention, shall be ratified and the instruments of ratification hereof shall be exchanged in London.

IN WITNESS WHEREOF the undersigned, being authorised thereto by their respective Governments, have signed this supplementary Protocol and have affixed thereto their seals.

DONE in duplicate at Washington this twenty-fifth day of May, 1954.

FOR THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND:

ROGER MAKINS,
*Her Majesty's Ambassador Extraordinary
and Plenipotentiary at Washington.*

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

JOHN FOSTER DULLES,
*Secretary of State of the United States of
America.*

SUPPLEMENTARY PROTOCOL BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE UNITED STATES OF AMERICA AMENDING THE CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, SIGNED AT WASHINGTON ON THE 16TH APRIL, 1945, AS MODIFIED BY THE SUPPLEMENTARY PROTOCOL SIGNED AT WASHINGTON ON THE 6TH JUNE, 1946 AND BY THE SUPPLEMENTARY PROTOCOL SIGNED AT WASHINGTON ON THE 25TH MAY, 1954.

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America,

Desiring to conclude a further supplementary Protocol amending the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at Washington on the 16th April, 1945, as modified by the supplementary Protocol signed at Washington on the 6th June, 1946 and by the supplementary Protocol signed at Washington on the 25th May, 1954,

Have agreed as follows:

ARTICLE I.

Paragraphs (1) and (2) of Article VIII of the Convention of the 16th April, 1945, for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on income are hereby amended to read as follows:

“(1) Royalties and other amounts paid as consideration for the use of, or for the privilege of using copyrights, patents, designs, secret processes and formulae, trade marks and other like property, and derived from sources within the United States by a resident of the United Kingdom who is subject to United Kingdom tax on such royalties or other amounts shall be exempt from United States tax (a) if such resident is not engaged in trade or business in the United States through a permanent establishment situated therein or (b) if such resident is so engaged, the royalties or other amounts are not directly associated with the business carried on through that permanent establishment.

(2) Royalties and other amounts paid as consideration for the use of, or for the privilege of using, copyrights, patents, designs, secret processes and formulae, trade marks and other like property, and derived from sources within the United Kingdom by a resident of the United States who is subject to United States tax on such royalties or other amounts shall be exempt from United Kingdom tax (a) if such resident is not engaged in trade or business in the United Kingdom through a permanent establishment situated therein or (b) if such resident is so engaged, the royalties or other amounts are not directly associated with the business carried on through that permanent establishment."

ARTICLE II.

Paragraph (1) of Article XIII of the said Convention is hereby amended to read as follows:

"(1) Subject to Sections 901 to 905 of the United States Internal Revenue Code as in effect on the 1st day of January, 1956, United Kingdom tax shall be allowed as a credit against United States tax. For this purpose—

(a) the recipient of a dividend paid by a corporation which is a resident of the United Kingdom shall be deemed to have paid the United Kingdom tax appropriate to such dividend, and

(b) the recipient of any royalty or other amount coming within the scope of Article VIII of the present Convention shall be deemed to have paid any United Kingdom tax legally deducted from the royalty or other amount by the person by or through whom any payment thereof is made,

if the recipient of the dividend or royalty or other amount, as the case may be, elects to include in his gross income for the purposes of United States tax the amount of such United Kingdom income tax."

ARTICLE III.

1. This supplementary Protocol shall be ratified and the instruments of ratification shall be exchanged at London as soon as possible.

2. This supplementary Protocol shall enter into force upon the exchange of instruments of ratification and shall thereupon have effect—

(a) In the United Kingdom:

(i) as respects income tax and surtax for any year of assessment beginning on or after the 6th April, 1956;

(ii) as respects profits tax for any chargeable accounting period beginning on or after the 1st April, 1956, and for the unexpired portion of any chargeable accounting period current at that date.

(b) In the United States:

As respect taxable years beginning on or after the 1st January, 1956.

IN WITNESS WHEREOF the undersigned, being authorised thereto by the respective Governments, have signed this supplementary Protocol and have affixed thereto their seals.

DONE in duplicate at Washington this nineteenth day of August, 1957.

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

(L.S.)

HAROLD CACCIA.

For the Government of the United States of America:

(L.S.)

JOHN FOSTER DULLES.

SECOND SCHEDULE.

Application—

1. (a) The provisions of the Convention and Protocols incorporated in the First Schedule to this Order shall apply as modified below—

(i) as if the contracting parties were Sierra Leone and the Government of the United States; and as if the tax concerned in the case of Sierra Leone were the Income Tax and the duty on profits charged under the Concessions Ordinance, and the Diamond Industry Profits Tax and the Iron Ore Concessions Tax;

(ii) as if references to the date of signature were references to the 3rd day of December, 1958.

(iii) as if references to the 6th day of April were references to the 1st day of April.

(b) The extension shall have effect in Sierra Leone as respects tax for the year of assessment next following that in which the last of those measures shall have been taken in the United States and Sierra Leone necessary to give the extension the force of Law in the United States and Sierra Leone and for subsequent years of assessment and will have effect in the United States as respects United States tax for the taxable year beginning on or after the 1st day of January in that next following calendar year.

Modifications—

2. (a) In Article VI (2) the words "exempt from United Kingdom Surtax" shall be understood for the purposes of this extension as though they read "shall not be liable to any tax in the territory other than tax imposed with respect to the profits or earnings of the corporation out of which such dividends are paid".

(b) In Article IX (2) the words "shall be exempt from United Kingdom Surtax" shall be understood for the purposes of this extension as though they read "shall not be liable to tax in the territory at a rate in excess of the rate applicable to a company".

(c) Article VII, XIV and XVI shall be deemed to be deleted.
