

GOVERNMENT NOTICE NO. 1

TRINIDAD AND TOBAGO

THE INCOME TAX ORDINANCE, CH. 33 No.1

ORDER

MADE BY THE GOVERNOR-GENERAL UNDER SECTION 47(1) OF THE
INCOME TAX ORDINANCE, AS ENACTED BY SECTION 32 OF THE FINANCE
ACT 1966

THE DOUBLE TAXATION RELIEF (UNITED STATES OF AMERICA)

ORDER, 1971

WHEREAS it is provided by subsection (1) of section 47 of the Income Tax Ordinance that if the Governor-General by Order published in the *Gazette* declares that arrangements specified in the Order have been made with the Government of any country 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 country, and that it is expedient that those arrangements shall have effect:

And whereas by a Convention dated the 9th day of January, 1970, made between the Government of Trinidad and Tobago and the Government of the United States of America, arrangements were made *inter alia* for the avoidance of double taxation:

Now, therefore, the Governor-General in pursuance of the said subsection (1) of section 47 of the Income Tax Ordinance is pleased to order, and it is hereby orders as follows:

1. This Order may be cited as the Double Taxation Relief (United States of America) Order, 1970.

2. It is hereby declared: -
 - (a) that the arrangements specified in the Schedule have been made with the Government of United States of America;
 - (b) that it is expedient that those arrangements should have effect.

3. The Double Taxation Relief (United States of America) Order, 1970, is revoked.

SCHEDULE

IN CONVENTION BETWEEN THE GOVERNMENT OF TRINIDAD AND TOBAGO AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA FOR THE AVOIDANCE OF DOUBLE TAXATION, THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, AND THE ENCOURAGEMENT OF INTERNATIONAL TRADE AND INVESTMENT

The Government of Trinidad and Tobago and the Government of the United States of America, desiring to conclude a convention for the avoidance of double taxation, the prevention of fiscal evasion with respect to taxes on income, and the encouragement of international trade and investment, have agreed upon the following articles.

Article 1

Taxes Covered

- (1) The taxes which are the subject of this Convention are:-
 - (a) in the case of the United States, the Federal income tax imposed by the Internal Revenue Code (but not including the personal holding company tax and accumulated earnings tax) (hereinafter called United States tax);
 - (b) in the case of Trinidad and Tobago, the corporation tax and the income tax (hereinafter called Trinidad and Tobago tax).

(2) This Convention shall also apply to taxes substantially similar to those covered by paragraph (1) which are subsequently imposed in addition to, or in place of, existing taxes.

(3) For the purpose of article 6 (Nondiscrimination), this Convention shall apply to taxes of every kind imposed at the National, State, and local level.

Article 2

General Definitions

(1) In this Convention, unless the context otherwise requires:-

- (a) (i) the term "United States" means the United States of America; and
 - (ii) when used in a geographical sense, the term "United States" means the States thereof and the District of Columbia. Such term also includes (A) the territorial sea thereof and (B) the seabed and subsoil of the adjacent submarine areas beyond the territorial sea over which the United States exercises sovereign rights, in accordance with international law concerning the continental shelf, for the purpose of exploration and exploitation of the natural resources of such areas, but only to the extent that the person, property, or activity to which this Convention is being applied is connected with such exploration or exploitation.
- (b) (i) the term "Trinidad and Tobago" means the islands of Trinidad and Tobago; and
 - (ii) when used in a geographical sense, the term "Trinidad and Tobago" includes (A) the territorial sea thereof and (B) the seabed and subsoil of the adjacent submarine areas beyond the territorial sea over which Trinidad and Tobago exercises sovereign rights, in accordance with Trinidad and Tobago legislation and international law concerning the continental shelf, for the purpose of exploration and exploitation of the natural resources of such areas, but only to the extent that the person, property, or activity to which this Convention is being applied is connected with such exploration or exploitation;
- (c) the terms "one of the Contracting States" and "the other Contracting State" means Trinidad and Tobago or the United States, as the context requires;

- (d) the term "person" comprises an individual, a corporation, and any other body of individuals or persons;
- (e) the term "United States corporation" or "corporation of the United States" means a corporation or any entity treated as a corporation for United States tax purposes, which is created or organized under the laws of the United States or any State thereof or the District of Columbia;
- (f) the term "Trinidad and Tobago corporation" or "corporation of Trinidad and Tobago" means any company or any entity treated as a company under Trinidad and Tobago tax law, which is resident within Trinidad and Tobago for purposes of Trinidad and Tobago tax;
- (g) the term "resident of the United States" means:-
 - (i) a United States corporation; or
 - (ii) any person (other than a corporation) resident in the United States for purposes of United States tax, but in the case of a partnership, estate, or trust only to the extent that the income derived by such person is subject to United States tax as the income of a resident;
- (h) the term "resident of Trinidad and Tobago" means:-
 - (i) a Trinidad and Tobago corporation; or
 - (ii) any person (other than a corporation) resident in Trinidad and Tobago for purposes of Trinidad and Tobago tax, but in the case of a partnership, estate, or trust only to the extent that the income derived by such person is subject to Trinidad and Tobago tax as the income of a resident;
- (i) the term "competent authority" means:-
 - (i) in the United States, the Secretary of the Treasury or his delegate;
 - (ii) in Trinidad and Tobago, the Minister of Finance or his authorised representative;
- (j) the term "State" means any National State, whether or not one of the Contracting States;
- (k) the terms "paid", "distributed", and "received" when used with respect to income shall include amounts "credited".

(2) As regards the application of the provisions of this Convention by one of the Contracting States, any term not defined in the Convention shall, unless the context

otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention. Notwithstanding the previous sentence, if the meaning of such a term under the laws of one of the Contracting States is different from the meaning of the term under the laws of the other Contracting State, or if the meaning of such a term is not readily determinable under the laws of one of the Contracting States, the competent authority of the Contracting State may, in order to prevent double taxation or further any other purpose of this Convention, establish a common meaning of the term for the purposes of this Convention, by means of mutual agreement arrived at in accordance with Article 23 (Mutual Agreement Procedures).

Article 3

General Rules of Taxation

(1) A resident of one of the Contracting States shall be taxable by the other Contracting State only on income derived from sources within that other Contracting State. For this purpose, the rules set forth in Article 5 (Source of Income) shall be applied to determine the source of income.

(2) A resident of one of the Contracting States may be taxed by the other Contracting State on income taxable under paragraph (1) in accordance with the limitations set forth in this Convention. Any income to which the provisions of this Convention are not expressly applicable shall be taxable by each of the Contracting States in accordance with its own law. The provisions of this Convention shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit, or other allowance now or hereafter accorded (a) by the laws of one of the Contracting States in the determination of the tax imposed by that State or (b) any other agreement between the Contracting States.

(3) Except as provided in paragraph (4), a Contracting State may tax a resident of that Contracting State (whether or not such person is also a resident of the other Contracting State), and the United States may tax its citizens, as if this Convention had not come into effect.

(4) The provisions of paragraph (3) shall not affect -

- (a) the benefits conferred by a Contracting State under Articles 4 (Relief from Double Taxation), 6 (Nondiscrimination), and 7 (Tax Deferral for Technical Assistance);
- (b) the benefits conferred by a Contracting State under Articles 18 (Teaching and Research), 19 (Students and Trainees), 20 (Governmental Salaries) and 21 (Rules Applicable to Personal Income Articles) upon individuals, other than

(i) citizens of that Contracting State, or, (ii) in the case of the United States, individuals having immigrant status in the United States.

Article 4

Relief from Double Taxation

Double Taxation shall be avoided in the following manner:

(1) Subject to the provisions of the law of the United States regarding the allowance as a credit against United States tax of tax payable in a territory outside the United States (which shall not affect the general principle hereof), the United States shall allow to a citizen or resident as a credit against its taxes, the appropriate amount of Trinidad and Tobago tax paid and, in the case of a United States corporation owning at least 10 per cent of the voting power of a corporation resident in Trinidad and Tobago, shall allow credit for the appropriate amount of Trinidad and Tobago tax paid by the corporation paying such dividend with respect to the profits out of which such dividend is paid, if the recipient of such dividend includes in its gross income for the purpose of United States tax the amount of such Trinidad and Tobago tax. For this purpose, the recipient of any dividend paid by a corporation which is resident in Trinidad and Tobago shall be considered to have paid to Trinidad and Tobago tax legally deducted from such dividend payment by the person by or through whom payment thereof is made (to the extent that it is a tax chargeable in accordance with the present Convention), if such recipient elects to include in his gross income for purposes of United States tax the amount of such Trinidad and Tobago tax. The appropriate amount of Trinidad and Tobago tax which shall be allowed as a credit under this paragraph shall be based upon the amount of Trinidad and Tobago tax paid but shall not exceed that portion of United States tax which net income from sources within Trinidad and Tobago bears to the entire net income.

(2) Subject to the provisions of the law of Trinidad and Tobago regarding the allowance as a credit against Trinidad and Tobago tax of tax payable in a territory outside Trinidad and Tobago (which shall not affect the general principle hereof), the United States tax payable under the law of the United States and in accordance with the present Convention, whether directly or by deduction (excluding, in the case of a dividend, tax payable in respect of profits out of which the dividend is paid), shall be allowed as a credit against any Trinidad and Tobago tax. In addition, in the case of a dividend paid by a United States Corporation to a Trinidad and Tobago Corporation, which controls directly or indirectly at least 10 per cent of the voting power in the United States Corporation, the credit shall take into account the United States tax payable by the United States corporation in respect of the profits out of which such dividend is paid. The amount of United States tax which shall be allowed as a credit under this paragraph shall be based upon the amount of United States Tax paid but shall not exceed that portion of Trinidad

and Tobago tax which net income from sources within the United States bears to the entire net income.

Article 5

Source of Income

For the purposes of this Convention:

(1) (a) Except as provided in subparagraph (b) and in paragraph (5) of Article 12 (Dividends), dividends paid by a corporation of one of the Contracting States shall be treated as income from sources within that Contracting State; and dividends paid by any other corporation shall be treated as income from sources outside that Contracting State.

(b) Dividends paid by a Trinidad and Tobago corporation shall be treated as income from sources within the United States if, for the three year period ending with the close of its taxable year preceding the declaration of such dividends (or for such portion of that period as the corporation has been in existence), such corporation -

(i) had a permanent establishment in the United States, and

(ii) derived 50 per cent or more of its gross income from industrial or commercial profits effectively connected with the industrial or commercial activity engaged in through such permanent establishment,

but only in an amount which bears the same ratio to such dividends as the gross income of the corporation for such period which is effectively connected with the commercial or industrial activity engaged in through such permanent establishment within the United States bears to its gross income from all sources. Notwithstanding the preceding sentence, the amount of dividends treated as income from United States sources under this subparagraph shall not exceed the net amount of money or property transferred from such permanent establishment during such period.

(2) (a) Except as provided in subparagraph (b), interest paid by a Contracting State, including any local government thereof, or by a resident of that Contracting States shall be treated as income from sources within that Contracting State; and interest paid by any other person shall be treated as income from sources outside that Contracting State.

(b) Interest paid by a resident of any State with a permanent establishment in another State directly or indirectly out of the funds of such permanent establishment on indebtedness incurred for the sole use of, or on banking deposits

made with, such permanent establishment shall be treated as income from sources within the State in which such permanent establishment is located.

(3) Royalties paid for the use of, or the right to use, property described in paragraph (4) of Article 14 (Royalties) in a State shall be treated as income from sources within that State.

(4) Income from real property and royalties from the operation of mines, quarries, or other natural resources shall be treated as income from sources within the State in which such property is located.

(5) Income from the rental of tangible personal (movable) property shall be treated as income from sources within the State in which such property is located when rented.

(6) Income received by an individual for his performance of personal services (either as an employee or in an independent capacity) or for furnishing the personal services of another person and income received by a corporation for furnishing the personal services of its employees or others shall be treated as income from sources within the State in which such services are performed. If services are performed partly within and partly outside a State, income from the performance of furnishing of such services shall be treated as income from sources partly within and partly outside that State. Compensation for personal services, and private pensions and annuities paid in respect of such services, performed aboard ships or aircrafts operated in international traffic by a resident of a Contracting State, and, in the case of the United States, registered in the United States, shall be treated as income from sources within that Contracting State, if performed by a member of the regular complement of the ship or aircraft.

(7) Income from the purchase or sale of personal (movable) property shall be treated as income from sources within the State in which such property is sold.

(8) Notwithstanding paragraphs (1) through (7), industrial or commercial profits which are attributable to a permanent establishment which the recipient, being a resident of one of the Contracting States, has in the other Contracting State including income dealt with in Articles 12 (Dividends), 13 (Interest), 14 (Royalties) and 15 (Income from Real Property) from rights or property which is effectively connected with such permanent establishment, shall be treated solely as income from sources within the other Contracting State. For the purpose of this Convention, to determine whether rights or property is effectively connected with a permanent establishment, the factors taken into account shall include whether the income is derived from property used in or held for use in the commercial or industrial activities carried on through such permanent establishment, or the commercial or industrial activities carried on through such permanent establishment were a material factor in the realization of the income.

(9) The source of any item of income to which the provisions of this Article are not expressly applicable shall be determined by each of the Contracting States in accordance with its own law.

Article 6

Non-discrimination

(1) A national of one of the Contracting States who is a resident of the other Contracting State shall not be subjected in that other Contracting State to more burdensome taxes than is a national of that other Contracting State who is a resident thereof.

(2) A national or corporation of one of the Contracting States which has a permanent establishment in the other Contracting State shall not be subjected in that other Contracting State to more burdensome taxes than is a national or corporation of that other Contracting State. This paragraph shall not be construed -

- (a) to require a Contracting State to grant to nationals of the other Contracting State who are not residents of the first-mentioned Contracting States any personal allowances or deductions which are by its law available only to residents of the first-mentioned Contracting State,
- (b) to prevent the application of paragraph (5) of Article 12 (Dividends) relating to tax on branch profits, or,
- (c) to prevent the United States from imposing a tax burden comparable to that referred to in sub-paragraph (b) on the income of a permanent establishment maintained by a resident of Trinidad and Tobago in the United States.

(3) A corporation of one of the Contracting States, the capital of which is wholly or partly owned by one or more nationals or corporations of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to more burdensome taxes than is a corporation of that Contracting State, the capital of which is wholly owned by one or more nationals or corporations of that Contracting State.

Article 7

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Article 8

Business Profits

(1) Industrial or commercial profits of a resident of one of the Contracting States shall be taxable only in that Contracting State unless such resident is engaged in industrial or commercial activity through a permanent establishment in the other Contracting State. If such a resident of one of the Contracting States is so engaged, tax may be imposed by that other Contracting State on the industrial or commercial profits of that resident but only on so much of such profits as are attributable to the permanent establishment in that other Contracting State.

(2) Where a resident of one of the Contracting States engages in industrial or commercial activity in the other Contracting State 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 Contracting State if it were an independent entity engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the resident of which it is a permanent establishment.

(3) In the determination of the industrial or commercial profits of a permanent establishment there shall be allowed as deductions, expenses wherever incurred, which are reasonably connected with such profits, including executive and general administrative expenses.

(4) No profits shall be deemed to be derived merely by reason of the purchase of goods or merchandise by a permanent establishment, or by the resident of which it is a permanent establishment, for the account of that resident.

(5) For the purposes of the preceding paragraphs, the profits to be attributed to a permanent establishment shall be determined by the same method year by year unless there is good and sufficient reasons to the contrary.

(6) For the purposes of this article, the term "industrial or commercial profits" means income derived from the active conduct of a trade or business. It includes profits from manufacturing, mercantiles, agricultural, fishing, transportation, communication, or extractive activities, from the rental of tangible personal (movable) property, from the furnishing by an individual of the personal services of another person and from the furnishing by a corporation of the personal services of its employees. It includes income dealt with in Article 12 (Dividends), Article 13 (Interest), Article 14 (Royalties), and Article 15 (Income from Real Property), but only if the right of property giving rise to the dividends, interest, royalties, or income from real property is effectively connected with a permanent establishment which the recipient, being a resident of one Contracting State, has in the other Contracting State. It does not include insurance premiums or income received by an individual for his performance of personal services (either as an employee

or in an independent capacity); nor does it include rentals from motion picture films or films or tapes for radio or television broadcasting.

Article 9

Definition of Permanent Establishment

For the purposes of this Convention -

- (1) The term "permanent establishment" means a fixed place of business through which a resident of one of the Contracting States engages in industrial or commercial activity.
- (2) The term "a fixed place of business" includes, but is not limited to, a seat of management, an office, a store or other sales outlet, a workshop, a factory, a warehouse, a mine, a quarry or other place of extraction of natural resources, or a building, construction, or installation project.
- (3) Notwithstanding paragraphs (1) and (2), a permanent establishment shall not include a fixed place of business used only for one or more of the following activities:
 - (a) the processing by another person under arrangements or conditions which are or would be made between independent persons, of goods or merchandise belonging to the resident;
 - (b) the purchase, under arrangements or conditions which are or would be made between independent persons, of goods or merchandise for the account of the resident;
 - (c) the storage and/or delivery of goods belonging to the resident (other than goods or merchandise held for sale by such resident in a store or other sales outlet);
 - (d) the collection of information for the resident;
 - (e) advertising, the conduct of scientific research, the display of goods or merchandise, or the supply of information, if such activities have a preparatory or auxiliary character in the trade or business of the resident;
 - (f) construction, assembly, or installation projects if the fixed place of business is used for such purpose for less than 6 months.

(4) even if a resident of one of the Contracting States does not have a permanent establishment in the other Contracting State under paragraphs (1) through (5), nevertheless it shall be deemed to have a permanent establishment in that other Contracting State if it -

(a) engages in industrial or commercial activity in that other Contracting State through a person who -

(i) has authority to conclude contracts in the name of that resident and habitually exercises that authority in that other Contracting State, unless the exercise of the authority is limited to the purchase of goods or merchandise for the account of the resident; or

(ii) maintains in that other Contracting State a stock of goods or merchandise belonging to that resident from which he regularly fills orders or makes deliveries;

(b) maintains equipment or machinery for rental or other purposes within that other Contracting State for a period of 6 months or more; or

(c) sells in that other Contracting State goods or merchandise which either -

(i) were subjected to substantial processing in that Contracting State (whether or not purchased in that Contracting State); or

(ii) were purchased in that Contracting State and not subjected to substantial processing outside that Contracting State.

(5) Notwithstanding paragraph (4), a resident of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it uses the services in that other Contracting State of a bona fide broker, general commission agent, forwarding agent, custodian, or other agent of independent status acting in the ordinary course of its business.

(6) The fact that a resident of one of the Contracting States is a related person with respect to (a) a resident of that other Contracting State or (b) a corporation which engages in industrial or commercial activity in that other Contracting State (whether through a permanent establishment or other wise) shall not of itself be taken into account in determining whether the first-mentioned resident has a permanent establishment in that other Contracting State.

(7) If a resident of one of the Contracting States has a permanent establishment in the other Contracting State at any time during the taxable year, it shall be considered to have permanent establishment in that other Contracting State for the entire taxable year.

Article 10

Ships and Aircrafts

(1) Notwithstanding Article 8 (Business Profits), income which a resident of the United States derive from the operation in international traffic of ships or aircraft registered in the United States shall be exempt from tax by Trinidad and Tobago.

(2) Notwithstanding Article 8 (Business Profits), income which a resident of Trinidad and Tobago derives from the operation in international traffic of ships or aircraft shall be exempt from tax by the United States.

Article 11

Related Persons

(1) Where a resident of one of the Contracting States and any other person are related and where such related persons make arrangements or impose conditions between themselves which are different from those which would be made between independent persons, then any income which would, but for those arrangements or conditions, have accrued to such resident but, by reason of those arrangements or conditions, has not so accrued, may be included in the income of such resident for purpose of this Convention and taxed by that Contracting State accordingly.

(2) A person is related to another person if either person owns or controls directly or indirectly the other, or if any third persons own or control directly or indirectly both. For this purpose, the term "control" includes any kind of control, whether or not legally enforceable, and however exercised or exercisable.

Article 12

Dividends

(1) The tax imposed by Trinidad and Tobago on dividends derived from sources within Trinidad and Tobago by a resident of the United States shall not exceed -

(a) twenty-five per cent of the gross amount actually distributed; or

(b) when the recipient is a corporation, 10 per cent of the gross amount actually distributed if -

(i) during the part of the paying corporation's taxable year which precedes the date of payment of the dividend and during the whole of its prior taxable year (if any), at least 10 per cent of the outstanding shares of the voting stock of the paying corporation was owned by the recipient corporation, and

(ii) not more than 25 per cent of the gross income of the paying corporation for such prior taxable year (if any) consisted of interest and dividends (other than interest derived in the conduct of a banking, insurance, or financing business or dividends and interest received from subsidiary corporations having 50 per cent or more of the outstanding shares of their voting stock owned by the paying corporation at the time such dividends or interest is received).

(2) The provisions of paragraph (1) shall not apply if the recipient of the dividends is a resident of the United States and has a permanent establishment in Trinidad and Tobago and the Stock giving rise to the dividends is effectively connected with the permanent establishment. In such case Article 8 (Business Profits) shall apply.

(3) Subject to the provisions of paragraph (5) of Article 13 (Interest), for purposes of this Convention:

(a) the term "dividends" in the case of Trinidad and Tobago includes any item which under the law of Trinidad and Tobago is treated as a distribution of a company except that this term does not include any redeemable share capital or security issued by a corporation in respect of shares in the corporation otherwise than wholly for new consideration, or such part of any redeemable share capital or security so issued as is not properly referable to new consideration,

(b) the term "dividends" in the case of the United States includes any item which under the law of the United States is treated as a distribution out of earnings and profits.

(4) Dividends paid by a corporation of one of the Contracting States to a person other than a resident of the other Contracting State (and in the case of dividends) paid by a Trinidad and Tobago corporation, other than to a citizen of the United States) shall be exempt from tax by that other Contracting State, unless such dividends are treated as income from sources within that other Contracting State under paragraph (1) (b) or (8) or Article 5 (Source of Income).

(5) Notwithstanding the provisions of paragraphs (2) and (4), where a corporation of one of the Contracting States has a permanent establishment in the other Contracting State and derives profits or income which is effectively connected with that permanent establishment, any remittance of such profits or income by that permanent establishment may be taxed as a distribution in accordance with the law of the other Contracting State, but the rate so charged shall not exceed 10 per cent.

Article 13

Interest

(1) Interest received by the Government of one of the Contracting States or any agency or instrumentality wholly owned by that Government shall be exempt from tax by the other Contracting State.

(2) The tax imposed by Trinidad and Tobago on interest received from sources within Trinidad and Tobago by a resident of the United States which is a bank or other financial institution not having a permanent establishment in Trinidad and Tobago shall not exceed 15 per cent of the gross amount paid.

(3) Where any interest paid by a person to any related person exceeds a fair and reasonable consideration in respect of the indebtedness for which it is paid, the provisions of paragraph (2) shall apply only to so much of the interest as represents such fair and reasonable consideration; and the excess payment shall be characterized and taxed according to the laws of each Contracting State, including the provisions of this Convention where applicable.

(4) Interest paid by a corporation of one of the Contracting States to a person other than a resident or corporation of the other Contracting State (and, in the case of interest paid by a Trinidad and Tobago corporation, other than to a citizen of the United States) shall be exempt from tax by that other Contracting State, unless such interest is treated as income from sources within that other Contracting State under paragraph (2) (b) or (8) of Article 5.

(5) Any provision of Trinidad and Tobago law having the effect of requiring interest paid to be treated as a distribution by the Trinidad and Tobago corporation shall apply to interest paid to a resident of the United States only to the extent that the taxpayer is unable to demonstrate to the satisfaction of the taxing authorities of Trinidad and Tobago that the investment giving rise to the interest (and its denomination as indebtedness) did not have as its purpose the avoidance of Trinidad and Tobago tax.

Article 14

Royalties

(1) The tax imposed by one of the Contracting States on royalties derived from sources within that Contracting State by a resident of the other Contracting State shall not exceed 15 per cent of the gross amount thereof, except as provided in paragraphs (2) and (3).

(2) Royalties derived from copyrights, or rights to produce or reproduce any literary, dramatic, musical, or artistic work, by a resident of one Contracting State shall be taxable only in that Contracting State.

(3) Paragraphs (1) and (2) shall not apply if the recipient of the royalty, being a resident of one of the Contracting States, has in the other Contracting State a permanent establishment and the right or property giving rise to the royalties is effectively connected with such permanent establishment. In such a case, the provisions of Article 8 (Business Profits) shall apply.

(4) For the purposes of this Article, the term "royalties" means any royalties, rentals, or other amounts paid as consideration for the use of, or the right to use:

- (a) copyrights, artistic or scientific works, patents, designs, plans, secret processes or formulae, trademarks, or other like property or rights (not including motion picture films or films or tapes for radio or television broadcasting), or
- (b) information concerning industrial, commercial, or scientific knowledge, experience, or skill.

The term does not include any royalties, rentals or other amounts paid in respect of the operation of mines, quarries, or other natural resources.

(5) Where any royalty paid by a person to any related person exceeds a fair and reasonable consideration in respect of the rights or property for which it is paid, the provisions of paragraphs (1) and (2) shall apply only to so much of the royalty as represents such fair and reasonable consideration; and the excess payment shall be characterized and taxed according to the laws of each Contracting State, including the provisions of this Convention where applicable.

Article 15

Income from Real Property

A resident of one of the Contracting States who is subject to tax in the other Contracting State on income from real property, including gains derived from the sale or exchange of such property, or on royalties in respect of the operation of mines, quarries, or other natural resources may elect for any taxable year to compute that tax, on such income, on a net basis as if such resident were engaged in trade or business in that other Contracting State.

Article 16

Investment or Holding Companies

A corporation of one of the Contracting States deriving dividends, interest, or royalties from sources within the other Contracting State shall not be entitled to the benefits of Article 12 (Dividends), 13 (Interest) or 14 (Royalties) if -

- (a) by reason of special measures granting tax benefits to investment or holding companies the tax imposed on such corporation by the first-mentioned Contracting State with respect to such dividends, interest, or royalties is substantially less than the tax generally imposed by such Contracting State on corporate profits; and
- (b) twenty-five per cent or more of the capital of such corporation is held of record or is otherwise determined, after consultation between the competent authorities of the Contracting States, to be owned, directly or indirectly, by one or more persons who are not residents of the first-mentioned Contracting State (or, in the case of a Trinidad and Tobago corporation, who are citizens of the United States).

Article 17

Income from Personal Services

(1) An individual who is a resident of one of the Contracting States shall be exempt from tax by the other Contracting State with respect to income from personal services performed within that other Contracting State if he is present within that other

Contracting State for a period or periods not exceeding in the aggregate one hundred and eighty-three days during the taxable year, and either -

(a) (i) such individual is an employee of a resident of a State other than that other Contracting State (or of a permanent establishment of a resident of that other Contracting State located outside that Contracting State); and

(ii) such income is not deducted as such in computing the profits of a permanent establishment in that other Contracting State which are subject to tax in that Contracting State; or

(b) the gross amount of such income does not exceed three thousand dollars or its equivalent in Trinidad and Tobago dollars.

(2) Compensation received by an individual for personal services performed aboard ships or aircraft operated in international traffic by a resident of a Contracting State (and, in the case of the United States, registered in the United States) shall, subject to paragraph (3) of Article 3 (General Rules of Taxation), be exempt from tax by the other Contracting State, if the services are performed by a member of the regular complement of the ship or aircraft.

(3) For purposes of paragraph (1), the term "income from personal services" includes employment income and income earned by an individual from the performance of personal services in an independent capacity. The term "employment income" includes income from services performed by officers and directors of corporations, but does not include income from personal services performed by partners, which shall be treated as income from the performance of services in an independent capacity.

(4) The provisions of paragraph (1) shall not apply in the case of income from personal services derived by:

(a) a public entertainer, theatre, motion picture or television artist, musician, or athlete, if the gross amount of such income exceeds one hundred dollars or its equivalent in Trinidad and Tobago dollars for each day such person is present for the purpose of performing in the Contracting State in which such services are performed; or

(b) any person providing the services of the persons described in subparagraph (a), even though such income may otherwise be considered to be exempt under some other provision of this Convention, if the gross amount of such income of such person for providing such services exceeds one hundred dollars or its equivalent in Trinidad and Tobago dollars for each day that the individuals whose services are being provided (or any one of such individuals) are present for the purpose of performing in the Contracting State in which such services are performed.

Article 18

Teaching and Research

(1) An individual who is a resident of one of the Contracting States at the beginning of his visit to the other Contracting State and who, at the invitation of the Government of that other Contracting State or of a university or other educational institution situated in that other Contracting State and approved by the appropriate educational authority of that Contracting State, visits that other Contracting State for the primary purpose of teaching or engaging in research, or both, at a university another educational institution approved by the appropriate educational authority of that Contracting State shall be exempt from tax by that other Contracting State on his income from personal services for teaching or research at such approved university or other educational institution for a period not exceeding two years from the date of his arrival in that other Contracting State.

(2) The exemption granted under paragraph (1) shall not apply -

- (a) to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons;
- (b) to income in cases where an agreement exists between the Governments of the Contracting States for the provision of the services of such individuals.

Article 19

Students and Trainees

(1) (a) An individual who is a resident of one of the Contracting States at the beginning of his visit to the other Contracting State and who is temporarily present in that other Contracting State for the primary purpose of -

- (i) studying in that other Contracting State at a university or other educational institution approved by the appropriate educational authority of that Contracting State,
- (ii) securing training required to qualify him to practice a profession or a professional speciality, or
- (iii) studying or doing research as a recipient of a grant, allowance, or award from a governmental, religious, charitable, scientific, literary, or educational organization,

shall be exempt from tax by that other Contracting State with respect to -

(iv) gifts from abroad for the purposes of his maintenance, education, study, research or training.

(v) the grant, allowance, or award, and

(vi) income from personal services performed in the other Contracting State in an amount not in excess of two thousand dollars or its equivalent in Trinidad and Tobago dollars for any taxable year; or, if such individual is securing training required to qualify him to practice a profession or a professional speciality, not in excess of five thousand dollars or its equivalent in Trinidad and Tobago dollars for any taxable year.

(b) The benefits under this paragraph shall only extend for such period of time as may be reasonably or customarily required to effectuate the purpose of the visit, but in no event shall any individual have the benefits of this paragraph for more than five taxable years.

(2) A resident of one of the Contracting States who is present in the other Contracting State for a period not exceeding one year, as an employee of, or under contract with, a resident of corporation of the first-mentioned Contracting State, for the primary purpose of -

(a) acquiring technical, professional, or business experience from a person other than that resident or corporation of the first-mentioned Contracting State, or

(b) studying in the other Contracting State at a university or other educational institution approved by the appropriate educational authority of that Contracting State,

shall be exempt from tax by the other Contracting State with respect to his income from personal services performed in that other Contracting State for that period in an amount not in excess of five thousand dollars or its equivalent in Trinidad and Tobago dollars.

(3) A resident of one of the Contracting States who is present in the other Contracting State for a period not exceeding one year, as a participant in a programme sponsored by the Government of that other Contracting State, for the primary purpose of training, research, or study, shall be exempt from tax by that other Contracting State with respect to his income from personal services performed in that other Contracting State in connection with such training, research, or study in an amount not in excess of ten thousand dollars or its equivalent in Trinidad and Tobago dollars.

Article 20

Governmental Salaries

Wages, salaries, and similar compensation, pensions, annuities, or similar benefits paid by, or from public funds of, one of the Contracting State to an individual who is a national of that Contracting State for services rendered to that Contracting State in the discharge of governmental functions shall be exempt from tax by the other Contracting State.

Article 21

Rules Applicable to Personal Income Articles

(1) Articles 17 (Income from Personal Services), 18 (Teaching and Research), 19 (Students and Trainees) and 20 (Governmental Salaries) shall apply to reimbursed travel expenses, but such expenses shall not be taken into account in computing the maximum amount of exemptions specified in Articles 17 and 19.

(2) An individual who qualifies for benefits under more than one of the provisions of Articles 17 through 20 may apply that provision most favourable to him, but he shall not be entitled to the benefits of more than one of such provisions with respect to the same income in any taxable year.

Article 22

Private Pensions and Annuities

(1) Private pensions, private life annuities, and alimony paid to individuals who are residents of one of the Contracting States shall be exempt from tax by the other Contracting State.

(2) The term "life annuities", as used in this article, means a stated sum paid periodically at stated times during life, or during a specified number of years, under an obligation to make payments in return for adequate and full consideration in money or money's worth.

(3) The term "pensions", as used in this article, means periodic payments made after retirement or death in consideration for services rendered, or by way of compensation for injuries received in connection with past employment.

(4) The term "alimony", as used in this article, means periodic payments made pursuant to a decree of divorce or of separate maintenance which are taxable to the recipient under the internal laws of the Contracting State of which he is a resident.

Article 23

Mutual Agreement Procedures

(1) The competent authorities of the Contracting States may prescribe regulations for implementing the present Convention within the respective States and may communicate with each other directly for the purpose of giving effect to the provisions of this Convention should any difficulty or doubt arise as to the interpretation or application of this Convention, or its relationship to Conventions between one of the Contracting States and any other State, the competent Authorities shall endeavour to settle the question as quickly as possible by mutual agreement.

(2) In particular, the competent authorities of the Contracting States may consult together to endeavour to agree -

- (a) to the same application of the source rules set forth in Article 5 to particular items of income;
- (b) to the same attribution of industrial or commercial profits to a resident of one of the Contracting States and to its permanent establishment situated in the other Contracting State; or
- (c) to the same allocation of income between a resident of one of the Contracting States and any related person.

In the event that the competent authorities reach such an agreement, taxes shall be imposed on such income, and refund or credit of taxes shall be allowed, by the Contracting States in accordance with such agreement.

Article 24

Exchange of Information

(1) The competent authority of one of the Contracting States shall exchange such information with the competent authority of the other Contracting State as is pertinent to the carrying out of the provisions of this Convention or to the preventing of fraud or fiscal evasion in relation to the taxes which are subject of this Convention.

(2) The competent authority of the Contracting State to which a request for information is made shall not exchange information unless that information would be available under the taxation laws and administrative procedures of that Contracting State if the tax of the other Contracting State, to which the request for information relates, were the tax of the first-mentioned Contracting State and were being imposed by that Contracting State.

(3) Any information exchanged shall be treated as secret by may be disclosed to persons (including a court or administrative body) concerned with assessment, collection, enforcement, or prosecution with respect to the taxes which are the subject of this Convention.

(4) No information shall be exchanged which would disclose any trade, business, industrial, or professional secret.

Article 25

Assistance in Collection

(1) Each of the Contracting States shall endeavour to collect such taxes imposed by the other Contracting State as will ensure that any exemption or reduced rate of tax granted under this Convention by the other Contracting State shall not be enjoyed by persons not entitled to such benefits. The Contracting State making such collections shall be responsible to the other Contracting State for the sums thus collected. The competent authorities of the Contracting States may consult together for the purpose of giving effect to this article.

(2) In no case shall the provisions of this Article be construed so as to impose upon either of the Contracting States the obligation to carry out administrative measures at variance with the regulations and practices of the Contracting State endeavouring to collect the tax or which would be contrary to that Contracting State's sovereignty, security, or public policy.

Article 26

Taxpayer Claims

A taxpayer shall be entitled to present his case to the Contracting State of which he is a citizen or resident if he considers that the action of the other Contracting State has resulted or will result for him in taxation contrary to the provisions of this Convention. Should the taxpayer's claim be considered to have merit by the competent authority of the Contracting State to which the claim is made, it shall endeavour to come to an agreement with the competent authority of the other Contracting State with a view to the avoidance of taxation contrary to the provisions of this Convention.

Article 27

Exchange of Legal Information

(1) The competent authorities of the Contracting States shall notify each other of any amendments of the tax laws referred to in Article 1 (1) and of the adoption of any taxes referred to in Article 1 (2) by transmitting the texts of any amendments or new statutes at least once a year.

(2) The competent authorities of the Contracting States shall exchange the texts of all published material interpreting this Convention under the laws of the respective Contracting States, whether in the form of regulations, rulings, or judicial decisions.

Article 28

Effective Dates and Ratification

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

(2) After the exchange of instruments of ratification, this Convention shall have effect for taxable years beginning on or after the first day of January of the year in which the instruments of ratification are exchanged.

(3) Notwithstanding the provisions of paragraph (2), Article 7 (Tax Deferral for Technical Assistance) shall have effect with respect to stock received on or after the date of the signing of this Convention.

(4) Notwithstanding the provisions of paragraph (2), Trinidad and Tobago agrees, following the signing of this Convention, to take all such steps as are necessary to give effect to the provisions of Article 12 (Dividends), so that such provisions shall be effective from 1st January, 1970, and shall terminate on 31st December, 1970, unless this Convention has been ratified by both Contracting States.

(5) This Convention shall continue in effect indefinitely, but it may be terminated by either of the Contracting States at any time after five years from the first day of January referred to in paragraph (2), provided that at least six months' prior notice of termination has been given. In such event, this Convention shall cease to be effective for taxable years beginning on or after the first day of January next following the expiration of the six-month period.

Article 29

Extension of Convention

(1) Either of the Contracting States may, at any time while this Convention continues in force, by a written notification given to the other Contracting State through diplomatic channels, declare its desire that the operation of this 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 the areas (to which this Convention is not otherwise applicable) for whose international relations it is responsible and which impose taxes substantially similar in character to those which are the subject of this Convention. When the other Contracting State has, by a written communication through diplomatic channels, signified to the first-mentioned Contracting State that such notification is accepted in respect of such area or areas, and the notification and communication have been ratified in accordance with the constitutional procedure of the respective Contracting States, and instruments of ratification exchanged, this 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 area or areas named in the notification for taxable years beginning on and after the date or dates specified therein. None of the provisions of this Convention shall apply to any areas in the absence of such acceptance and exchange of instruments of ratification in respect of that area.

(2) At any time after the date of entry into force of an extension under paragraph (1), either of the Contracting States may, by six months' prior written notice of termination given to the other Contracting State through diplomatic channels, terminate the application of this Convention to any area to which it has been extended under paragraph

(1), and in such event this Convention shall cease to apply, for taxable years beginning on or after the first day of January next following the expiration of the six-month period, to the area or areas name therein, but without affecting its continued application to the United States, Trinidad and Tobago, or to any other area to which it has been extended under paragraph (1).

(3) In the application of this Convention in relation to any area to which it is extended by notification by Trinidad and Tobago or the United States, reference to "Trinidad and Tobago" or the "United States", as the case may be, shall be construed as referring to that area.

In witness whereof the undersigned have signed this Convention.

Done in duplicate at Port of Spain this ninth day of January, 1970.

FOR THE GOVERNMENT OF TRINIDAD AND TOBAGO:

ERIC WILLIAMS
Prime Minister and Minister of Finance

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

J. FIFE SYMINGTON JR.
Ambassador Extraordinary and Plenipotentiary

Dated this 28th day of December, 1970.

K. BOSWELL-INNISS
Acting Secretary to the Cabinet