

LEGAL NOTICE NO. 148
TRINIDAD AND TOBAGO

THE INCOME TAX ACT, CHAP. 33 No.1

ORDER

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

THE DOUBLE TAXATION RELIEF (DENMARK) ORDER, 1969

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 20th day of June, 1969, made between the Government of Trinidad and Tobago and the Government of Denmark, 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 please to order, and it is hereby ordered as follows:-

1. This Order may be cited as the Double Taxation Relief (Denmark) Order, 1969.
2. It is hereby declared that:-
 - (a) that the arrangements specified in the Schedule have been made with the Government of Denmark;
 - (b) that it is expedient that those arrangements should have effect.

SCHEDULE

CONVENTION BETWEEN THE GOVERNMENT OF TRINIDAD AND TOBAGO AND THE GOVERNMENT OF DENMARK FOR THE AVOIDANCE OF DOUBLE TAXATION AND 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 Denmark desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and for the encouragement of international trade and investment have agreed as follows:-

Article I

Personal Scope

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

Article II

Taxes Covered

- (1) Taxes which are the subject of this Convention are:-
 - (a) in Trinidad and Tobago:
the corporation tax and the income tax which are imposed by the Government of Trinidad and Tobago;
 - (b) in Denmark:
 - (i) the ordinary income taxes to the State;
 - (ii) the municipal income taxes;
 - (iii) the old age pension contribution;
 - (iv) the seamen's tax;
 - (v) the special income tax;
 - (vi) the church tax.
- (2) This Convention shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Convention in addition to, or in place of, the existing taxes by either Government.

Article III

Definitions

- (1) In this Convention unless the context otherwise requires:
- (a) the term "Trinidad and Tobago" means the country of Trinidad and Tobago, including any area adjacent to the territorial waters of Trinidad and Tobago which, in accordance with international law, has been or may hereafter be designated as an area within which the rights of Trinidad and Tobago with respect to the sea bed and sub-soil and their natural resources may be exercised;
 - (b) the term "Denmark", when used in a geographical sense, means the Kingdom of Denmark, including any area within which, under the laws of Denmark and in accordance with international law, the rights of Denmark with respect to the exploration and exploitation of the natural resources of the continental shelf may be exercised; the term does not comprise the Farce Islands and Greenland;
 - (c) the terms "one of the Contracting States" and "the other Contracting State" mean Trinidad and Tobago or Denmark as the context requires;
 - (d) the term "person" includes individuals, companies and all other entities which are treated as taxable units under the taxation laws in force in either Contracting State;
 - (e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - (f) the terms "enterprise of one of the Contracting States" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of one of the Contracting States and an enterprise carried on by a resident of the other Contracting State;
 - (g) the term "national" means all individuals possessing the nationality of a Contracting State and all legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State;
 - (h) the term "international traffic" includes traffic between places in one country in the course of a voyage which extends over more than one country;
 - (i) the term "competent authority" means in either Contracting State the Minister of Finance or his authorized representative;

(j) the term "Trinidad and Tobago tax" means tax imposed by Trinidad and Tobago being tax to which this Convention applies by virtue of Article II;

(k) the term "Danish tax" means tax imposed by Denmark being tax to which this Convention applies by virtue of Article II.

(2) In the application of this Convention by one of the Contracting States any term which is not defined in this 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 subject of this Convention.

Article IV

Fiscal Domicile

(1) For the purposes of this Convention the term "resident of one of the Contracting States" means any person who under the law of that State is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

(2) Where by reason of the provisions of paragraph (1) of this Article an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:-

(a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (hereinafter referred to as his "centre of vital interests");

(b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;

(c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be resident of the Contracting State of which he is a national;

- (d) if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall determine the question by mutual agreement.
- (3) Where by reason of the provisions of paragraph (1) of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

Article V

Permanent Establishment

- (1) For the purposes of this Convention, the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.
- (2) The term "permanent establishment" shall include especially:
- (a) a place of management;
 - (b) a branch;
 - (c) a store or other sales outlet;
 - (d) an office;
 - (e) a warehouse;
 - (f) a factory;
 - (g) a workshop;
 - (h) a mine, quarry or other place of extraction of natural resources;
 - (i) a building site or construction or assembly project which exists for more than six months.
- (3) The term "permanent establishment" shall not be deemed to include:
- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
 - (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;

- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.
- (4) A person acting in one of the Contracting States on behalf of an enterprise of the other Contracting State - other than an agent of an independent status to whom paragraph (5) of this Article applies - shall be deemed to be a permanent establishment in the first-mentioned State:-
- (a) if he has, and habitually exercises in that first-mentioned State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or
 - (b) if he maintains in that first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he habitually fills orders or makes deliveries on behalf of the enterprise;
 - (c) if he maintains equipment or machinery for rental or other purposes within the latter Contracting State for a period of six months or more;
 - (d) if he sells in that Contracting State goods or merchandise which were subjected to substantial processing in that Contracting State (whether or not purchased in that Contracting State).
- (5) An enterprise of one of the Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.
- (6) The fact that a company which is a resident of one of the Contracting States controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article VI

Income from Immovable Property

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

(2) The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships, boats and aircraft shall not be regarded as immovable property.

(3) The provisions of paragraph (1) of this Article shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

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

Article VII

Industrial or Commercial Profits

(1) The industrial or commercial profits of an enterprise of one of the Contracting States shall be taxable only in that State unless the enterprise carries on a trade or business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on a trade or business as aforesaid, the industrial or commercial profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

(2) Where an enterprise of one of the Contracting States carries on a trade or business 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 enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

(3) In determining the industrial or commercial profits of an enterprise of one of the Contracting States which are taxable in the other Contracting State in accordance with the previous paragraphs of this Article, there shall be allowed as deductions all expenses of the enterprise (including executive and general administrative expenses) which would be deductible if the permanent establishment were an independent enterprise and which are reasonably connected with the profits so taxable, whether such expenses were incurred in the Contracting State in which the permanent establishment is situated or elsewhere.

(4) Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 of this Article shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.

(5) No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

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

(7) The term "industrial or commercial profits" does not include dividends, interest, royalties or rents other than dividends, interest, royalties or rents effectively connected with a trade or business carried on through a permanent establishment which an enterprise of one of the Contracting States has in other Contracting States; nor does the term include income derived by an enterprise from the provision of management and other personal, professional and technical services or remuneration for personal (including professional) services.

Article VIII

Shipping and Air Transport

(1) A resident of one of the Contracting States shall be exempt from tax in the other Contracting State on profits from the operation of ships or aircraft in international traffic.

(2) The provision of paragraph 1 of this Article shall likewise apply with respect to participating in pools of any kind by enterprises of a Contracting State engaged in air transport.

Article IX

Associated Enterprise

Where:-

(a) an enterprise of one of the Contracting States participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State; or

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

and in either case conditions are made or imposed between the two enterprises, in their commercial or financial relations, which differ from those which would be made between independent enterprises, then any profits which but for those conditions would 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 X

Dividends

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

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

(a) 10 per cent of the gross amount of the dividends if the recipient is a company which controls directly or indirectly at least 25 per cent of the voting power of the company paying the dividends;

(b) in all other cases, 20 per cent of the gross amount of the dividends.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

(3) The provisions of paragraphs 1 and 2 of this Article shall not apply if the recipient of the dividends, being a resident of one of the Contracting States, has in the other Contracting State of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of Article VII shall apply.

(4) The term "dividend"

- (a) in the case of Trinidad and Tobago includes any item which under the law of Trinidad and Tobago is treated as a distribution;
- (b) in the case of Denmark includes any item which under the law of Denmark is treated as a distribution.
- (5) Where a company which is a resident of one of the Contracting States, having a permanent establishment in the other Contracting State, derives profits or income from that permanent establishment, any remittances or deemed remittances of such profits by the permanent establishment to a resident of the first-mentioned State may be taxed in accordance with the law of the other Contracting State but the rate of tax imposed on such remittances shall not exceed 10 per cent.

Article XI

Interest

- (1) The rate of tax imposed by one of the Contracting States on interest arising in that Contracting State and paid or credited to a resident of the other Contracting State shall not exceed 15 per cent of the gross amount of the interest.
- (2) The provisions of paragraph 1 of this Article shall not apply if the person to whom the interest is paid or credited has in the Contracting State in which the interest arises, a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the provisions of Article VII shall apply.
- (3) Where owing to a special relationship between the payer and the recipient, or between both of them and some other person, the amount of the interest paid or credited exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount.

Article XII

Royalties

(1) The rate of tax imposed by one of the Contracting States on Royalties arising in that Contracting State and paid or credited to a resident of the other Contracting State shall not exceed 15 per cent, of the gross amount of the royalties.

(2) The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use copyrights, patents, trade marks, designs or models, plans, secret formulae or processes or other like property or rights, or for the use of, or the right to use industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience, and includes any royalty or like payment in respect of motion picture films and films or video tapes for use in connection with television or tapes for use in connection with radio, but does not include royalties or other amounts paid in respect of the operations of mines or quarries or in respect of the extraction or removal of natural resources.

(3) Notwithstanding paragraph 1 of this Article copyright royalties and other like payments in respect of the production or reproduction of any literary, dramatic, musical or artistic work (excluding royalties and like payments in respect of motion picture films and films or video tapes for use in connection with television and tapes for use in connection with radio) arising in one of the Contracting States and paid or credited to a resident of the other Contracting State shall be exempt from tax in the first-mentioned State.

(4) The provisions of paragraphs 1 and 3 of this Article shall not apply if the person to whom the royalties are paid or credited has in the Contracting State in which the royalties arise a permanent establishment with which the right of property giving rise to the royalties is effectively connected. In such a case, the provisions of Article VII shall apply.

(5) Where, owing to a special relationship between the payer and the recipient, or between both of them and some other person, the amount of the royalties paid or credited exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount.

Article XIII

Management Charges

- (1) The tax imposed by one of the Contracting States on payments made or credited by a resident of that Contracting State to a resident of the other Contracting State for the provision of management and other personal, professional and technical services, where such payments are associated with services performed in the Contracting State by or on behalf of a resident of the other Contracting State shall not exceed 5 per cent of the gross amount of such payments.
- (2) The provisions of paragraph 1 of this Article shall not apply if the resident to whom the payments are made or credited has in the Contracting State in which the payments arise a permanent establishment with which such payments are effectively connected. In such a case, the provisions of Article VII shall apply.
- (3) Where, owing to a special relationship between the payer and the recipient, or between both of them and some other person, the amount of the payments paid or credited exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount.

Article XIV

Dependent Personal Services

- (1) Salaries, wages and other similar remuneration (other than remuneration to which Article XVI applies) derived by a resident of one of the Contracting States in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
- (2) Notwithstanding the provisions of paragraph 1 of this Article remuneration derived by a resident of one of the Contracting States in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
 - (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the tax year concerned; and

- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
 - (c) the remuneration is not borne by a permanent establishment which the employer has in the other State; and
 - (d) the remuneration earned in the other State in the tax year concerned does not exceed an amount equivalent to five thousand U.S. dollars.
- (3) Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State in which the person operating the ship or aircraft is resident.
- (4) In relation to remuneration of a director of a company derived from the company the preceding provisions of this Article shall apply as if the remuneration were remuneration of an employee in respect of an employment and as if references to employers were references to the company.

Article XV

Independent Personal, Professional or Technical Services

- (1) Where a resident of one of the Contracting States derives income from the other Contracting State in respect of personal, professional or technical services or other independent activities of a similar character he shall be subject to tax in that other Contracting State but only in respect of such income as is attributable to his services in that other Contracting State.
- (2) The term "personal, professional or technical services" includes especially independent scientific, literary, artistic, educational and teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists, accountants, public entertainers and athletes.

Article XVI

Governmental Functions

- (1) Remuneration, other than pensions, paid by one of the Contracting States or any political sub-division or a local authority thereof to any individual in respect of services rendered to it in the discharge of Governmental functions shall be exempt from tax in the other Contracting State, if the individual is not ordinarily resident in that other State or is ordinarily resident in that other State solely for the purpose of rendering those services.
- (2) Pensions paid by one of the Contracting States to any individual in respect of services rendered to that Government in the discharge of Governmental functions shall be exempt from tax in the other Contracting State.
- (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 States or any political sub-division or a local authority thereof for purposes of profit.

Article XVII

Pensions

- (1) Any pension (other than a pension of the kind referred to in paragraph (2) of Article XVI) and any annuity derived from sources within one of the Contracting States by an individual who is a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State.
- (2) The term "annuity" means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Article XVIII

Students and Trainees

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

(i) studying in the other Contracting State at a university or other educational institution approved by the appropriate educational authority of the Contracting State;

(ii) securing training required to qualify him to practice a profession or a professional specialty; 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:-

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

(B) the grant, allowance, or award; and

(C) remuneration from employment in that other State provided that the remuneration constitutes earnings reasonably necessary for his maintenance and education.

(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 the first-mentioned State, for the primary purpose of acquiring technical, professional, or business experience from a person resident in that other Contracting State, shall be exempt from tax for that period in that other Contracting State with respect of his remuneration from employment.

(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 program sponsored by the Government of the other Contracting State, for the primary purpose of training, research or study, shall be exempt from tax for that period in that other Contracting State with respect to any grant, allowance, award or remuneration.

Articles XIX

Teachers

(1) A professor or teacher who visits one of the Contracting States for a period not exceeding two years for the purpose of teaching at a university, college, school or other educational institution in that State and who is, or was immediately before that visit, a resident of the other Contracting State shall be exempt from tax in the first-mentioned State on any remuneration for such teaching.

(2) The provisions of paragraph (1) of this Article shall not apply where the services of a professor or teacher are performed under the terms of an agreement or contract, entered into with the Government of the country where the services are performed, which makes special provisions respecting their terms of employment.

Article XX

Credit

(1) 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 effect the general principle hereof)-

(a) Danish tax payable under the laws of Denmark and in accordance with the present Convention, whether directly or by deduction, on profits or income from sources within Denmark (excluding, in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any Trinidad and Tobago tax computed by reference to the same profits or income by reference to which the Danish tax is computed;

(b) in the case of a dividend paid by a company which is a resident of Denmark to a company which is resident in Trinidad and Tobago and which controls directly or indirectly at least 10 per cent of the voting power in the Danish company, the credit shall take into account (in addition to any Danish tax creditable under (a)) the Danish tax payable by the Company in respect of the profits out of which such dividend is paid.

(2) (a) Where a resident of Denmark derives profits or income which, in accordance with the provisions of this Convention, may be taxed in Trinidad and Tobago, Denmark shall

allow as a credit against the tax on the profits or income of that person, an amount equal to the tax paid in Trinidad and Tobago.

(b) In the case of a dividend paid by a company which is a resident of Trinidad and Tobago to a company which is resident in Denmark and which controls directly or indirectly at least 10 per cent, of the voting powers in the Trinidad and Tobago company, the credit shall take into account (in addition to any Trinidad and Tobago tax creditable under (a)) the Trinidad and Tobago tax payable by the company in respect of the profits out of which such dividend is paid.

(3) The credit, however, shall in no case exceed that part of the tax as computed before the credit is given, which is appropriate to the income which may be taxed in the other Contracting State.

(4) For the purposes of paragraph (2) of this Article, the term "tax paid in Trinidad and Tobago" shall be deemed to include any amount which would have been payable in Trinidad and Tobago tax for any year, but for an exemption or reduction of tax granted for that year or any part thereof under:

(a) any of the following provisions -

- (i) Income Tax Ordinance, Chapter 33. No. 1, section 9 and Chapter 33. No. 2
- (ii) Aid to Pioneer Industries Ordinance, Chapter 33. No. 3;
- (iii) Cement Industry (Development) Ordinance, Chapter 33. No. 17;
- (iv) Nitrogenous Fertilizer Industry (Development) Ordinance, 1958;
- (v) Lubricating Oils and Greases Industry (Development) Ordinance, 1961;
- (vi) Housing Act, 1962;
- (vii) Petrochemicals Industry Development Act, 1962;
- (viii) Hotel Development Act, 1962. (No. 3 of 1963);
- (ix) Finance Act 1966 Part II - Section 46 (1);
- (x) Tyre Manufacturing Industry Development Act, No. 39 of 1967;
- (xi) Ordinances, Acts and Government Orders granting exemption in respect of Government Debentures and other loan capital,

so far as they were in force on, and have not been modified since, the date of the signature of this Convention, or have been modified only in minor respects so as not to affect their general character; or

(b) any other provision which may subsequently be made granting an exemption which is agreed by the competent authorities of the Contracting States to be of a substantially similar character, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general acceptance.

(5) For the purposes of this Article profits or remuneration for personal (including professional) services performed in one of the Contracting States shall be deemed to be income from sources within that State, and the services of an individual whose services

are wholly or mainly performed in ships or aircraft operated in international traffic by a resident of one of the Contracting States shall be deemed to be performed in that State.

Article XXI

Non-discrimination

(1) The nationals of one of the Contracting States shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which the nationals of the last-mentioned State in the same circumstances are or may be subjected.

(2) The taxation of a permanent establishment which an enterprise of one of the Contracting States has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

(3) Nothing in this Article shall be construed -

(a) as obliging one of the Contracting States to grant to residents of the other Contracting State those personal allowances and reliefs for tax purposes which are by law available only to residents of the first-mentioned State;

(b) as preventing one of the Contracting States from imposing on the profits attributable to a permanent establishment in that State of a company which is a resident of the other Contracting State, tax in accordance with the provisions of paragraph (5) of Article X, in addition to the tax which would be chargeable on those profits if they were the profits of a company which was a resident of that State.

(4) In this Article the term "taxation" means taxes of every kind and description.

Article XXII

Consultation

- (1) Where a resident of one of the Contracting States considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the laws of those States, present his case to the competent authorities of the Contracting State of which he is a resident.
- (2) The competent authorities shall endeavour, if the objection appears to them to be justified and if they are not themselves able to arrive at an appropriate solution, to resolve that case by mutual agreement with the competent authorities of the other Contracting State, with a view to the avoidance of taxation not in accordance with this Convention.
- (3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Convention. They may also consult together for the purpose of endeavouring to eliminate double taxation in cases not provided for in this Convention.
- (4) The competent authorities of the Contracting States may communicate directly with each other for the purposes of this Article.

Article XXIII

Exchange of Information

The competent authorities of the Contracting States shall, upon request, 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 this 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 this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to persons other than persons (including a court of administrative tribunal) concerned with the assessment, collection, enforcement or prosecution in respect of the taxes which are the subject of this Convention. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

Article XXIV

Territorial Extension

(1) This Convention may be extended, either in its entirety or with any necessary modifications, to any part of the territory of Denmark which is specifically excluded from the application of the Convention, which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels.

(2) Unless otherwise agreed by both Contracting States, the termination of the Convention by one of them under Article XXVI shall terminate also, in the manner provided for in that Article, the application of the Convention to any territory to which it has been extended under this Article.

Article XXV

Effective Date of Commencement

(1) The Convention shall come into force when the Contracting States have notified each other through diplomatic channels that all the legal requirements and the procedures for giving effect to this Convention have been satisfied.

(2) The provisions shall have effect:-

(a) in Trinidad and Tobago -

(i) in respect of tax withheld at the source on amounts paid, credited or remitted to non-residents on or after January 1, 1966;

(ii) in respect of other Trinidad and Tobago tax for the year of income commencing January 1, 1966 and for subsequent years of income;

(b) in Denmark -

in respect of Danish tax for the tax year commencing April 1, 1966 and for subsequent tax years.

Article XXVI

Termination

This Convention shall continue in effect indefinitely but either of the Contracting Governments may, on or before June 30th in any calendar year after the year 1974 give notice of termination to the other Contracting Government and, in such event, this Convention shall not be effective -

(a) in Trinidad and Tobago -

(i) in respect of tax withheld at the source on amounts paid, credited or remitted to non-residents on or after January 1, in the calendar year next following that in which the notice is given; and

(ii) in respect of other Trinidad and Tobago tax for any year of income commencing in or after the calendar year next following that in which notice is given;

(b) in Denmark

in respect of Danish tax for any tax year commencing in or after the calendar year next following that in which notice is given.

In witness whereof the undersigned, duly authorized by their respective Governments have signed the present Convention.

Done at Port of Spain this 20th day of June, 1969, in duplicate in the English Language.

ERIC WILLIAMS
Prime Minister
For the Government of Trinidad and Tobago

JORGEN ADAMSON
Head of Department
Ministry of Foreign Affairs
For the Government of Denmark

Dated this 22nd day of October, 1969.

K. BOSWELL-INNISS
Acting Secretary to the Cabinet