

LEGAL NOTICE NO. 172

REPUBLIC OF TRINIDAD AND TOBAGO

THE INCOME TAX ORDINANCE, CH. 33 No.1

ORDER

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

THE DOUBLE TAXATION RELIEF (SWEDEN) ORDER, 1984

WHEREAS it is provided by subsection (1) of section 47 of the Income Tax Ordinance that if the President 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 an Agreement dated the 17th day of February, 1984, made between the Government of Trinidad and Tobago and the Government of Sweden, arrangements were made *inter alia* for the avoidance of double taxation:

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

1. This Order may be cited as the Double Taxation Relief (Sweden) Order, 1984.
2. It is hereby declared -

- (a) that the arrangements specified in the Schedule have been made with the Government of Sweden;
- (b) that it is expedient that those arrangements should have effect.

SCHEDULE

CONVENTION BETWEEN THE REPUBLIC OF TRINIDAD AND TOBAGO AND THE KINGDOM OF SWEDEN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND FOR THE ENCOURAGEMENT OF TRADE AND INVESTMENTS.

The Government of the Republic of Trinidad and Tobago and the Government of the Kingdom of Sweden desiring to conclude a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and for the Encouragement of Trade and Investments have agreed as follows:

Article 1

Personal Scope

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

Article 2

Taxes Covered

- (1) The existing taxes to which the Convention shall apply are:
 - (a) In Trinidad and Tobago:
 - (i) the income tax;

- (ii) the corporation tax;
- (iii) the petroleum profits tax;
- (iv) the supplemental petroleum tax; and
- (v) the unemployment levy

(hereinafter referred to as "Trinidad and Tobago tax").

(b) In Sweden:

- (i) the State income tax, including the sailors' tax and the coupon tax;
- (ii) the tax on the undistributed profits of companies and the tax on distribution in connection with reduction of share capital or the winding-up of a company;
- (iii) the tax on public entertainers; and
- (iv) the communal income tax

(hereinafter referred to as "Swedish tax").

(2) The Convention shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of the taxes referred to above. The competent authorities of the Contracting States shall each year notify each other of any significant changes which have been made in the respective taxation laws.

Article 3

General Definitions

- (1) For the purposes of this Convention, unless the context otherwise requires:
- (a) the term "Trinidad and Tobago" means the islands of Trinidad and Tobago and includes:
 - (i) the territorial sea thereof; and
 - (ii) the sea bed and sub-soil 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;

- (b) the term "Sweden" means the Kingdom of Sweden and includes any area outside the territorial sea of Sweden within which under the laws of Sweden and in accordance with international law the rights of Sweden with respect to the exploration and exploitation of the natural resources on the sea bed or in its sub-soil may be exercised;
- (c) the term "person" includes an individual, a company and any other body of persons;
- (d) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (e) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (f) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (g) the term "national" means:
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person, partnership and association deriving its status as such from the laws in force in a Contracting State;
- (h) the terms "paid", "distributed", and "received" when used with respect to income shall include amounts credited;
- (i) the term "competent authority" means:
 - (i) in Trinidad and Tobago, the Minister of Finance or his authorized representative;
 - (ii) in Sweden, the Minister of Finance or his authorized representative.

(2) As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

Article 4

Resident

(1) For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.

(2) Where by reason of the provisions of paragraph (1) an individual is a resident of both Contracting States, then his status shall be determined as follows:

- (a) he shall be deemed to be a resident of the State in which he has a permanent home available to him. If he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interest);
- (b) if the 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 State, he shall be deemed to be a resident of the State in which he has an habitual abode;
- (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
- (d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

(3) Where by reason of the provisions of paragraph (1) a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

Article 5

Permanent Establishment

(1) For the purposes of this Convention the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

- (2) The term "permanent establishment" includes especially:
- (a) a place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a factory;
 - (e) a workshop;
 - (f) a warehouse in relation to a person providing storage facilities for others;
 - (g) a store or other sales outlet;
 - (h) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
 - (i) a drilling rig or ship used for or in connection with the exploration or development of natural resources; and
 - (j) a building site, a construction, assembly, dredging or installation project.
- (3) Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:
- (a) the use of facilities solely for the purpose of storage or display 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 or display;
 - (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 of collecting information for the enterprise;
 - (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character.
- (4) Notwithstanding the provisions of paragraphs (1) and (2), where a person -other than an agent of an independent status to whom paragraph (5) applies - is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:
- (a) has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph (3) which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or

(b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

(5) An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph but in such cases the provisions of paragraph (4) shall apply.

(6) The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or other wise) shall not of itself constitute either company a permanent establishment of the other .

Article 6

Income from Immovable Property

(1) Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

(2) The term "immovable property" shall have the meaning which it has under 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) 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) shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

Business Profits

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

(2) Notwithstanding the provisions of paragraph (1) where an enterprise of a Contracting State which has a permanent establishment in the other Contracting State carries on business activities in that other State otherwise than through the permanent establishment, of the same or similar kind as the business activities carried on by the permanent establishment, then the profits of such activities may be attributable to the permanent establishment unless the enterprise shows that such activities could not have been reasonably undertaken by the permanent establishment.

(3) Subject to the provisions of paragraph (4), where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

(4) In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

(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) 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 (3) shall preclude that Contracting State from determining the profits to be so 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.

(7) 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.

(8) Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

Shipping and Air Transport

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

(2) If the place of effective management of an enterprise carrying on shipping in international traffic is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

(3) With respect to profits derived by the air transport consortium Scandinavian Airlines System (SAS) the provisions of paragraph (1) shall apply, but only to such part of the profits as corresponds to the participation held in that consortium by AB Aerotransport (ABA), Swedish partner of Scandinavian Airlines System (SAS).

(4) The provisions of paragraph (1) shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

Associated Enterprises

(1) Where

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

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any

profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

(2) Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10

Dividends

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

(2) However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed -

(a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly or indirectly at least 25 per cent of the capital of the company paying the dividends;

(b) 20 per cent of the gross amount of the dividends in all other cases. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

(3) The term "dividends" as used in this Article means income from shares, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident and in the case of Trinidad and Tobago, any item of income which under the law of Trinidad and Tobago is treated as a distribution.

(4) Notwithstanding the provisions of paragraph (1), dividends paid by a company being a resident of Trinidad and Tobago to a company which is a resident of Sweden

shall be exempt from Swedish tax to the extent that the dividends would have been exempt under Swedish law if both companies had been Swedish companies.

(5) The provisions of paragraphs (1) and (2) shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

(6) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

(7) Where a company which is a resident of a Contracting State having a permanent establishment in the other Contracting State, derives profits or income from that permanent establishment, any remittances of such profits or income by the permanent establishment to the company which is a resident of the first-mentioned Contracting State may, notwithstanding any other provision of this Convention, 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, provided that such tax shall not apply to the extent the profits or income remittance have been re-invested in that other Contracting State.

Article 11

INTEREST

(1) Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

(2) However, such interest may be taxed in the Contracting State in which it arises and according to the law of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed:

- (a) 10 per cent of the gross amount of the interest if the beneficial owner is a bank which is a resident of the other Contracting State;

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

(3) Interest arising in a Contracting State and paid to the Government of the other Contracting State or any agency or instrumentality wholly owned by that Government, or the Central Bank of that other Contracting State shall be exempt from tax in the first-mentioned Contracting State.

(4) The term "interest" as used in this Article means income from debt claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

(5) The provisions of paragraphs (1) and (2) of this Article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with -

(a) such permanent establishment, or

(b) business activities referred to under paragraph (2) of Article 7. In such cases the provisions of Article 7 shall apply.

(6) Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.

(7) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments, shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12

Royalties

- (1) Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
- (2) However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 20 per cent of the gross amount of the royalties.
- (3)
 - (a) 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, any copyright of literary, artistic or scientific work including cinematograph films and films or tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use or the right to use, industrial, commercial or scientific equipment or for information concerning industrial, commercial or scientific experience; it also includes rentals or other amounts paid for the use of, or the right to use, tangible movable property.
 - (b) The term does not include any royalties, rentals, or other amounts paid in respect of the operation of mines, quarries, or other natural resources.
- (4) Notwithstanding the provisions of paragraphs (1) and (2) 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 a Contracting State and paid to a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State.
- (5) The provisions of paragraphs (1), (2) and (4) shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with:
 - (a) such a permanent establishment, or
 - (b) business activities referred to under paragraph (2) of Article 7. In such cases the provisions of Article 7 shall apply.
- (6) Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment,

then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.

(7) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceed the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13

Management Charges

(1) Management charges paid by a resident of a Contracting State to an enterprise of the other Contracting State may be taxed in that other State.

(2) However, such management charges may also be taxed in the Contracting State in which the person paying the management charges is a resident and according to the laws of that State, but the tax so charged shall not exceed 12 1/2 per cent of the gross amount of the charges.

(3) The term "management charges" as used in this Article means charges made for the provision of management services and includes charges made for the provision of personal services and technical and managerial skills.

(4) The provisions of paragraphs (1) and (2) shall not apply if the enterprise to which the management charges are paid, being an enterprise of a Contracting State, carries on business in the other Contracting State from which the management charges are paid, through a permanent establishment situated therein and the services for which the management charges are paid are effectively connected with:

- (a) such a permanent establishment, or
- (b) business activities referred to under paragraph (2) of Article 7. In such cases the provisions of Article 7 shall apply.

(5) Where by reason of a special relationship between the payer and the recipient, or between both of them and some other person, the amount of the management charges, having regard to the services for which they are paid, 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. In such case,

the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 14

Independent Personal Services

(1) Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that Contracting State unless:

- (a) such services are performed in the other Contracting State; and
- (b) the remuneration earned in the other Contracting State in the year of income exceeds a gross amount equivalent to U.S. \$6,000; and
- (c) the remuneration is paid by or on behalf of a resident of the other Contracting State or a permanent establishment located in the other Contracting State.

(2) The term "professional services" includes especially independent scientific, technical, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15

Dependent Personal Services

(1) Subject to the provisions of Articles 16, 18, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

(2) Notwithstanding the provisions of paragraph (1), remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the year of income; 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 Contracting State in the year of income does not exceed a gross amount equivalent to U.S. \$6,000.

(3) Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated. Where a resident of Sweden derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the air transport consortium Scandinavian Airlines System (SAS), such remuneration shall be taxable only in Sweden.

Article 16

Directors' fees and remuneration of top-level managerial officials

- (1) Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the Board of Directors of a company which is a resident of the other Contracting State may be taxed in that other State.
- (2) Salaries, wages and other similar remuneration derived by a resident of a Contracting State in his capacity as an official in a top-level managerial position of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17

Income earned by entertainers and athletes

- (1) Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
- (2) Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15,

be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

(3) Where personal activities of an entertainer or an athlete referred to in paragraph (1) are provided in a Contracting State by an enterprise of the other Contracting State then the profits derived by that enterprise for providing those activities may, notwithstanding the provisions of Article 7 or Article 14, be taxed in the Contracting State in which such activities are exercised.

(4) Notwithstanding the provisions of paragraphs (1) and (2), income derived from such activities as defined in paragraph (1) performed within the framework of cultural exchange between the Contracting States, shall be exempt from tax in the Contracting State in which these activities are performed.

Article 18

Pensions

Subject to the provisions of paragraph (2) of Article 19, pensions derived from sources within a Contracting State may be taxed in that State.

Article 19

Government Service

(1) (a) Remuneration other than a pension, paid by a Contracting State or a local authority thereof to an individual in respect of services rendered to that State or authority shall be taxable only in that State.

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

- (i) is a national of that State; or
- (ii) did not become a resident of that State solely for the purpose of rendering the services.

(2) (a) Any pension paid by, or out of funds created by, a Contracting State or a local authority thereof to an individual in respect of services rendered to that State or authority shall be taxable only in that State.

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of that State.

(3) The provisions of Articles 15, 16, 18, 20 and 21 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a local authority thereof.

Article 20

Students and Trainees

An individual who is a resident of a Contracting State immediately before his visit to the other Contracting State and who is temporarily present in the other Contracting State for the primary purpose of:

- (a) studying in that other Contracting State at a university or other educational institution approved by the appropriate educational authority of that Contracting State;
- (b) securing training required to qualify him to practise a profession or for acquiring a vocation or a professional or technical speciality; or
- (c) studying or doing research as a recipient of a grant, allowance, or award from a governmental, religious, charitable, scientific, literary or educational organisation, or as a participant in other programmes sponsored by such an organisation, shall be exempt from tax in that other Contracting State in respect of:
 - (i) remittances from abroad for the purposes of his maintenance, education, training or practice;
 - (ii) remuneration for personal services performed in that other Contracting State, provided the remuneration does not exceed Twelve Thousand Swedish Krona or its equivalent in Trinidad and Tobago Dollars for any year of income; and
 - (iii) the amount of such grant, allowance or award

The benefits under sub-paragraph (ii) above shall extend only for such period of time as may be reasonably or customarily required to complete the education, training or practice undertaken but shall in no event exceed a period of seven consecutive years.

Article 21

Teaching and Research

(1) An individual who is a resident of a Contracting State 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 such university or other educational institution shall be exempt from tax by that other Contracting State on his income from personal services for teaching or research at such university or other educational institution for a period not exceeding two (2) years from the date of his arrival in that Contracting State. This exemption shall not apply unless the income derived from such teaching or research is subject to tax in the first-mentioned Contracting State.

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

Article 22

Other Income

(1) Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

(2) The provisions of paragraph (1) shall not apply to income, other than income from immovable property is defined in paragraph (2) of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

(3) Notwithstanding the provisions of paragraphs (1) and (2), items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention and arising in the other Contracting State may be taxed in that other State.

Article 23

Elimination of Double Taxation

- (1) In the case of Trinidad and Tobago, double taxation shall be avoided as follows:
 - (a) 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):
 - (i) Swedish tax payable under the laws of Sweden and in accordance with this Convention, whether directly or by deduction, on profits or income from sources within Sweden (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 Swedish tax is computed;
 - (ii) in the case of a dividend paid by a company which is a resident of Sweden to a company which is a resident of Trinidad and Tobago and which controls directly or indirectly at least 25 per cent of the voting power in the company paying the dividends the credit shall take into account [in addition to any Swedish tax creditable under (a) (i)] the Swedish tax payable by the company paying the dividends in respect of the profits out of which such dividend is paid.
 - (b) 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 Sweden.
- (2) In the case of Sweden, double taxation shall be avoided as follows:
 - (a) Subject to the provisions of sub-paragraph (b) of this paragraph or of paragraph (4) of Article 10, where a resident of Sweden derives income which, in accordance with the provisions of this Convention, may be taxed in Trinidad and Tobago, Sweden shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in Trinidad and Tobago. Such deduction shall not, however, exceed that part of the Swedish income tax, as computed before the deduction is given, which is appropriate to the income which may be taxed in Trinidad and Tobago.
 - (b) Where a resident of Sweden derives income which in accordance with the provisions of this Convention, shall be taxable only in Trinidad and Tobago, Sweden may include this income in the tax base but shall allow as a deduction

from the income tax that part of the income tax which is attributable to the income derived from Trinidad and Tobago.

(3) Where Trinidad and Tobago tax has been wholly relieved or reduced for a limited period of time for the purposes of economic development, then, for the purpose of calculating the deduction referred to in paragraph (2) (a) such tax shall be deemed to have been fully paid.

The provisions of this paragraph shall apply for the first ten years for which this Convention is effective. The competent authorities shall consult each other in order to determine whether such period shall be extended.

Article 24

Non-discrimination

(1) Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

(2) The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

(3) Except where the provisions of paragraph (1) of Article 9, paragraph (7) of Article 11, paragraph (7) of Article 12, or paragraph (5) of Article 13, apply, interest, royalties, management charges and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

(4) Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

(5) The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 25

Mutual Agreement Procedure

(1) Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective to the remedies provided by the domestic law of those States present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph (1) of Article 24 to that of the Contracting States of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

(3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. The competent authorities shall through consultations develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this Article.

Article 26

Exchange of Information

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. The competent authorities shall through consultation develop appropriate conditions, methods and techniques concerning the matters in respect of which such exchanges of information shall be made, including, where appropriate, exchanges of information regarding tax avoidance.

(2) In no case shall the provisions of paragraph (1) be construed so as to impose on a Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public)

Article 27

Diplomatic Agents and Consular Officers

Nothing in this Convention shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

Article 28

Entry into Force

- (1) This Convention shall be ratified and the instruments of ratification shall be exchanged at _____ as soon as possible.
- (2) Upon the exchange of instruments of ratification this Convention shall enter into force in both Contracting States and its provisions shall have effect:
 - (a) in respect of taxes withheld at the source on amounts paid or remitted to non-residents on or after the first day of January next following the exchange of instruments of ratification; and
 - (b) in respect of other taxes on income derived on or after the first day of January next following the exchange of instruments of ratification.

Article 29

Termination

This Convention shall remain in force indefinitely, but either of the Contracting States may, on or before 30th June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through diplomatic channels, written notice of termination.

In such event the Convention shall cease to have effect:

- (a) in respect of taxes withheld at the source on amounts paid or remitted to non-residents on or after the first day of January next following the notice of termination; and
- (b) in respect of other taxes on income derived on or after the first day of January next following the notice of termination.

IN WITNESS whereof the undersigned, being duly authorized thereto have signed the present Convention.

Done at London this 17th day of February, 1984 in duplicate in the English language.

FRANK ABDULLAH
For the Government of the Republic of
Trinidad and Tobago

LEIF LEIFLAND
For the Government of the
Kingdom of Sweden

Dated this 12th day of December, 1984

K. BOSWELL INNISS
Secretary to Cabinet