No. 10540

BELGIUM
and
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at London on 29 August 1967

Authentic texts: French, Dutch and English.
Registered by Belgium on 12 June 1970.

BELGIQUE
et
ROYAUME-UNI DE GRANDE-BRETAGNE ET D'IRLANDE DU NORD

Convention tendant à éviter la double imposition et l'évasion fiscale en matière d'impôts sur les revenus. Signée à Londres le 29 août 1967

Textes authentiques : français, néerlandais et anglais.
Enregistrée par la Belgique le 12 juin 1970.

CONVENTION[1] BETWEEN HER BRITANNIC MAJESTY IN RESPECT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND HIS MAJESTY THE KING OF THE BELGIANS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

Her Majesty The Queen of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Head of the Commonwealth (hereinafter referred to as "Her Britannic Majesty"), and His Majesty The King of the Belgians;

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

Have appointed for that purpose as their Plenipotentiaries:

Her Britannic Majesty:

For the United Kingdom of Great Britain and Northern Ireland:

The Right Honourable The Lord Chalfont, O.B.E., M.C., one of Her Majesty's Ministers of State for Foreign Affairs;

His Majesty The King of the Belgians:

Monsieur Jacques Groothaert, Chargé d'Affaires ad interim of Belgium in London;

Who, having communicated to each other their respective full powers, found in good and due form, have agreed as follows:

Article I

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

Article II

(1) The taxes which are the subject of this Convention are:

(*a*) in the United Kingdom of Great Britain and Northern Ireland:
(i) the income tax (including surtax);
(ii) the corporation tax;
(iii) the capital gains tax
(hereinafter referred to as "United Kingdom tax");

[1] Came into force on 17 March 1970 by the exchange of the instruments of ratification, which took place at Brussels, in accordance with article XXIX (1) and (2).

(*b*) in Belgium:

(i) the individual income tax (*l'impôt des personnes physiques*);
(ii) the corporate income tax (*l'impôt des sociétés*);
(iii) the income tax on legal entities (*l'impôt des personnes morales*);
(iv) the income tax on non-residents (*l'impôt des non-résidents*);
(v) the prepayments and additional prepayments (*les précomptes et compléments de précomptes*); and
(vi) surcharges (*centimes additionnels*) on any of the taxes referred to in heads (i) to (v) including the communal supplement to the individual income tax (*la taxe communale additionnelle à l'impôt des personnes physiques*)

(hereinafter referred to as "Belgian tax").

(2) The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes.

Article III

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

(*a*) the term "United Kingdom" means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which has been or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea bed and sub-soil and their natural resources may be exercised;

(*b*) the term "Belgium" means the territory of the Kingdom of Belgium; in the event of provision being made in Belgian law to that effect, it shall also include the sea bed and the sub-soil of the North Sea outside the Belgian territorial sea with respect to which Belgium will exercise sovereign rights of exploration and exploitation; the delimitation of this area shall be, in this case, notified to the United Kingdom through diplomatic channels as soon as it has been established by agreements with the United Kingdom, France and the Netherlands;

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

(*d*) the term "competent authority" means, in the case of Belgium the competent authority according to Belgian legislation; in the case of the United Kingdom the Commissioners of Inland Revenue or their authorised representative; and, in the case of any territory to which the Convention is

extended under Article XXVIII, the competent authority for the administration in such territory of the taxes to which the Convention applies;

(*e*) the term "tax" means United Kingdom tax or Belgian tax, as the context requires;

(*f*) the term "person" comprises an individual, a company and any other body of persons;

(*g*) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(*h*) the terms "enterprise of one of the territories" and "enterprise of the other territory" mean respectively an enterprise carried on by a resident of one of the territories and an enterprise carried on by a resident of the other territory;

(*i*) the term "international traffic" includes traffic between places in any state in the course of a voyage which extends over two or more states.

(2) Where under the Convention a person is entitled to exemption or relief from tax in one of the territories on certain income if (with or without further conditions) he is subject to tax in the other territory in respect thereof and he is subject to tax there by reference to the amount of that income which is remitted to, or received in, that other territory the amount of that income on which exemption or relief is to be allowed in the first-mentioned territory shall be limited to the amount so remitted or received.

(3) As regards the application of the Convention by either High Contracting Party any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Party relating to the taxes which are the subject of the Convention.

Article IV

(1) For the purposes of this Convention, the term "resident of one of the territories" means any person who, under the law of that territory, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature and includes in the case of Belgium any person liable to tax there by reference to the aggregate amount of his income produced or received in Belgium.

(2) Where by reason of the provisions of paragraph (1) an individual is a resident of both territories, then this case shall be determined in accordance with the following rules:

(*a*) He shall be deemed to be a resident of the territory in which he has a

permanent home available to him. If he has a permanent home available to him in both territories, he shall be deemed to be a resident of the territory with which his personal and economic relations are closest (centre of vital interests);

(*b*) If the territory 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 territory, he shall be deemed to be a resident of the territory in which he has an habitual abode;

(*c*) If he has an habitual abode in both territories or in neither of them, he shall be deemed to be a resident of the territory of the High Contracting Party of which he is a national;

(*d*) If he is a national of both High Contracting Parties or of neither of them, the competent authorities of the High Contracting Parties 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 territories, then it shall be deemed to be a resident of the territory in which its place of effective management is situated.

Article V

(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*) an office;
(*d*) a factory;
(*e*) a workshop;
(*f*) a mine, quarry or other place of extraction of natural resources;
(*g*) a building site or construction or assembly project which exists for more than twelve months;
(*h*) sites and facilities used by organisers or operators (*entrepreneurs*) of shows, entertainments or games of any kind where such sites and facilities are available for at least 30 days.

(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 territories on behalf of an enterprise of the other territory—other than an agent of an independent status to whom paragraph (5) applies—shall be deemed to be a permanent establishment in the first-mentioned territory if he has, and habitually exercises in that territory, 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.

(5) An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business in that other territory 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) Nothing in this Article shall prevent an insurance enterprise of one of the territories from being deemed to have a permanent establishment in the other territory when it collects premiums there or insures risks situated there through an intermediary or agent established there—but not including any such agent as is mentioned in paragraph (5) unless he has, and habitually exercises, an authority to conclude contracts in the name of the enterprise.

(7) The fact that a company which is a resident of one of the territories controls or is controlled by a company which is a resident of the other territory, or which carries on business in that other territory (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article VI

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

(2) The term "immovable property" shall be defined in accordance with the law of the High Contracting Party of the territory 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 professional services.

Article VII

(1) The profits of an enterprise of one of the territories shall be taxable only in that territory unless the enterprise carries on business in the other territory 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 territory but only so much of them as is attributable to that permanent establishment.

(2) Without prejudice to the application of paragraph (3), where an enterprise of one of the territories carries on business in the other territory through a permanent establishment situated therein, there shall in each territory 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 and with any other enterprise controlling, controlled by, or subject to the same common control as, the first-mentioned enterprise.

In giving effect to this principle in a case where the reasonable requirements of the competent authority for full and satisfactory information relative to the ascertainment of the profits to be so attributed are not met, tax may be assessed in the territory in which the permanent establishment is situated on an amount determined in accordance with the legislation of the High Contracting Party of that territory.

(3) In the determination of 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 territory in which the permanent establishment is situated or elsewhere.

(4) 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.

(5) 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.

(6) 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 VIII

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

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

Article IX

Where—

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

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

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

Article X

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

(2) However, such dividends may be taxed in the territory of which the company paying the dividends is a resident, and according to the law of that territory: but the tax so charged shall not exceed 15 per cent of the gross amount of the dividends provided that the dividends are subject to tax in the other territory.

(3) Notwithstanding the preceding paragraph, as long as, according to Belgian law, the prepayment on income from movable property due in respect of dividends paid by a company which is a resident of Belgium is levied on 85/70ths of the gross amount of such dividends, reduced by the part considered redistributed, of the dividends received by that corporation:

(*a*) Belgium shall be permitted to charge tax on such dividends paid to a resident of the United Kingdom not exceeding 15 per cent of their taxable amount so determined;

(*b*) the United Kingdom shall be permitted to charge tax on dividends paid by a company which is a resident of that territory to a resident of Belgium not exceeding 18 per cent of the gross amount of such dividends.

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

(4) The term "dividends" as used in this Article means income from shares, *jouissance* shares or *jouissance* rights, mining shares, founders' shares or other rights, not being debt-claims participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the High Contracting Party of the territory of which the company making the distribution is a resident and, in the case of a Belgian company other than a company with share capital, payments to members of the company by way of income on invested capital and, in the case of the United Kingdom, includes any item which, under the law of the United Kingdom and in accordance with this Convention, is treated as a distribution of a company.

(5) The limitations on the rate of tax for which paragraphs (2) and (3) provide shall not apply if the recipient of the dividends, being a resident of one of the territories has in the other territory, 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.

(6) Where a company which is a resident of one of the territories derives profits or income from the other territory, the High Contracting Party of that other territory may not impose any tax on the dividends paid by the company outside that other territory to persons who are not residents thereof or subject the company's undistributed profits to a tax on undistributed

profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other territory.

(7) Nothing in this Article shall prevent Belgium from imposing:

(*a*) the special levy due under Belgian law on a portion of the sums paid out in the event of a distribution of the assets of a company resident in Belgium;

(*b*) the special levy due from such a company under Belgian law in the event of the repurchase of its own shares (*actions ou parts*).

(8) The proviso in paragraph (2) that the dividends are subject to tax in the other territory shall not apply in relation to dividends exempt under Article XXIII.

(9) Where a dividend is paid by a company which is a resident of the United Kingdom to a company which is a resident of Belgium which owns 10 per cent or more of the class of shares in respect of which the dividend is paid and which is exempted from the prepayment on income from movable property (*précompte mobilier*) in respect thereof, the limitations on the rate of tax provided by paragraphs (2) and (3) shall not apply to so much of the dividend as was paid out of profits which the company paying the dividend earned or other income which it received in a period ending twelve months or more before the relevant date, and for this purpose dividends shall be treated as having been paid out of later rather than earlier profits or income. For the purposes of this paragraph the term "relevant date" means the date on which the recipient of the dividend became the owner of 10 per cent or more of the class of shares in question. Provided that this paragraph shall not apply if the shares were acquired for bona fide commercial reasons and not primarily for the purpose of securing the benefit of this Article.

Article XI

(1) Interest arising in one of the territories and paid to a resident of the other territory may be taxed in that other territory.

(2) However, such interest may be taxed in the territory in which it arises, and according to the law of that territory; but the tax so charged in the first-mentioned territory shall, provided that the interest is subject to tax in the other territory, not exceed 15 per cent of the amount of the interest. Moreover, interest arising in Belgium and paid to a resident of the United Kingdom shall be exempt from the Belgian additional prepayment on income from movable property (*complément de précompte mobilier*) provided that the interest is subject to tax in the United Kingdom.

(3) The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims and deposits of every kind as well as premiums on lottery bonds (*lots d'emprunts*) and all other income assimilated to income from money lent or deposited by the taxation law of the High Contracting Party of the territory in which the income arises. It does not include any annuity granted in return for full and adequate consideration in money or money's worth.

(4) The limitation on the rate of tax for which paragraph (2) provides shall not apply if the recipient of the interest, being a resident of one of the territories, has in the other territory in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected.

(5) Each High Contracting Party may continue to apply the provisions of its internal law which treat certain types of interest—regardless of the territory of which the recipient is a resident—as distributions or dividends as defined in Article X of a company which is a resident of its territory. In such a case the limitations on the rate of tax for which paragraphs (2) and (3) of Article X provide shall apply.

(6) Any provision in the law of either High Contracting Party relating only to interest paid to a non-resident company shall not operate so as to require such interest paid to a company which is a resident of the territory of the other High Contracting Party to be treated as a distribution of a company. Provided that this paragraph shall not apply to interest paid to a company which is a resident of one of the territories, otherwise than in the ordinary course of a business carried on by it, by a company which is a resident of the other territory where more than 50 per cent of the voting power in each company is controlled directly or indirectly by five or fewer residents of that other territory who are either individuals or companies controlled, directly or indirectly, by five or fewer individuals who are residents of that other territory; in such a case the limitations on the rate of tax for which paragraphs (2) and (3) of Article X provide shall apply.

(7) 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, having regard to the debt-claim for which, or the deposit on which, it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the preceding provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the interest shall remain taxable according to the law of each High Contracting Party, except that where the excess part of the interest is included in the taxable income of the payer,

being a company, the tax levied on the excess part of the interest in the territory in which the interest arises shall not exceed the tax which would be charged if the interest were a dividend to which Article X applies.

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

Article XII

(1) Royalties arising in one of the territories and paid to a resident of the other territory shall, if they are subject to tax in that other territory, be taxable only in that territory.

(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, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade-mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

(3) The provisions of paragraph (1) shall not apply if the recipient of the royalties, being a resident of one of the territories, has in the other territory in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the royalties may be taxed in the territory where the permanent establishment is situated.

(4) Royalties paid by a company which is a resident of one of the territories to a resident of the other territory shall not be treated as distributions or dividends as defined in Article X of the company. Provided that this paragraph shall not apply to royalties paid by a company which is a resident of one of the territories to a company which is a resident of the other where more than 50 per cent of the voting power in each company is controlled directly or indirectly by five or fewer residents of the first-mentioned territory who are either individuals or companies controlled, directly or indirectly, by five or fewer individuals who are residents of the first-mentioned territory; in such a case the limitations on the rate of tax for which paragraphs (2) and (3) of Article X provide 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, having regard to the use, right or information 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 preceding provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the royalties shall remain taxable according to the law of each High Contracting Party, except that where the excess part of the royalties is included in the taxable income of the payer, being a company, the tax levied on the excess part of the royalties in the territory in which the royalties arise shall not exceed the tax which would be charged if the royalties were dividends to which Article X applies.

(6) Royalties shall be deemed to arise in one of the territories when the payer is the High Contracting Party of that territory, a political subdivision, a local authority or a resident of that territory. Where, however, the person paying the royalties, whether he is a resident of one of the territories or not, has in one of the territories a permanent establishment in connection with which the obligation to pay the royalties was incurred, and the royalties are directly borne by the permanent establishment, then the royalties shall be deemed to arise in the territory in which the permanent establishment is situated.

Article XIII

(1) Gains from the alienation of property, whether movable or immovable, forming part of the business property of a permanent establishment which an enterprise of one of the territories has in the other territory or of property, whether movable or immovable, pertaining to a fixed base available to a resident of one of the territories in the other territory for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other territory. However, gains from the alienation of ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft shall be taxable only in the territory in which the place of effective management of the enterprise is situated.

(2) Gains from the alienation of any property other than those mentioned in paragraph (1) shall be taxable only in the territory of which the alienator is a resident.

Article XIV

(1) Income derived by a resident of one of the territories in respect of professional services or other independent activities of a similar character

shall be taxable only in that territory unless he has a fixed base regularly available to him in the other territory for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other territory but only so much of it as is attributable to activities connected with that fixed base.

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

Article XV

(1) Subject to the provisions of Articles XVI, XVIII, XIX and XX, salaries, wages and other similar remuneration derived by a resident of one of the territories in respect of an employment shall be taxable only in that territory unless the employment is exercised in the other territory. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other territory.

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

(*a*) the recipient is present in the other territory for a period or periods not exceeding in the aggregate 183 days in the fiscal year (*période imposable*) concerned, and

(*b*) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other territory, and

(*c*) the remuneration is not directly borne by a permanent establishment or a fixed base which the employer has in the other territory.

(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 territory in which the place of effective management of the enterprise is situated.

Article XVI

Directors' fees and similar payments derived by a resident of one of the territories in his capacity as a member of the board of directors of a company which is a resident of the other territory may be taxed in that other territory. In relation to remuneration of a director of a company derived from the company in respect of the discharge of day-to-day functions of a managerial

or technical nature, the provisions of Article XV shall apply as if the remuneration were remuneration of an employee in respect of an employment and as if references to "employer" were references to the company.

Article XVII

Notwithstanding the provisions of Articles XIV and XV, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the territory in which these activities are exercised.

Article XVIII

Subject to the provisions of paragraphs (1) and (2) of Article XIX, pensions and other similar remuneration paid in consideration of past employment to a resident of one of the territories who is subject to tax there in respect thereof shall be taxable only in that territory.

Article XIX

(1) Remuneration, including pensions, paid out of public funds of the United Kingdom or Northern Ireland or the funds of any local authority in the United Kingdom to any individual in respect of services rendered to the Government of the United Kingdom or Northern Ireland or a local authority in the United Kingdom in the discharge of functions of a governmental nature shall be taxable only in the United Kingdom unless the individual is a national of Belgium without being also a British subject.

(2) Remuneration, including pensions paid by, or out of funds created by, Belgium or a political subdivision or a local authority thereof to any individual in respect of services rendered to Belgium or a subdivision or local authority thereof in the discharge of functions of a governmental nature shall be taxable only in Belgium, unless the individual is a British subject without being also a national of Belgium.

(3) The provisions of paragraphs (1) and (2) shall not apply to remuneration or pensions in respect of services rendered in connection with any trade or business. The provisions of Articles XV, XVI and XVIII shall apply to such remuneration or pensions.

Article XX

(1) A professor or teacher who is or was formerly a resident of one of the territories, and who receives remuneration for teaching, during a period

of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

(2) Payments which a student or business apprentice who is or was formerly a resident of one of the territories and who is present in the other territory solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that other territory, provided that such payments are made to him from sources outside that other territory.

Article XXI

Items of income of a resident of one of the territories being income of a class or from sources not mentioned in the foregoing Articles of this Convention shall, if they are subject to tax in that territory, be taxable only in that territory.

Article XXII

(1) Subject to paragraph (3) of this Article, individuals who are residents of Belgium shall be entitled to the same personal allowances, reliefs and reductions for the purposes of United Kingdom taxation as British subjects not resident in the United Kingdom.

(2) Subject to paragraph (3) of this Article, individuals who are residents of the United Kingdom shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Belgian taxation as those to which Belgian nationals not resident in Belgium may be entitled. Any such individual who has a house available for his use in Belgium may be taxed in Belgium, in the same way as a Belgian national not resident in Belgium, on a minimum amount of income equal to twice the cadastral income (*revenu cadastral*) of that house.

(3) Nothing in this Convention shall entitle an individual who is a resident of one of the territories and whose income from the other territory consists solely of dividends, interest or royalties (or solely of any combination thereof) to the personal allowances, reliefs and reductions of the kind referred to in this Article for the purposes of taxation in that other territory.

Article XXIII

(1) Subject to the existing provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom and to any subsequent modification of those provisions—which, however, shall not affect the principle hereof—

Belgian tax payable under the laws of Belgium and in accordance with this Convention (excluding, in the case of a dividend, any tax payable on the profits, income or chargeable gains of the company paying the dividend) whether directly or by deduction on profits, income or chargeable gains from sources within Belgium shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits, income or chargeable gains by reference to which the Belgian tax is computed; in the case of income (other than loan interest) derived from a Belgian company other than a company with share capital by a member of that company the credit shall take into account the Belgian tax charged in respect of that income, whether charged on the company or on the member if (*a*) the member's liability as a member of that company is unlimited, or (*b*) the member is a company which is a resident of the United Kingdom and which owns not less than 10 per cent of the capital (other than loan capital) of the Belgian company. In the case of a dividend paid by a company which is a resident of Belgium to a company which is a resident of the United Kingdom and which controls directly or indirectly not less than 10 per cent of the voting power in the Belgian company, the credit shall take into account (in addition to any Belgian tax payable in respect of the dividend) the Belgian tax payable by the company in respect of its profits.

(2) In the case of income derived from sources in the United Kingdom which has been taxed in the United Kingdom in accordance with the Convention, whether directly or by deduction, and which is liable to tax in Belgium according to Belgian law:

(*a*) (i) When a company which is a resident of Belgium owns shares in a company which is a resident of the United Kingdom the dividends paid thereon to the former company which have not been dealt with in accordance with paragraph (5) of Article X shall be exempted in Belgium from the tax referred to in paragraph (1) (*b*) (ii) of Article II to the extent that exemption would have been accorded if the two companies had been residents of Belgium.

A company which is a resident of Belgium and which owns directly shares in a company which is a resident of the United Kingdom during the whole of the accounting period of the latter company shall likewise be exempted or granted relief from the prepayment on income from movable property (*précompte mobilier*) chargeable in accordance with Belgian law on the net amount of the dividends referred to above which are paid to it by the said company which is a resident of the United Kingdom and is liable to the tax referred to in sub-paragraph (1) (*a*) (ii) of Article II, provided that it so requests in writing not later than the time limited for the submission of its annual return, on the understanding that, on redistribution to its own shareholders of income not charged to the said prepayment, the dividends

then distributed and chargeable to the said prepayment shall not be reduced by the amount thereof, notwithstanding Belgian law. This exemption shall not apply when the first-mentioned company has elected that its profits be charged to the individual income tax.

However, the application of this provision will be limited to dividends paid by a company which is a resident of the United Kingdom to a company which is a resident of Belgium which controls directly or indirectly not less than 10 per cent of the voting power in the United Kingdom company, in cases where, for the application of the first paragraph hereof, a similar limitation would be imposed by Belgian legislation in respect of dividends paid by companies not residents of Belgium.

(ii) In cases not covered by sub-paragraph (*a*) (i), when a resident of Belgium receives income dealt with in accordance with paragraph (2) or paragraph (3) of Article X, paragraphs (2) and (7) of Article XI and paragraph (5) of Article XII, Belgium shall reduce the Belgian tax charged thereon by a deduction in respect of the tax borne in the United Kingdom.

The deduction shall be allowed against the tax chargeable on the net amount of the dividends from the company which is a resident of the United Kingdom, as well as of interest and royalties arising in the United Kingdom which have been taxed there: the deduction shall be the fixed proportion of the foreign tax for which provision is made in existing Belgian law, subject to any subsequent modification—which, however, shall not affect the principle hereof.

(*b*) (i) When a resident of Belgium receives income other than that mentioned in sub-paragraph (*a*) above which is chargeable to tax in the United Kingdom in accordance with the provisions of the Convention, Belgium shall exempt such income from tax, but may in calculating the amount of the tax on the remaining income of that resident apply the rate of tax which would have been applicable if the income in question had not been exempted.

(ii) Income chargeable as business profits in accordance with Belgian law in the hands of members of companies and bodies of persons shall be treated as though it were profits arising from a business carried on by the members themselves on their own account.

(iii) Notwithstanding sub-paragraph (*b*) (i) above, Belgian tax may be charged on income chargeable in the United Kingdom to the extent that this income has not been charged in the United Kingdom because of the set-off of losses also deducted, in respect of any accounting period, from income taxable in Belgium.

(3) For the purposes of this Article profits or remuneration for personal (including professional) services performed in one of the territories shall be

deemed to be income from sources within that territory, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

Article XXIV

(1) The nationals of one High Contracting Party shall not be subjected in the territory of the other High Contracting Party 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 latter Party in the same circumstances are or may be subjected.

(2) The term "nationals" means:

(*a*) in relation to the United Kingdom, all British subjects and British protected persons

(i) residing in the United Kingdom, or any territory to which this Convention is extended under Article XXVIII, or

(ii) deriving their status as such from connection with the United Kingdom or any territory to which the Convention is extended under Article XXVIII,

and all legal persons, partnerships and associations deriving their status as such from the law in force in the United Kingdom or in any territory to which the Convention is extended under Article XXVIII;

(*b*) in relation to Belgium, all individuals possessing the nationality of Belgium and all legal persons, partnerships and associations deriving their status as such from the law in force in Belgium.

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

This provision shall not be construed as preventing:

(*a*) Belgium from charging the profits of a permanent establishment in Belgium of a company being a resident of the United Kingdom at a rate of tax which does not—before the application of surcharges mentioned in paragraph (1) (*b*) (vi) of Article II—exceed the basic rate (at present 30 per cent) charged on a company being a resident of Belgium by more than 5 percentage points; or

(*b*) the United Kingdom from charging the profits of a permanent establishment in the United Kingdom of a company being a resident of

Belgium at a rate of tax which does not exceed the rate charged on a company being a resident of the United Kingdom by more than 5 percentage points.

(4) Enterprises of one of the territories, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other territory, shall not be subjected in the first-mentioned territory 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 that first-mentioned territory are or may be subjected.

(5) This Article shall not be construed as entitling a resident of one of the territories to any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which the laws of the other territory grant only to residents of that other territory, or as restricting the taxation of dividends paid by a company which is a resident of one of the territories to a company which is a resident of the other territory.

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

Article XXV

(1) Where a resident of one of the territories considers that the actions of one or both of the High Contracting Parties result or will result for him in double taxation not in accordance with this Convention, he may, independently of the remedies provided by the national laws of those Parties, address to the competent authority of the High Contracting Party of the territory of which he is a resident an application in writing stating the grounds for claiming revision of the incorrect taxation. The said application must be submitted before the expiry of a period of two years from the notification of liability to or the deduction at source of the second charge to tax.

(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 an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other High Contracting Party, with a view to the avoidance of double taxation not in accordance with the Convention.

(3) The competent authorities of the High Contracting Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention.

In case of differing interpretations of the same concept in the laws of both High Contracting Parties their competent authorities may, on a basis

of reciprocity, reach a common interpretation for the purpose of applying the Convention.

(4) The competent authorities of the High Contracting Parties may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs or for the purpose of giving effect to the provisions of the Convention.

Article XXVI

(1) The competent authorities of the High Contracting Parties shall exchange such information 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 the Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than persons (including a Court) concerned with the assessment or collection of, or the determination of appeals in relation to, the taxes which are the subject of the Convention.

(2) In no case shall the provisions of paragraph (1) be construed so as to impose on the competent authority of either High Contracting Party the obligation:

(*a*) to carry out administrative measures at variance with the laws or administrative practice prevailing in either of the territories;

(*b*) to supply particulars which are not obtainable under the laws or in the normal course of the administration in that or the other territory; or

(*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 XXVII

(1) The provisions of this Convention shall not be construed so as to restrict in any manner any exemption, relief, deduction, credit, or other allowance now or hereafter accorded by the laws of either of the High Contracting Parties in determining the tax in the territory of that Party.

(2) Nothing in the Convention shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.

Article XXVIII

(1) This Convention may be extended, either in its entirety or with any necessary modifications, to any territory for whose international relations the United Kingdom is responsible, 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 High Contracting Parties in notes to be exchanged through diplomatic channels.

(2) Unless otherwise agreed by both High Contracting Parties, the denunciation of the Convention by one of them under Article XXX shall terminate, 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 XXIX

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

(2) The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect:

(*a*) in the United Kingdom:

(i) as respects income tax (including surtax) for any year of assessment beginning on or after 6th April, 1966;

(ii) as respects corporation tax for any financial year beginning on or after 1st April, 1964; and

(iii) as respects capital gains tax for any year of assessment beginning on or after 6th April, 1965.

(*b*) in Belgium:

(i) as respects all tax due at source on income credited or payable on or after 1st January, 1967;

(ii) as respects all tax other than tax due at source on income taxable for the fiscal year (*exercice d'imposition*) beginning on 1st January, 1967 and for subsequent fiscal years.

(3) Where a company which is a resident of the United Kingdom is required to account for income tax for the year beginning on 6th April, 1966 on any amount by reference to dividends it paid in the year ending on 5th April, 1966, Article X shall apply to such part of each gross dividend (other than a preference dividend or a part thereof which is paid at a fixed rate) paid in the year ending on 5th April, 1966 as corresponds to the

proportion which the said amount bears to the total of gross dividends (excluding any preference dividend or part thereof which is paid at a fixed rate) paid by the company in the year ending on 5th April, 1966.

(4) The Convention between the United Kingdom and Belgium signed at London on 27th March, 1953[1] shall terminate[2] and cease to be effective in relation to any tax for any period for which the present Convention has effect in accordance with paragraph (2) above as respects that tax.

(5) Notwithstanding paragraph (4), in a case where any provision of the said Convention of 27th March, 1953 would have afforded any profits, income or gains greater relief from United Kingdom tax than would any corresponding provision of this Convention, the provisions of the said Convention of 27th March, 1953 shall continue to have effect and this Convention shall not be effective in respect of the taxation of such profits, income or gains:

(*a*) as respects income tax (including surtax), and capital gains tax for any year of assessment ending before the sixth day of April of the calendar year in which the exchange of instruments of ratification takes place; and

(*b*) as respects corporation tax for any financial year ending before the first day of April of the calendar year in which the exchange of instruments of ratification takes place.

(6) The provisions of the said Convention of 27th March, 1953 remain applicable to the Belgian taxes mentioned in paragraph (1) (*b*) of Article II of this Convention which are due for periods before the latter has effect.

To this end, paragraph (4) of Article V and paragraph (2) of Article VII, on the one hand, and paragraph (3) of Article XVI on the other hand of the said Convention of 27th March, 1953 shall be considered as having the same significance as paragraphs (2) and (3) of Article X and paragraph (2) of Article XI on the one hand, and paragraph (2) (*a*) (i) first sentence, paragraph (2) (*a*) (ii) and paragraph (2) (*b*) of Article XXIII on the other hand, of this Convention.

Article XXX

This Convention shall remain in force until denounced by one of the High Contracting Parties. Either High Contracting Party may denounce the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year 1970. In such event, the Convention shall cease to have effect:

(*a*) in the United Kingdom:

(i) as respects income tax (including surtax) and capital gains tax for

[1] United Nations, *Treaty Series*, vol. 188, p. 153.
[2] See p. 396 of this volume.

any year of assessment beginning on or after the sixth day of April in the calendar year next following that in which the notice is given;

(ii) as respects corporation tax for any financial year beginning on or after the first day of April in the calendar year next following that in which the notice is given.

(*b*) in Belgium:

(i) as respects all tax due at source on income credited or payable on or after the first day of January in the calendar year next following that in which the notice is given;

(ii) as respects all tax other than tax due at source on income taxable for any fiscal year (*exercice d'imposition*) beginning on or after the first day of January of the calendar year next following that in which the notice is given.

IN WITNESS WHEREOF the above-mentioned Plenipotentiaries have signed this Convention and have affixed thereto their seals.

DONE in duplicate at London, this 29th day of August, 1967, in the English, French and Netherlands languages, all three texts being equally authoritative.

For His Majesty The King of the Belgians:

J. GROOTHAERT

For Her Britannic Majesty:

CHALFONT