



Treaty Series No. 61 (1966)

Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of New Zealand

for the Avoidance of Double Taxation
and the Prevention of Fiscal Evasion with
respect to Taxes on Income

Wellington, 13 June 1966

[The Agreement entered into force on 11 August 1966]

*Presented to Parliament by the Secretary of State for Commonwealth Affairs
by Command of Her Majesty
November 1966*

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**AGREEMENT
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND
AND THE GOVERNMENT OF NEW ZEALAND
FOR THE AVOIDANCE OF DOUBLE TAXATION AND
THE PREVENTION OF FISCAL EVASION WITH
RESPECT TO TAXES ON INCOME**

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

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

Have agreed as follows:

ARTICLE I

- (1) The taxes which are the subject of this Agreement are—
- (a) in the United Kingdom of Great Britain and Northern Ireland:
the income tax (including surtax), the profits tax, the corporation tax and the capital gains tax.
- (b) in New Zealand:
the income tax (including social security income tax) and the excess retention tax.

(2) This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes by either Contracting Government or by the Government of any territory to which this Agreement is extended under Article XXII.

ARTICLE II

- (1) In this Agreement unless the context otherwise requires—
- (a) the term “United Kingdom” means Great Britain and Northern Ireland, including any area outside the territorial waters of the United Kingdom which has been designated, under the law 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 “New Zealand” means the metropolitan territory of New Zealand (including the outlying islands) and excludes the Cook Islands, Niue and the Tokelau Islands; it includes the continental shelf of New Zealand as defined under the law of New Zealand concerning the continental shelf;
- (c) the terms “the territory”, “one of the territories” and “the other territory” mean the United Kingdom or New Zealand as the context requires;

- (d) the term “taxation authorities” means in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative, and in the case of New Zealand, the Commissioner of Inland Revenue or his authorised representative; and in the case of any territory to which this Agreement is extended under Article XXII the competent authority for the administration in such territory of the taxes to which this Agreement applies;
- (e) the term “United Kingdom tax” means tax imposed by the United Kingdom being tax to which this Agreement applies by virtue of Article I; the term “New Zealand tax” means tax imposed by New Zealand being tax to which this Agreement applies by virtue of Article I;
- (f) the term “tax” means United Kingdom tax or New Zealand tax as the context requires;
- (g) the term “person” includes any body of persons corporate or not corporate;
- (h) the term “company” means any body corporate;
- (i) the term “national” means—
- (i) in relation to the United Kingdom—
- (aa) all citizens of the United Kingdom and Colonies and British protected persons other than those citizens and protected persons who derive their status as such from connection with any territory to which this Agreement may be extended under Article XXII but has not been so extended;
- (bb) all legal persons, associations and other entities deriving their status as such from the law of the United Kingdom or any territory to which this Agreement is extended under Article XXII;
- (ii) in relation to New Zealand—
- (aa) any individual who is a New Zealand citizen;
- (bb) any legal person deriving its status as such from the law of New Zealand or any territory to which this Agreement is extended under Article XXII;
- (j) the term “New Zealand company” means any company which is—
- (i) incorporated in New Zealand and which has its centre of administrative or practical management in New Zealand whether or not any person outside New Zealand exercises or is capable of exercising any overriding control or direction of the company or of its policy or affairs in any way whatsoever; or
- (ii) managed and controlled in New Zealand;
- (k) the term “United Kingdom company” means any company which is managed and controlled in the United Kingdom and which is not a New Zealand company;
- (l) (i) the term “resident of the United Kingdom” means any United Kingdom company and any other person who is resident in the United Kingdom for the purposes of United Kingdom tax and

the term "resident of New Zealand" means any New Zealand company and any other person who is resident in New Zealand for the purposes of New Zealand tax; but

(ii) where under sub-paragraph (i) above an individual is a resident of both territories, his status shall be determined in accordance with the following rules—

(aa) 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 (hereinafter referred to as his centre of vital interests);

(bb) 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;

(cc) 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 which he is a national;

(dd) if he is a national of both territories or of neither of them, the taxation authorities of the territories shall determine the question by mutual agreement;

(iii) where under sub-paragraph (i) above a person who is neither an individual nor a company is a resident of both territories, it shall be deemed to be a resident of the territory in which it is managed and controlled;

(m) the terms "resident of one of the territories" and "resident of the other territory" mean a person who is a resident of the United Kingdom or a person who is a resident of New Zealand as the context requires;

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

(o) the term "industrial or commercial profits" means income derived by an enterprise from the conduct of a trade or business, including income derived by an enterprise from the furnishing of services of employees or other personnel, but it does not include income in the form of dividends, interest or royalties (as defined in Article VII) other than dividends, interest or royalties effectively connected with a trade or business carried on through a permanent establishment which an enterprise of one of the territories has in the other territory;

nor does the term include income in the form of rents or remuneration for personal (including professional) services;

- (p) (i) the term “permanent establishment” means a fixed place of business in which the business of the enterprise is wholly or partly carried on;
- (ii) a permanent establishment shall include especially—
- (aa) a place of management;
 - (bb) a branch;
 - (cc) an office;
 - (dd) a factory;
 - (ee) a workshop;
 - (ff) a mine, quarry, oil well or other place of extraction of natural resources;
 - (gg) a building site or construction or assembly project which exists for more than twelve months;
- (iii) the term “permanent establishment” shall not be deemed to include—
- (aa) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
 - (bb) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - (cc) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - (dd) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
 - (ee) 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;
- (iv) an enterprise of one of the territories shall be deemed to have a permanent establishment in the other territory if—
- (aa) it carries on supervisory activities in that other territory for more than twelve months in connection with a construction, installation or assembly project which is being undertaken in that other territory;
 - (bb) it carries on the activity of providing the services within that other territory of public entertainers or athletes referred to in Article XIV;
- (v) 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 sub-paragraph (vi) applies—shall be deemed to

be a permanent establishment in the former territory if he has, and habitually exercises in that former territory, an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise on behalf of the enterprise;

- (vi) 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 any such person is acting in the ordinary course of his business;
- (vii) 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;
- (viii) where an enterprise of one of the territories sells in the other territory goods manufactured, assembled, processed, packed or distributed in the other territory by an industrial or commercial enterprise for, or at, or to the order of, that first-mentioned enterprise and—
 - (aa) either enterprise participates directly or indirectly in the management, control or capital of the other enterprise; or
 - (bb) the same persons participate directly or indirectly in the management, control or capital of both enterprises, then for purposes of this Agreement that first-mentioned enterprise shall be deemed to have a permanent establishment in the other territory and to be engaged in trade or business in the other territory through that permanent establishment;
- (q) the term "international traffic" includes traffic between places in one country in the course of a voyage which extends over more than one country.

(2) Where under Articles VI or VII of this Agreement income from a source in one of the territories is relieved from tax in that territory, and, under the law of the other territory an individual is subject to tax in respect of the said income by reference to the amount thereof which is remitted to or received in that other territory and not by reference to the full amount thereof, then the relief to be allowed under those Articles of this Agreement in the first-mentioned territory shall apply only to so much of the income as is remitted to or received in the other territory.

(3) In the application of the provisions of this Agreement in either territory any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the law of that territory relating to the taxes which are the subject of this Agreement.

(4) For the purposes of this Agreement the terms "United Kingdom tax" and "New Zealand tax" do not include any amount which represents a penalty or interest imposed under the law of either territory relating to the taxes which are the subject of this Agreement.

ARTICLE III

(1) Industrial or commercial profits of a United Kingdom enterprise shall be exempt from New Zealand tax unless the enterprise is engaged in trade or business in New Zealand through a permanent establishment situated therein. If such enterprise is so engaged, tax may be imposed by New Zealand on the industrial or commercial profits of the enterprise but only on so much of them as is directly or indirectly attributable to that permanent establishment.

(2) Industrial or commercial profits of a New Zealand enterprise shall be exempt from United Kingdom tax unless the enterprise is engaged in trade or business in the United Kingdom through a permanent establishment situated therein. If such enterprise is so engaged, tax may be imposed by the United Kingdom on the industrial or commercial profits of the enterprise but only on so much of them as is directly or indirectly attributable to that permanent establishment.

(3) Nothing in paragraphs (1) and (2) of this Article shall affect any provisions of the law of either territory regarding the taxation of any person who carries on a business of any form of insurance or of renting motion picture films (other than films for exhibition on television); provided that if the law in force in either territory at the date of signature of this Agreement relating to the taxation of such persons is varied (otherwise than in minor respects so as not to affect its general character), the Contracting Governments shall consult each other with a view to agreeing to such amendment of this paragraph as may be necessary.

(4) Where an enterprise of one of the territories is engaged in trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to such permanent establishment the industrial or commercial profits which it might be expected to derive if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment. If the information available to the taxation authorities concerned is inadequate to determine the profits to be attributed to the permanent establishment, nothing in this paragraph shall affect the application of the law of either territory in relation to the liability of the permanent establishment to pay tax on an amount determined by the exercise of a discretion or the making of an estimate by the taxation authorities of that territory; provided that such discretion shall be exercised or such estimate shall be made, so far as the information available to the taxation authorities permits, in accordance with the principle stated in this paragraph.

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

(6) 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.

ARTICLE IV

(1) Where—

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

and, 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 dealing at arm's length, 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) If the information available to the taxation authorities concerned is inadequate to determine for the purpose of paragraph (1) of this Article, the profits which might be expected to accrue to an enterprise, nothing in that paragraph shall affect the application of the law of either territory in relation to the liability of that enterprise to pay tax on an amount determined by the exercise of a discretion or the making of an estimate by the taxation authorities of that territory; provided that such discretion shall be exercised or such estimate shall be made, so far as the information available to the taxation authorities permits, in accordance with the principle stated in that paragraph.

ARTICLE V

Notwithstanding paragraphs (1) and (2) of Article III, but subject to paragraphs (4), (5) and (6) of that Article and to Article IV, profits which a resident of one of the territories derives from the operation of ships or aircraft in international traffic shall be exempt from tax in the other territory.

ARTICLE VI

(1) The United Kingdom tax on dividends which are derived from a United Kingdom company and paid after 5th April 1966 and which are beneficially owned by a resident of New Zealand shall not exceed 15 per cent. of the gross amount of the dividends.

(2) Dividends which are derived from a United Kingdom company and paid before 6th April 1966 and which are beneficially owned by a resident of New Zealand shall be exempt from United Kingdom surtax.

(3) For the purposes of paragraphs (1) and (2) of this Article dividends in respect of which a trustee is subject to tax in New Zealand shall be treated as being beneficially owned by that trustee.

(4) The New Zealand tax on dividends derived from a New Zealand company and beneficially owned by a resident of the United Kingdom shall not exceed 15 per cent. of the gross amount of the dividends.

For the purposes of this paragraph dividends in respect of which a trustee is subject to tax in the United Kingdom shall be treated as being beneficially owned by that trustee.

(5) Subject to paragraph (5) of Article VII of this Agreement—

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

(b) the term “dividends” in the case of New Zealand includes any payment or other transaction which under the law of New Zealand is deemed to be a dividend.

(6) Paragraphs (1) and (2) of this Article shall not apply if the owner of the dividends, being a resident of New Zealand, has in the United Kingdom a permanent establishment and the holding giving rise to the dividends is effectively connected with a trade carried on through such permanent establishment and, in the case of a company, the trade is such that a profit on the sale of the holding would be a trading receipt.

(7) Paragraph (4) of this Article shall not apply if the owner of the dividends, being a resident of the United Kingdom has in New Zealand a permanent establishment and the holding giving rise to the dividends is effectively connected with a trade or business carried on through such permanent establishment and, in the case of a company, the trade or business is such that a profit on the sale of the holding would be a taxable receipt.

(8) The Government of one of the territories shall not impose any form of taxation, in addition to tax on the company's profits, on dividends paid by a company which is a resident of the other territory to persons not resident in the first-mentioned territory.

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

(10) Paragraph (1) of this Article shall not apply if the owner of a dividend is exempt from tax thereon in New Zealand and owns 10 per cent. or more of the class of shares in respect of which the dividend is paid and the dividend is paid in such circumstances that, if the owner were a resident of the United Kingdom exempt from United Kingdom tax, the exemption would be limited or removed.

ARTICLE VII

(1) The United Kingdom tax on royalties derived from the United Kingdom and beneficially owned by a resident of New Zealand shall not exceed 10 per cent. of the gross amount of the royalties.

For the purposes of this paragraph royalties in respect of which a trustee is subject to tax in New Zealand shall be treated as being beneficially owned by that trustee.

(2) The New Zealand tax on royalties derived from New Zealand and beneficially owned by a resident of the United Kingdom shall not exceed 10 per cent. of the gross amount of the royalties.

For the purposes of this paragraph royalties in respect of which a trustee is subject to tax in the United Kingdom shall be treated as being beneficially owned by that trustee.

(3) A resident of one of the territories who derives royalties from the other territory may elect for any year of assessment to be taxed on those royalties in that other territory as if they were a receipt included in industrial or commercial profits attributable to a permanent establishment in that other territory.

(4) Paragraphs (1) and (2) of this Article shall not apply if the owner of the royalties, being a resident of one of the territories, has in the other territory a permanent establishment and the right or property giving rise to the royalties is effectively connected with a trade or business carried on through such permanent establishment.

(5) 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 a distribution of or a dividend from such company. The preceding sentence shall not apply to royalties paid to a company which is a resident of one of the territories where (a) the same persons participate directly or indirectly in the management or control of the company paying the royalties and the company deriving the royalties, and (b) more than 50 per cent. of the voting power in the company deriving the royalties is controlled, directly or indirectly, by a person or persons resident in the other territory.

(6) The term "royalties" as used in this Article means payments of any kind paid as consideration for the use of, or the right to use, any copyright, patent, trademark, design or model, plan, secret formula or process, or any industrial, commercial or scientific equipment, or for the supply of scientific, technical, industrial or commercial knowledge, information or assistance, but does not include royalties or other amounts paid in respect of the operation of mines or quarries or of the extraction or removal of natural resources; the term "copyright" in this paragraph includes copyright in respect of films or tapes for radio or television broadcasting but does not include payments in respect of the business of renting motion picture films in New Zealand.

(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 royalties paid exceeds the amount which would have been agreed upon in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount.

(8) Royalties shall be deemed to be derived from the territory in which the property referred to in paragraph (6) is to be used.

ARTICLE VIII

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

(2)—(a) The term "immovable property" shall, subject to subparagraphs (b) and (c) below, have the meaning which it has under the law of the territory in which the property in question is situated;

(b) the term "immovable property" shall in any case include—

(i) property accessory to immovable property;

(ii) livestock and equipment of agricultural, pastoral and forestry enterprises;

(iii) rights to which the provisions of the general law respecting landed property apply;

(iv) usufruct of immovable property;

(v) rights to variable or fixed payments as consideration for the working of mineral deposits, sources and other natural resources;

(c) ships and aircraft shall not be regarded as immovable property.

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

(4) This Article shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

ARTICLE IX

(1) Gains from the alienation of any property 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 any property 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.

(2) Notwithstanding paragraph (1) of this Article, gains derived by a resident of one of the territories from the alienation of ships and aircraft operated in international traffic and of movable property pertaining to the operation of such ships and aircraft shall be exempt from tax in the other territory.

(3) 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 X

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

(2) Where such remuneration is not exempt under paragraph (1) of this Article it shall for the purposes of Article XVIII be deemed to be income from a source within the territory of the Contracting Government paying the remuneration.

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

ARTICLE XI

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

(2) The term "annuity" means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

ARTICLE XII

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 subjected to tax 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, such part of that income as is attributable to that base may be taxed in that other territory.

ARTICLE XIII

(1) Subject to Articles X, XI and XV, salaries, wages and other similar remuneration derived by a resident of one of the territories in respect of an employment shall be subjected to tax 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 paragraph (1) remuneration derived by a resident of one of the territories in respect of an employment exercised in the other territory shall be subjected to tax 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 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 deducted from the profits of a permanent establishment or a fixed base which the employer has in the other territory.

(3) Notwithstanding the preceding provisions, remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic by a resident of one of the territories may be taxed in that territory.

(4) In relation to remuneration of a director of a company derived from the company the preceding provisions of this Article shall apply as if the remuneration were remuneration of an employee in respect of an employment, and as if references to an employer were references to the company.

ARTICLE XIV

Notwithstanding Articles XII and XIII, 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 those activities are exercised.

ARTICLE XV

A professor or teacher who visits one of the territories for a period not exceeding two years for the purpose of teaching at a university, college, school or other educational institution in that territory and who immediately before that visit is a resident of the other territory shall be exempt from tax in the first-mentioned territory on any remuneration for such teaching in respect of which he is subject to tax in the other territory.

ARTICLE XVI

A student or business apprentice, who immediately before visiting one of the territories, is a resident of the other territory and is present in the first-mentioned territory solely for the purpose of his education or training

shall not be taxed in that first-mentioned territory on payments which he receives for the purpose of his maintenance, education, or training provided that such payments are made to him from sources outside that first-mentioned territory.

ARTICLE XVII

Any income not expressly mentioned in the foregoing provisions derived by a resident of one of the territories shall be subjected to tax only in that territory; provided that this Article shall not apply to—

- (a) interest, or
 - (b) income in any form from an estate or trust, or
 - (c) income from a business of any form of insurance or of renting motion picture films (other than films for exhibition on television),
- derived by a resident of one of the territories from sources in the other territory.

ARTICLE XVIII

(1) Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom (which shall not affect the general principle hereof)—

- (a) New Zealand tax payable under the law of New Zealand and in accordance with this Agreement whether directly or by deduction, on profits, income or chargeable gains from sources within New Zealand (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 United Kingdom tax computed by reference to the same profits, income or chargeable gains by reference to which the New Zealand tax is computed; and
- (b) where a company which is a resident of New Zealand and is not resident in the United Kingdom pays a dividend to a United Kingdom company which controls, directly or indirectly, at least 10 per cent. of the voting power in the first-mentioned company, the credit shall take into account (in addition to any New Zealand tax creditable under (a)) the New Zealand tax payable by that first-mentioned company in respect of the profits out of which such dividend is paid.

(2)—(a) Subject to the provisions of the law of New Zealand from time to time in force relating to the allowance as a credit against New Zealand tax of tax payable in any country other than New Zealand (which shall not affect the general principle hereof), United Kingdom tax computed by reference to income from sources in the United Kingdom and payable under the law of the United Kingdom and in accordance with this Agreement, whether directly or by deduction (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 the New Zealand tax computed by reference to the same income and payable in respect of that income.

(b) In the event that the Government of New Zealand should impose tax on dividends received by companies which are resident in New Zealand the Contracting Governments will enter into negotiations in order to establish new provisions concerning the taxation of such dividends derived from sources in the United Kingdom.

(3) For the purposes of this Article—

(a) dividends paid by a company which is a resident of one of the territories shall be deemed to be income from sources in that territory;

(b) any amount which is included in a person's taxable income under any provision of the law of either territory for the time being in force regarding taxation of income from any form of insurance shall be deemed to be derived from sources in that territory;

(c) remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources in that territory;

(d) the services of an individual which 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.

(4) Where profits on which an enterprise of one of the territories has been charged to tax in that territory are also included in the profits of an enterprise of the other territory and the profits so included are profits which would have accrued to that enterprise of the other territory if the conditions made between each of the enterprises had been those which would have been made between independent enterprises dealing at arm's length, the amount of such profits included in the profits of both enterprises shall be treated for the purpose of this Article as income from a source in the other territory of the enterprise of the first mentioned territory and credit shall be given accordingly in respect of the extra tax chargeable in the other territory as a result of the inclusion of the said amount.

(5) Notwithstanding anything to the contrary in this Agreement the provisions of Article XIV, in so far as they are applicable, of the Agreement between the Government of the United Kingdom and the Government of New Zealand for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed at London on 27th May 1947⁽¹⁾ shall apply to dividends paid before 6th April 1966 by a company which is resident in the United Kingdom to a resident of New Zealand.

ARTICLE XIX

(1) The nationals of one of the territories shall not be subjected in the other territory to any taxation or any requirement connected therewith which is more burdensome than the taxation and connected requirements to which

(¹) S.R. & O. 1947 No. 1776.

the nationals of the latter territory in the same circumstances are or may be subjected.

(2) 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; provided that this paragraph shall not prevent the Government of one of the territories from imposing on the profits attributable to a permanent establishment in that territory of a company which is a resident of the other territory a tax not exceeding 5 per cent. of those profits in addition to the tax which would be chargeable on those profits if they were the profits of a company which was a resident of the territory of that Government.

(3) 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 more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned territory are or may be subjected.

(4) This Article shall not be construed as obliging either of the Contracting Governments to grant to persons not resident in its territory those personal allowances and reliefs for tax purposes which are by law available only to persons who are so resident, nor as restricting the taxation of dividends paid to a company which is a resident of the other territory.

(5) In this Article the term "taxation" means the taxes which are the subject of this Agreement.

ARTICLE XX

The taxation authorities of the Contracting Governments shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of this Agreement or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Agreement. Any information so exchanged shall be treated as secret but may be disclosed to persons (including a court or tribunal) concerned with the assessment or collection of, or enforcement or prosecution in relation to, the taxes which are the subject of this Agreement. No such information shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

ARTICLE XXI

(1) Where a taxpayer considers that the action of the taxation authorities of the Contracting Governments has resulted or will result in taxation contrary to the provisions of this Agreement, he shall be entitled to present his case to the taxation authorities of the territory of which he is a resident.

Should the taxpayer's claim be deemed worthy of consideration, those taxation authorities shall endeavour to come to an agreement with the taxation authorities of the other territory with a view to a satisfactory adjustment.

(2) The taxation authorities may communicate directly with each other to implement the provisions of this Agreement and to ensure its consistent interpretation and application. In particular, the taxation authorities may consult each other to endeavour to resolve disputes arising out of the application of paragraph (4) of Article III or Article IV, or the determination of the source of any particular item of income.

ARTICLE XXII

(1) This Agreement may be extended, either in its entirety or with modifications, to any territory for whose international relations either of the Contracting Governments is responsible, and which imposes taxes substantially similar in character to those which are the subject of this Agreement, and any such extension shall take effect from such date and subject to such modifications and conditions (including conditions as to termination) as may be specified and agreed between the Contracting Governments in Notes to be exchanged for this purpose.

(2) The termination in respect of the United Kingdom or New Zealand of this Agreement under Article XXIV shall, unless otherwise expressly agreed by both Contracting Governments, terminate the application of this Agreement to any territory to which it has been extended under this Article.

ARTICLE XXIII

(1) This Agreement shall come into force⁽²⁾ on the date when the last of all such things shall have been done in the United Kingdom and New Zealand as are necessary to give the Agreement the force of law in the United Kingdom and New Zealand respectively, and shall thereupon have effect—

(a) in the United Kingdom—

- (i) as respects income tax, for any year of assessment beginning on or after 6th April 1965;
- (ii) as respects surtax, for any year of assessment beginning on or after 6th April 1964;
- (iii) as respects profits tax, for any chargeable accounting period beginning on or after 1st January 1965 and for the unexpired portion of any chargeable accounting period current at that date;
- (iv) as respects capital gains tax, for any year of assessment beginning on or after 6th April 1965; and
- (v) as respects corporation tax, for any financial year beginning on or after 1st April 1964;

(b) in New Zealand—

for any year of assessment beginning on or after 1st April 1965.

(²) S.I. 1966 No. 1020.

ARTICLE XXIV

This Agreement shall continue in effect indefinitely but either of the Contracting Governments may, on or before 30th June in any calendar year after the year 1967 give notice of termination to the other Contracting Government and, in such event this Agreement shall cease to be effective—

(a) in the United Kingdom—

(i) as respects income tax (including surtax) and capital gains tax, for any year of assessment beginning on or after 6th April in the calendar year next following that in which the notice is given; and

(ii) as respects corporation tax, for any financial year beginning on or after 1st April in the calendar year next following that in which the notice is given.

(b) in New Zealand—

for any year of assessment beginning on or after 1st April in the calendar year next following that in which the notice of termination is given.

In witness whereof the undersigned, duly authorised thereto, have signed this Agreement.

Done in duplicate at Wellington, this 13th day of June, one thousand nine hundred and sixty-six.

For the Government of the United Kingdom:

BARRY SMALLMAN.

For the Government of New Zealand:

H. R. LAKE.

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