



Treaty Series No. 20 (1988)

Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of the Federal Republic of Nigeria

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

London, 9 June 1987

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*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
April 1988*

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AGREEMENT
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT
BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE
FEDERAL REPUBLIC OF NIGERIA FOR THE AVOIDANCE OF DOUBLE
TAXATION AND THE PREVENTION OF FISCAL EVASION WITH
RESPECT TO TAXES ON INCOME AND CAPITAL GAINS

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Federal Republic of Nigeria;

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains;

Have agreed as follows:

ARTICLE 1

Personal scope

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

ARTICLE 2

Taxes covered

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

(a) in the United Kingdom:

- (i) the income tax;
 - (ii) the corporation tax;
 - (iii) the capital gains tax; and
 - (iv) the petroleum revenue tax;
- (hereinafter referred to as "United Kingdom tax");

(b) in Nigeria:

- (i) the personal income tax;
 - (ii) the companies income tax;
 - (iii) the capital gains tax; and
 - (iv) the petroleum profits tax;
- (hereinafter referred to as "Nigerian tax").

(2) This Agreement shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws.

ARTICLE 3

General definitions

(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 sea of the United Kingdom which in accordance with international law 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 "Nigeria" means the Federal Republic of Nigeria, including any area outside the territorial waters of the Federal Republic of Nigeria which in accordance with international law has been or may hereafter be designated, under the laws of the

Federal Republic of Nigeria concerning the Continental Shelf, as an area within which the rights of the Federal Republic of Nigeria with respect to the sea bed and sub-soil and their natural resources may be exercised;

- (c) the term "national" means:
- (i) in relation to the United Kingdom, any individual who has under the law in the United Kingdom the status of United Kingdom national, provided he has the right of abode in the United Kingdom; and any legal person, partnership, association or other entity deriving its status as such from the law in force in the United Kingdom;
 - (ii) in relation to Nigeria, any citizen of Nigeria and any legal person, partnership, association or other entity deriving its status as such from the law in force in Nigeria;
- (d) the terms "a Contracting State" and "the other Contracting State" mean the United Kingdom or Nigeria as the context requires;
- (e) the term "person" means an individual, a company or any other body of persons;
- (f) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes under the laws of a Contracting State;
- (g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (i) the term "competent authority" means, in the case of the United Kingdom, the Board of Inland Revenue or its authorised representative, and in the case of Nigeria, the Honourable Minister of Finance or his authorised representative.
- (2) As regards the application of this Agreement by a Contracting State any term not defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Agreement.

ARTICLE 4

Fiscal residence

- (1) For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of incorporation, place of management or any other criterion of a similar nature.
- (2) Where by reason of the provisions of paragraph (1) of this Article an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:
- (a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the state with which his personal and economic relations are closer (centre of vital interests);
 - (b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
 - (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
 - (d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

(3) Where by reason of the provisions of paragraph (1) of this Article a person other than an individual is a resident of both Contracting States, then the competent authorities of the Contracting States shall settle the question by mutual agreement.

ARTICLE 5

Permanent establishment

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

(2) The term "permanent establishment" includes especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- (g) a building site or construction or assembly project which exists for more than three months;
- (h) the provision of supervisory activities for more than three months on a building site or construction or assembly project; and
- (i) installation or the provision of supervisory activities in connection therewith incidental to the sale of machinery or equipment where the charges payable for such activities exceed 10 per cent of the free on board sale price of the machinery or equipment.

(3) Notwithstanding the preceding provisions of this Article, 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 of collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character.

(4) The term "permanent establishment" shall include a fixed place of business used as a sales outlet notwithstanding that such fixed place of business is otherwise maintained for any of the activities mentioned in paragraph (3) of this Article.

(5) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

(6) A person (including a subsidiary company, associated company or any other company, or any personnel thereof or any other person), other than an agent of an independent status to whom the provisions of paragraph (5) of this Article apply, who acts in a Contracting State on behalf of an enterprise of the other Contracting State shall be deemed to be a permanent establishment in the first-mentioned Contracting State if:

- (a) he has, and habitually exercises in that State, an authority to conclude contracts or carry on any business activities on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for that enterprise; or

(b) he habitually secures orders for the sale of goods or merchandise in that State exclusively or almost exclusively on behalf of the enterprise or other enterprises controlled by it or which have a controlling interest in it.

(7) Subject to the preceding provisions of this Article the fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 6

Income from immovable property

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

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

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

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

ARTICLE 7

Business profits

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

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

(3) In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses shown to have been incurred for the purposes of the business of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or

any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

(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. Provided that where that permanent establishment is also used as a sales outlet for the goods or merchandise so purchased the profits on such sales may be attributed to that permanent establishment.

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

ARTICLE 8

Shipping and air transport

(1) A resident of a Contracting State shall be exempt from tax in the other Contracting State in respect of profits or gains derived from the operation of ships or aircraft in international traffic.

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

ARTICLE 9

Associated enterprises

(1) Where

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

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

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

ARTICLE 10

Dividends

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

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

- (a) 12½ per cent of the gross amount of the dividend if the recipient is a company which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend;
 - (b) 15 per cent of the gross amount of the dividend in all other cases.
- (3) The term "dividends" as used in this Article means income from shares, or any other item (other than interest relieved from tax under the provisions of Article 11 of this Agreement) which, under the law of the Contracting State of which the company paying the dividend is a resident, is treated as a dividend or distribution of a company.
- (4) The provisions of paragraphs (1) and (2) of this Article shall not apply where the beneficial owner of the dividends, being a resident of one of the Contracting States, has in the other Contracting State a permanent establishment, or performs in that other State independent personal services from a fixed base situated therein, and the holding by virtue of which the dividends are paid is effectively connected with the business carried on through such permanent establishment or fixed base. In such a case the provisions of Article 7 or Article 14, as the case may be, shall apply.
- (5) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company and beneficially owned by persons who are not residents of the other State, 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 that other State.
- (6) The provisions of this Article shall not apply if the right giving rise to the dividends was created or assigned mainly for the purpose of taking advantage of this Article and not for bona fide commercial reasons.

ARTICLE 11

Interest

- (1) Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
- (2) However, such interest may also be taxed in the Contracting State in which it arises, and according to the law of that State, but where such interest is paid to a resident of the other Contracting State who is subject to tax there in respect thereof the tax so charged shall not exceed 12½ per cent of the gross amount of the interest.
- (3) Notwithstanding the provisions of paragraph (2) of this Article, interest arising in a Contracting State shall be exempt from tax in that State if it is derived and beneficially owned by the Government of the other Contracting State or a local authority thereof or any agency or instrumentality of that Government or local authority.
- (4) The provisions of paragraphs (1) and (2) of this Article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with that permanent establishment or fixed base. In such a case the provisions of Article 7 or Article 14, as the case may be, shall apply.
- (5) Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by that permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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

(7) The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures.

(8) The provisions of this Article shall not apply if the debt-claim giving rise to the interest was created mainly for the purpose of taking advantage of this Article and not for bona fide commercial reasons.

ARTICLE 12

Royalties

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

(2) However, such royalties may also be taxed in the Contracting State in which they arise and according to the law of that State, but where such royalties are paid to a resident of the other Contracting State who is subject to tax there in respect thereof the tax so charged shall not exceed 12½ per cent of the gross amount of the royalties.

(3) The provisions of paragraphs (1) and (2) of this Article shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise, a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

(4) Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred and such royalties are borne by that permanent establishment or fixed base, then the royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

(5) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties 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 beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

(6) The provisions of this Article shall not apply if the right or property giving rise to the royalties was created or assigned mainly for the purpose of taking advantage of this Article and not for bona fide commercial reasons.

(7) In this Article the term "royalties" means payment of any kind received as consideration for the use of, or for the right to use, any copyright of literary, artistic or scientific work including cinematograph films and films or tapes used for radio and television broadcasting, any patent, trade mark, design, model, plan, secret formula or process, or for the use of, or the right to use industrial, commercial or scientific equipment.

ARTICLE 13

Capital gains

Except as provided in Article 8 of this Agreement (Shipping and air transport), each Contracting State may tax capital gains in accordance with the provisions of its domestic law.

ARTICLE 14

Independent personal services

(1) Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities, in which case so much of the income may be taxed in that other Contracting State as is attributable to 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 15

Dependent personal services

(1) Subject to the provisions of Articles 16, 17, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in a year of assessment; and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

(3) Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State of which the person deriving the profits from the operation of the ship or aircraft is a resident.

ARTICLE 16

Directors' fees

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

ARTICLE 17

Artistes and athletes

(1) Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

(2) Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

ARTICLE 18

Pensions and annuities

(1) Pensions and other similar remuneration paid in consideration of past employment to a resident of a Contracting State and any annuity paid to such a resident shall be taxable only in the State from which such income is derived.

(2) The provisions of paragraph (1) of this Article shall not apply where a pension or similar remuneration is paid in respect of an employment which terminated before 6 April 1979 in the United Kingdom or 1 April 1979 in Nigeria, or where an annuity is paid in respect of an obligation which existed at 6 April 1979 in the United Kingdom or 1 April 1979 in Nigeria. Any such pension, similar remuneration or annuity paid to a resident of a Contracting State shall be taxable only in that State.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this Article:

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

(b) However, such a pension shall be taxable only in the other Contracting State if the individual is a resident and a national of that State and if the employment in respect of which the pension is paid terminated before 6 April 1979 in the United Kingdom or 1 April 1979 in Nigeria.

(4) 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 19

Government service

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

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

(2) The provisions of Articles 15 and 16 shall apply to remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

ARTICLE 20

Students and trainees

(1) An individual who is or was a resident of one of the Contracting States immediately before making a visit to the other Contracting State and is temporarily present in that other Contracting State solely as a student at a university, college, school or other similar recognised educational institution in that other Contracting State or as a business or technical apprentice therein, shall be exempt from tax in that other Contracting State on:

(a) all remittances for the purposes of his maintenance, education or training made to him from sources outside that other Contracting State; and

(b) any income derived from the other Contracting State in respect of services rendered in that other Contracting State (other than services rendered by a business or technical

apprentice to the person or partnership to whom he is apprenticed) with a view to supplementing the resources available to him for such purposes, not exceeding the sum of 750 pounds sterling or the equivalent in Nigerian naira at the parity rate of exchange during any year of assessment in addition to any personal allowances provided under the tax law of that other State. Provided that the benefits of this sub-paragraph shall extend only for such period of time as may be reasonably or customarily required to complete the education or training undertaken but in no event shall an individual have the benefits of this sub-paragraph for more than six consecutive years of assessment.

(2) An individual who is or was a resident of one of the Contracting States immediately before making a visit to the other Contracting State and is temporarily present in that other Contracting State for the purposes of study, research or training solely as a recipient of a grant, allowance or award from the Government of either of the Contracting States or from a scientific, educational, religious or charitable organisation or under a technical assistance programme entered into by the Government of either of the Contracting States shall be exempt from tax in that other Contracting State on:

- (a) the amount of such grant, allowance or award; and
- (b) any income derived from that other Contracting State in respect of services in that other Contracting State if the services are performed in connection with his study, research, training, or are incidental thereto. Provided that in no event shall an individual have the benefits of this sub-paragraph for more than two consecutive years of assessment.

(3) An individual who is or was a resident of one of the Contracting States immediately before making a visit to the other Contracting State and is temporarily present in that other Contracting State solely as an employee of, or under contract with, the Government or an enterprise of the first-mentioned Contracting State for the purpose of acquiring technical, professional or business experience shall be exempt from tax in that other Contracting State on:

- (a) all remittances for the purposes of his maintenance, education or training made to him from sources outside that other Contracting State; and
- (b) any remuneration not exceeding the sum of 750 pounds sterling or the equivalent in Nigerian naira at the parity rate of exchange for personal services rendered in that other State, provided such services are in connection with his studies or training or are incidental thereto, in addition to any personal allowances provided under the tax law of that other State. Provided that in no event shall an individual have the benefits of this sub-paragraph for more than two consecutive years of assessment.

ARTICLE 21

Teachers

(1) A professor or teacher who visits one of the Contracting States for the purpose of teaching or engaging in research at a university or any other recognised educational institution in that Contracting State and who, immediately before that visit, was a resident of the other Contracting State shall be exempted from tax by the first-mentioned Contracting State in respect of any remuneration received for such teaching or research for a period not exceeding two years from the date of his first arrival in that State for such purpose.

(2) The exemption provided in this Article may be applied by the Contracting State in which the teaching or research is performed either to the current payments to such professor or teacher in anticipation of fulfilment of the requirements of paragraph (1) or by way of withholding and refund, but in both cases exemption shall be conditional upon fulfilment of the requirements of paragraph (1).

(3) This Article shall apply only to income from research if such research is undertaken by the professor or teacher in the public interest and not primarily for the benefit of some other private person or persons.

ARTICLE 22

Elimination of double taxation

(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) Nigerian tax payable under the laws of Nigeria and in accordance with this Agreement, whether directly or by deduction, on profits, income or chargeable gains from sources within Nigeria 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 Nigerian tax is computed. Provided that in the case of a dividend the credit shall only take into account such tax in respect thereof as is additional to any tax payable by the company on the profits out of which the dividend is paid and is ultimately borne by the recipient without reference to any tax so payable.
- (b) In the case of a dividend paid by a company which is a resident of Nigeria to a company which is a resident of the United Kingdom and which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend, the credit shall take into account (in addition to any Nigerian tax for which credit may be allowed under the provisions of sub-paragraph (a) of this paragraph) the Nigerian tax payable by the company in respect of the profits out of which such dividend is paid.

(2) For the purposes of paragraph (1) of this Article, the term "Nigerian tax payable" shall be deemed to include any amount which would have been payable as Nigerian tax for any year but for an exemption or reduction of tax granted for that year of any part thereof under:

- (a) any of the following provisions, that is to say:
 - (i) paragraphs 16 and 17 of the Industrial Development (Income Tax Relief) Act 1971;
 - (ii) sections 9 (6) and (7) of the Companies Income Tax Act 1979 where the loan in question is certified by the competent authority of Nigeria as being for the purpose of promoting new industrial, commercial, scientific, educational or agricultural development in Nigeria;

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

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

Provided that relief from United Kingdom tax shall not be given by virtue of this paragraph in respect of income from any source if the income arises in a period starting more than ten years after the exemption from, or reduction of, Nigerian tax was first granted in respect of that source.

(3) Subject to the provisions of the law of Nigeria regarding the allowance as a credit against Nigerian tax of tax payable in a territory outside Nigeria (which shall not affect the general principle hereof):

- (a) United Kingdom tax payable under the laws of the United Kingdom and in accordance with this Agreement, whether directly or by deduction, on profits, income or chargeable gains from sources within the United Kingdom (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 Nigerian tax computed by reference to the same profits, income or chargeable gains by reference to which United Kingdom tax is computed.

(b) In the case of a dividend paid by a company which is a resident of the United Kingdom to a company which is resident in Nigeria and which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend, the credit shall take into account (in addition to any United Kingdom tax for which credit may be allowed under the provisions of sub-paragraph (a) of this paragraph) the United Kingdom tax payable by the company in respect of the profits out of which such dividend is paid. In any case the amount of tax credit to be granted under this paragraph shall not exceed the proportion of the Nigerian tax which such profits, income or chargeable gains bear to the entire profits, income or chargeable gains chargeable to Nigerian tax.

(4) For the purpose of paragraphs (1) and (3) of this Article profits, income and capital gains owned by a resident of one of the Contracting States which may be taxed in the other Contracting State in accordance with this Agreement, shall be deemed to arise from sources in that other Contracting State.

(5) Nothing in this Article shall entitle a person who is a resident of a Contracting State to credit against tax of that Contracting State of tax of the other Contracting State if the terms of the transactions giving rise to the profits on which the tax of the other Contracting State is payable are not such as might be expected in a bona fide commercial transaction and if they have as their main object, or one of their main objects, the obtaining of that credit.

ARTICLE 23

Non-discrimination

(1) Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

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

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

(4) Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes, which are granted to individuals so resident.

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

ARTICLE 24

Mutual agreement procedure

(1) Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident.

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Agreement.

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

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

ARTICLE 25

Exchange of information

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

ARTICLE 26

Diplomatic agents and consular officials

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

(2) Notwithstanding paragraph (1) of Article 4, an individual who is a member of the diplomatic, consular or permanent mission of a Contracting State or any third State which is situated in the other Contracting State and who is subject to tax in that other State only if he derives income from sources therein, shall not be deemed to be a resident of that other State.

ARTICLE 27

Entry into force

Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Agreement. The Agreement shall enter into force thirty days after the date of the later of these notifications¹ and shall thereupon have effect:

(a) in the United Kingdom:

- (i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April in the calendar year next following that in which the Agreement enters into force;
- (ii) in respect of corporation tax, for any financial year beginning on or after 1 April in the calendar year next following that in which the Agreement enters into force;
- (iii) in respect of petroleum revenue tax, for any chargeable period beginning on or after 1 January in the calendar year next following that in which the Agreement enters into force;

(b) in Nigeria:

- (i) in respect of withholding tax on income and taxes on capital gains derived by a non-resident, in relation to income and capital gains derived on or after 1 January in the calendar year next following that in which the Agreement enters into force;

¹ The Agreement entered into force on 27 December 1987.

- (ii) in respect of other taxes, in relation to income of any basis period beginning on or after 1 January in the calendar year next following that in which the Agreement enters into force.

ARTICLE 28

Termination

This Agreement shall remain in force indefinitely but either Contracting State may terminate the Agreement, through the diplomatic channel, by giving notice of termination at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect:

- (a) in the United Kingdom:
 - (i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April in the calendar year next following that in which the notice is given;
 - (ii) in respect of corporation tax, for any financial year beginning on or after 1 April in the calendar year next following that in which the notice is given;
 - (iii) in respect of petroleum revenue tax, for any chargeable period beginning on or after 1 January in the calendar year next following that in which the notice is given;
- (b) in Nigeria:
 - (i) in respect of withholding tax on income and taxes on capital gains derived by a non-resident, in relation to income and capital gains derived on or after 1 January in the calendar year next following that in which the notice is given;
 - (ii) in respect of other taxes, in relation to income of any basis period beginning on or after 1 January in the calendar year next following that in which the notice is given.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Agreement.

Done in duplicate at London this 9th day of June 1987.

For the Government of the United Kingdom of Great Britain and Northern Ireland: For the Government of the Federal Republic of Nigeria:

YOUNG

G. DOVE-EDWIN