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TRINIDAD AND
TOBAGO



Treaty Series No. 70 (1970).

Protocol amending the Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of Trinidad and Tobago

for the Avoidance of Double Taxation
and the Prevention of Fiscal Evasion
with respect to Taxes on Income, signed
at Port of Spain on 29 December 1966

Port-of-Spain, 10 December 1969

[The Protocol entered into force on 24 March 1970]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
August 1970*

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PROTOCOL
AMENDING THE AGREEMENT BETWEEN THE GOVERNMENT
OF THE UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND AND THE GOVERNMENT OF TRINIDAD
AND TOBAGO FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION WITH RESPECT
TO TAXES ON INCOME, SIGNED AT PORT OF SPAIN
ON 29 DECEMBER, 1966

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Trinidad and Tobago;

Desiring to conclude a Protocol to amend the Agreement between the Contracting Governments for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at Port of Spain on 29 December, 1966,⁽¹⁾ (hereinafter referred to as "the Agreement");

Have agreed as follows:

ARTICLE 1

Sub-paragraph (b) of paragraph (1) of Article 2 of the Agreement shall be deleted and replaced by the following:

"(b) the term "Trinidad and Tobago" means the islands of Trinidad and Tobago including any area adjacent to the territorial waters of Trinidad and Tobago which by Trinidad and Tobago legislation and in accordance with international law concerning the Continental Shelf has been or may hereafter be designated as an area within which the rights of Trinidad and Tobago with respect to the sea bed and the sub-soil and their natural resources may be exercised."

ARTICLE 2

Sub-paragraph (h) of paragraph (1) of Article 2 of the Agreement shall be deleted and replaced by the following:

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

ARTICLE 3

Paragraph (6) of Article 8 of the Agreement shall be deleted and replaced by the following:

"(6) The term "specified amounts" in paragraphs (4) and (5) of this Article means—

(a) 10 per cent. of the gross amount of the dividends if the recipient is a company which controls directly or indirectly at least

(1) Treaty Series No. 30 (1967), Cmnd. 3263.

25 per cent. of the voting power of the company paying the dividends and, where the chief business of the company paying the dividends is not the making of loans, not more than 25 per cent. of the gross income of the company paying the dividends is derived from interest and dividends other than interest and dividends from companies in which it controls directly or indirectly at least 25 per cent. of the voting power;

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

ARTICLE 4

Paragraph (11) of Article 8 of the Agreement shall be deleted and replaced by the following:

“(11) Notwithstanding paragraph (10) of this Article where a company which is a resident of one of the territories, having a permanent establishment in the other territory, derives profits or income from that permanent establishment, any remittance of such profits by the permanent establishment to a resident of the first-mentioned territory may be taxed (in addition to the tax which would be chargeable on those profits if they were the profits of a company which was a resident of that other territory) in accordance with the law of the other territory, but the rate of tax so imposed shall not exceed 10 per cent. of the amount of those profits remitted or deemed to be remitted.”

ARTICLE 5

Paragraph (1) of Article 9 of the Agreement shall be deleted and replaced by the following:

“(1) The tax imposed in one of the territories on interest which arises there and which is derived and beneficially owned by a resident of the other territory shall not exceed 10 per cent. of the gross amount of the interest.”

ARTICLE 6

Paragraph (1) of Article 10 of the Agreement shall be deleted and replaced by the following:

“(1) The tax imposed in one of the territories on royalties which arise there and which are derived and beneficially owned by a resident of the other territory shall not exceed 5 per cent. of the gross amount of the royalties; provided that where any such royalties are in respect of motion picture films and films or video tapes for use in connection with television and tapes for use in connection with radio, the tax imposed in the territory in which the royalties arise may exceed 5 per cent. but shall not exceed 10 per cent. of the gross amount of the royalties.”

ARTICLE 7

The following new paragraph (1A) shall be added immediately after paragraph (1) of Article 20 of the Agreement:

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

(a) any of the following provisions, that is to say—

- (i) Aid to Pioneer Industries Ordinance, Chapter 33 No. 3;
- (ii) Cement Industry (Development) Ordinance, Chapter 33 No. 17;
- (iii) Nitrogenous Fertiliser Industry (Development) Ordinance, 1958;
- (iv) Lubricating Oils and Greases Industry (Development) Ordinance, 1961;
- (v) Housing Act, 1962;
- (vi) Petrochemicals Industry Development Act, 1962;
- (vii) Hotel Development Act, 1962;
- (viii) Tyre Manufacturing Industry Development Act, No. 39 of 1967;
- (ix) any Ordinances, Acts and Government Orders granting exemption in respect of interest on monies borrowed by a statutory body established in order to carry on in Trinidad and Tobago a public utility undertaking under national control;

so far as they were in force on, and have not been modified since 10 December, 1969 (being the date of signature of the Protocol amending this Agreement), or have been modified only in minor respects so as not to affect their general character;

(b) any other provision which may subsequently be made granting an exemption or reduction which is agreed by the competent authorities of the Contracting Governments to be of 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 an amount of tax shall be treated as having been so payable in respect of interest on monies borrowed by such a statutory body as is referred to in sub-paragraph (a) (ix) of this paragraph only if—

- (aa) the monies were borrowed after 10 December, 1969 (being the date of signature of the Protocol amending this Agreement), and
- (bb) the interest falls due not later than 10 years after the date when the monies were borrowed.”

ARTICLE 8

(1) This Protocol, which shall form an integral part of the Agreement, shall come into force when the last of all such things shall have been done in the United Kingdom and Trinidad and Tobago as are necessary to give the

Protocol the force of law in the United Kingdom and Trinidad and Tobago respectively,⁽²⁾ and shall thereupon have effect:

(a) in the United Kingdom:

(i) as respects income tax (including surtax), for any year of assessment beginning on or after 6 April, 1970; and

(ii) as respects corporation tax, for any financial year beginning on or after 1 April, 1970;

(b) in Trinidad and Tobago:

(i) as respects tax withheld at the source on amounts paid, credited or remitted to non-residents on or after 1 January, 1970;

(ii) as respects other Trinidad and Tobago tax for the year of income commencing 1 January, 1970, and for subsequent years of income.

(2) Notwithstanding paragraph (1) of this Article, where any greater relief from tax would have been afforded by any provision of the Agreement than is due under the Agreement as amended by this Protocol, any such provision as aforesaid shall continue to have effect in the United Kingdom for any year of assessment or financial year beginning before the entry into force of this Protocol, and in Trinidad and Tobago for any year of income beginning before the entry into force of this Protocol.

IN WITNESS WHEREOF the undersigned, duly authorised thereto by their respective Governments, have signed this Protocol.

DONE in duplicate at Port of Spain this tenth day of December, 1969.

For the Government of the United Kingdom of Great Britain and Northern Ireland: For the Government of Trinidad and Tobago:

G. P. HAMPSHIRE

ERIC WILLIAMS

(2) The Protocol entered into force on 24 March, 1970