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THE CEYLON GOVERNMENT GAZETTE

EXTRAORDINARY

අංක 14,474 — 1965 අගෝස්තු 9 වැනි සඳුදා - 1965.8.9

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PART I: SECTION (I)—GENERAL

Government Notifications

L. D.—B 24/56.

Treasury No. ED 09/03/006.

THE INLAND REVENUE ACT, No. 4 OF 1963

Notice

IT is hereby notified under section 70 (I) (b) of the Inland Revenue Act, No. 4 of 1963, that the agreement for affording relief from double taxation entered into between the Government of Norway and the Government of Ceylon on June 11, 1964, and set out in the Schedule hereto, has been approved by the Senate by resolution passed on 27th July, 1965, and by the House of Representatives by resolution passed on 9th July, 1965.

J. B. KELEGAMA,
for Permanent Secretary,
Ministry of Finance.

Colombo, August 3, 1965.

SCHEDULE

CONVENTION BETWEEN THE GOVERNMENT OF NORWAY AND THE GOVERNMENT OF CEYLON FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND PROPERTY

The Government of Norway and the Government of Ceylon desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and property,

have agreed as follows:—

ARTICLE I

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

(a) In Norway:

National income and capital taxes, including tax-equalization dues and special income tax in aid of developing countries;

Municipal income and capital taxes;

Seamen's tax

(hereinafter referred to as "Norwegian tax");

(b) In Ceylon:

the income tax and the wealth tax

(hereinafter referred to as "Ceylon tax").

(2) This Convention shall also apply to any other taxes of a substantially similar character imposed in Norway or Ceylon subsequently to the date of signature of this Convention.

(3) At the end of each year, the competent authorities of Ceylon and Norway shall notify to each other any significant changes which have been made in their respective taxation laws.

ARTICLE II

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

(a) The term "Norway" means the Kingdom of Norway, excluding Svalbard (Spitsbergen), Jan Mayen and the Norwegian dependencies outside Europe;

(b) The terms "one of the territories" and "the other territory" mean Norway or Ceylon, as the context requires;

(c) The term "tax" means Norwegian tax or Ceylon tax, as the context requires;

(d) The term "person" includes any body of persons, corporate or not corporate;

(e) The term "company" means any body corporate and any entity which is treated as a body corporate for tax purposes;

(f) The terms "resident of Norway" and "resident of Ceylon" mean respectively any person who is resident in Norway for the purposes of Norwegian tax and not resident in Ceylon for the purposes of Ceylon tax, and any person who is resident in Ceylon for the purposes of Ceylon tax and not resident in Norway for the purposes of Norwegian tax.

A company shall be regarded as resident in Norway if its business is managed and controlled in Norway, or it is incorporated in Norway and not managed and controlled in Ceylon; a company shall be regarded as resident in Ceylon, if its business is managed and controlled in Ceylon, or it is incorporated under the laws of Ceylon and not managed and controlled in Norway;

(g) The terms "Norwegian enterprise" and "Ceylon enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of Norway and an industrial or commercial enterprise or undertaking carried on by a resident of Ceylon; and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a Norwegian enterprise or a Ceylon enterprise, as the context requires;

(h) The term "industrial or commercial profits" includes, in particular, profits from the business of agriculture, mining, banking, insurance, life insurance or dealing in investments, and profits from rents or royalties in respect of cinematograph films, but does not include income in the form of dividends, interest, rents, royalties (other than rents or royalties in respect of cinematograph films), management charges, or remuneration for personal services;

(i) The term "permanent establishment" when used with respect to an enterprise of one of the territories means a branch, management, factory or other fixed place of business, an agricultural or farming estate, a mine, quarry or any other place of natural resources subject to exploitation, and a construction or assembly project or the like the duration of which exceeds 183 days; it does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of the enterprise or has a stock of merchandise from which he regularly fills orders on its behalf.

In this connection—

(aa) An enterprise shall not be deemed to have a permanent establishment merely because it carries on business dealings through a bona fide broker, general commission agent or any other agent of a genuinely independent status, where such persons are acting in the ordinary course of their business as such.

- (bb) The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business or any agent exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business or that agency a permanent establishment of the enterprise.
- (cc) The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

(j) The term "competent authorities" means in the case of Norway the Minister of Finance and Customs, or his authorised representatives; in the case of Ceylon the Commissioner of Inland Revenue.

(2) In the application of the provisions of this Convention in one of the territories any term not otherwise defined in this Convention shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that territory relating to the taxes which are the subject of this Convention.

ARTICLE III

(1) The industrial or commercial profits of an enterprise of one of the territories shall not be subject to tax in the other territory unless the enterprise carries on a trade or business in that other territory through a permanent establishment situated therein. If it carries on a trade or business in that other territory through a permanent establishment situated therein, tax may be imposed on those profits in the other territory but only on so much of them as is attributable to that permanent establishment; provided that nothing in this paragraph shall affect the taxation of income from the business of insurance under the provisions of the law of Ceylon at the date of signature of this Convention.

(2) Where an enterprise of one of the territories carries on a trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive in that other territory 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; provided that nothing in this paragraph shall affect the computation of the profits derived by a Norwegian enterprise from the production of tea or other agricultural product in Ceylon in accordance with the provisions of the law of Ceylon at the date of signature of this Convention.

(3) No portion of any profits arising to an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of goods or merchandise within that other territory by the enterprise.

ARTICLE IV

Where

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

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

ARTICLE V

(1) Income from immovable property (including gains derived from the sale or exchange of such property) may be subjected to tax in the territory in which the property is situated. Interest on debts secured by mortgages on immovable property and royalties or other amounts paid in respect of the operation of a mine, stone quarry or any other extraction of natural resources shall be regarded as income derived from immovable property.

(2) This Article shall not apply where a resident of one of the territories has a permanent establishment in the other territory and such income is attributable to that permanent establishment; in such event Article III of this Convention shall be applicable.

ARTICLE VI

(1) Profits from the operation of ships or aircraft in international traffic may be taxed in the territory in which the place of effective management of the enterprise is situated. However,

- (a) when a resident of Norway, operating ships or aircraft, derives profits from Ceylon through such operations carried on in Ceylon, such profits may also be subject to tax in Ceylon; but the tax so charged shall be reduced by an amount equal to 50 per centum, and the reduced amount of Ceylon tax payable on the profits shall be allowed as a credit against Norwegian tax charged in respect of such income;
- (b) when a resident of Ceylon, operating ships or aircraft, derives profits from Norway through such operations carried on in Norway, such profits may also be subject to tax in Norway; but the tax so charged shall be reduced by an amount equal to 50 per centum, and the reduced amount of Norwegian tax payable on the profits shall be allowed as a credit against Ceylon tax charged in respect of such income.

(2) This Article shall likewise apply in respect of participations in pools of any kind by enterprises engaged in shipping or air transport.

ARTICLE VII

(1) Dividends paid by a company which is a resident of Ceylon to a resident of Norway shall be exempt from all Ceylon tax other than the Ceylon income tax on the company. However,

(a) where a resident of Norway is a company, there shall be charged the tax of six per centum referred to in Section 26 (4) of the Inland Revenue Act No. 4 of 1963 on companies (whose shares are not movable property situated in Ceylon for the purposes of the law relating to Estate Duty) but the rate of this tax shall not exceed six per centum;

(b) where a resident of Norway is an individual, no refund of Ceylon income tax on the company and deducted from such dividend will be allowed.

(2) Dividends paid by a company which is a resident of Norway to a resident of Ceylon shall not be chargeable to tax in addition to the tax chargeable on the company, except at a rate not exceeding 5 per centum.

(3) Paragraphs (1) and (2) shall not apply where a resident of one of the territories has a permanent establishment in the other territory, and the dividends are attributable to that permanent establishment; in such event Article III of this Convention shall be applicable.

(4) Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, there shall not be imposed in that other territory any form of taxation on dividends paid by the company to persons not resident in that other territory, or any form of taxation chargeable in connection with or in lieu of the taxation of dividends, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

ARTICLE VIII

Interest from bonds or debentures or interest on deposits may be subjected to tax in the territory in which such bonds or debentures are issued or such deposits are made.

This Article shall not apply to interest referred to in Article V of this Convention.

ARTICLE IX

(1) Any royalty or other amount which is payable as consideration for the use of, or for the privilege of using, any copyright or cinematograph films and which is derived from sources within one of the territories by a resident of the other territory shall be exempt from tax in that first-mentioned territory.

(2) Any royalty or other amount which is payable as consideration for the use of, or for the privilege of using, any patents, designs or models, plans, secret processes or formulae, trade marks and other like property and rights, and which is derived from sources within one of the territories by a resident of the other territory may be subjected to tax in the first-mentioned territory as well as in the other territory. The tax so chargeable in the first-mentioned territory shall be reduced by 50 per centum; in the other territory there shall be allowed as credit against the tax payable in that territory in respect of that income the amount of the tax levied in the first-mentioned territory, but in any case at least an amount of 75 per centum of the tax levied in respect of that income in the other territory. There shall be

treated as royalties all rents and similar payments received as consideration for the use of, or for the privilege of using, industrial, commercial or scientific equipment.

(3) This Article shall not apply where a resident of one of the territories has a permanent establishment in the other territory, and such items of income as are dealt with in this Article are attributable to that permanent establishment; in such event Article III of this Convention shall be applicable.

ARTICLE X

(1) Except as provided in Article V of this Convention a resident of one of the territories shall be exempt in the other territory from any tax on gains from the sale, transfer or exchange of capital assets (including the sale, transfer or exchange of patent rights).

(2) Paragraph (1) of this Article shall not apply to the sale, transfer or exchange of stocks and shares.

(3) Paragraph (1) of this Article shall not apply where a resident of one of the territories has a permanent establishment in the other territory and such gains are attributable to that permanent establishment; in such event Article III of this Convention shall be applicable.

ARTICLE XI

(1) Remuneration, including pensions, paid out of the public funds by one of the territories to any individual for services rendered to that territory shall be exempt from tax in the other territory, if the individual is not resident in that territory or (where the remuneration is not a pension) is resident in that territory solely for the purpose of rendering those services.

(2) The provisions of this Article shall not apply to payments in respect of services in connection with any trade or business carried on for purposes of profit by either Norway or Ceylon.

ARTICLE XII

(1) Profits or remuneration from professional services (including services as a director) or an employment, earned by an individual who is a resident of one of the territories may also be taxed in the other territory but only if the activities are performed in the latter territory.

(2) An individual who is a resident of Norway shall be exempt from Ceylon tax on profits or remuneration in respect of personal (including professional) services performed within Ceylon in any year of assessment, if—

- (a) he is present within Ceylon for a period or periods not exceeding in the aggregate 183 days during that year, and
- (b) the services are performed for or on behalf of a resident of Norway, and
- (c) the profits or remuneration are not deducted in ascertaining the profits or income for purposes of Ceylon tax.

(3) An individual who is a resident of Ceylon shall be exempt from Norwegian tax on profits or remuneration in respect of personal (including professional) services performed within Norway in any year of assessment, if—

- (a) he is present within Norway for a period or periods not exceeding in the aggregate 183 days during that year, and
- (b) the services are performed for or on behalf of a resident of Ceylon, and
- (c) the profits or remuneration are not deducted in ascertaining the profits or income for purposes of Norwegian tax.

(4) Where an individual permanently or predominantly performs services in ships or aircraft operated by an enterprise managed or controlled in one of the territories such services shall be deemed to be performed in that territory.

(5) The provisions of paragraphs (2) and (3) of this Article shall not apply to the profits or remuneration of public entertainers such as theatre, motion picture, radio or television artistes, musicians and professional athletes.

ARTICLE XIII

(1) Any pension (other than a pension to which Article XI applies) and any 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 "pension", as used in this Article, means periodic payments made in consideration for services rendered or by way of compensation for injuries received.

(3) 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 XIV

A resident of one of the territories, who receives remuneration for teaching or scientific research, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall be exempt from tax in that other territory in respect of such remuneration.

ARTICLE XV

(1) A resident of one of the territories, who is temporarily present in the other territory solely:

- (a) as a student of a university, college or school in the latter territory,
- (b) as a business or technical apprentice, or
- (c) as the recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific or educational organisation,

shall not be taxed in the other territory in respect of remittances received for his maintenance, education or training or in respect of a scholarship grant. The same exemption shall apply to any amount representing remuneration for services rendered in that other territory, provided that such services are in connection with his studies or training or are necessary for the purpose of his maintenance.

(2) A resident of one of the territories who is temporarily present in the other territory for a period not exceeding one year, as an employee of, or under contract with, an enterprise of the former territory or an organisation referred to in sub-paragraph (c) of paragraph (1) above, solely to acquire technical, professional or business experience from a person other than such enterprise or organisation, shall not be subjected to tax in that other territory in respect of remuneration for such period unless the amount thereof exceeds Kr. 20000 or its equivalent in Ceylon currency.

(3) A resident of one of the territories temporarily present in the other territory under arrangements with the Government of that other territory or any agency or instrumentality thereof solely for the purpose of training, research or study shall not be subjected to tax in that other territory in respect of remuneration received on account of such training, research or study unless the amount thereof exceeds Kr. 30000 or its equivalent in Ceylon currency.

ARTICLE XVI

(1) Property being

- (a) immovable property (including debts secured by mortgages on real estate), and
- (b) property of industrial or commercial enterprises (other than those operating ships or aircraft)

may be subjected to tax only in that territory where, under this Convention, income from such property may be subjected to tax.

(2) Stocks and shares held by an individual may be subjected to tax only in that territory in which they have been issued.

(3) Other property owned by a resident of one of the territories may be subjected to tax only in that territory.

ARTICLE XVII

(1) The laws in force in either of the territories will continue to govern the assessment and taxation of property and income in the respective territories except where express provision to the contrary is made in this Convention.

(2) Property and income from sources within Norway which under the laws of Norway and in accordance with this Convention are subject to tax in Norway either directly or by deduction shall be exempt from Ceylon tax, in all cases when in this Convention has not been otherwise prescribed.

(3) Property and income from sources within Ceylon which under the laws of Ceylon and in accordance with this Convention are subject to tax in Ceylon either directly or by deduction shall be exempt from Norwegian tax, in all cases when in this Convention has not been otherwise prescribed.

(4) The graduated rate of Norwegian tax to be imposed on residents of Norway and the graduated rate of Ceylon tax to be imposed on residents of Ceylon may be calculated as though property or income exempted under this Convention were included in the amount of the total wealth or income.

ARTICLE XVIII

The competent authorities 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 Convention or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of this Convention. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

ARTICLE XIX

The provisions of this Convention shall not be construed to deny or affect in any manner the right of diplomatic and consular officers to other or additional exemptions now enjoyed or which may hereafter be granted to such officers.

ARTICLE XX

(1) The residents of one of the territories shall not be subjected in the other territory to any taxation or any requirement connected therewith which is other, higher or more burdensome than the taxation and connected requirements to which the residents of the latter territory are or may be subjected.

(2) The enterprises of one of the territories shall not be subjected in the other territory, in respect of property or profits attributable to their permanent establishments in that other territory, to any taxation which is other, higher or more burdensome than the taxation to which the enterprises of that other territory, and, in the case of companies, to which enterprises of that other territory incorporated in that other territory, are or may be subjected in respect of the like property or profits.

(3) Nothing in this Article shall be construed as—

- (a) obliging either of the Contracting Parties to grant to persons not resident in its territory, those personal allowances, reliefs and reductions for tax purposes which are, by law, available only to persons who are so resident;
- (b) affecting the tax with which paragraph (1) (a) of Article VII of this Convention is concerned;
- (c) obliging Norway to grant to Ceylon nationals the exceptional tax relief which is accorded to Norwegian nationals and persons born of parents having Norwegian nationality pursuant to Article 22 of the Norwegian Taxation Act for the Rural Districts and article 17 of the Norwegian Taxation Act for the Urban Districts.

(4) In this Article the term "taxation" means taxes of every kind and description, levied on behalf of any authority whatsoever.

ARTICLE XXI

(1) Where a resident of one of the territories shows proof that the action of the tax authorities has resulted or will result in double taxation contrary to the provisions of this Convention, he shall be entitled to present his case to the tax authorities of the territory of which he is a resident. Should his claim be deemed worthy of consideration, the competent authority of the territory to which the claim is made shall endeavour to come to an agreement with the competent authority of the other territory with a view to avoiding double taxation.

(2) For the settlement of difficulties or doubts in the interpretation or application of this Convention or in respect of its relation to conventions of the Contracting Parties with third states the competent authorities shall reach a mutual agreement as quickly as possible.

ARTICLE XXII

(1) Either of the competent authorities may prescribe regulations necessary to carry into effect this Convention within the respective territory.

(2) The competent authorities may communicate with each other directly for the purpose of giving effect to the provisions of this Convention.

ARTICLE XXIII

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

(2) This Convention shall come into force after the expiration of one month following the date on which the instruments of ratification are exchanged and shall thereupon have effect—

- (a) in respect of Ceylon tax, for income tax and wealth tax levied for the year of assessment commencing on 1st April, 1963 and for the subsequent years of assessment;
- (b) in respect of Norwegian tax, for income tax and capital tax levied for the year of assessment 1963 and for the subsequent calendar years.

ARTICLE XXIV

This Convention shall continue in effect indefinitely but either of the Contracting Parties may on or before the 30th day of June in any calendar year after 1963 give to the other Contracting Party notice of termination; and in such event this Convention shall cease to be effective for the year of assessment following that in which the notice is given.

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

Done in Colombo on June 11, 1964, in duplicate.

(Sgd.) T. B. ILLANGARATNE,

On behalf of the Government of Ceylon,

(Sgd.) HAAKON NOFD,

On behalf of the Government of Norway.

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