

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

DOUBLE TAXATION AGREEMENT
WITH THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN
IRELAND FOR THE ELIMINATION OF DOUBLE TAXATION WITH RESPECT TO TAXES ON
INCOME AND ON CAPITAL GAINS AND THE PREVENTION OF TAX EVASION AND
AVOIDANCE

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled “Double Taxation Agreement with the Government of the United Kingdom of Great Britain and Northern Ireland for the elimination of double taxation with respect to taxes on income and on capital gains and the prevention of tax evasion and avoidance” dated 2nd October, 2018, they are of the opinion:-

1. To declare that, in accordance with section 172(1) of the Income Tax Law, it is expedient that the Double Taxation Agreement that Guernsey has entered into with the Government of the United Kingdom of Great Britain and Northern Ireland for the elimination of double taxation with respect to taxes on income and on capital gains and the prevention of tax evasion and avoidance should have effect, with the consequence that that Agreement shall have effect in relation to income tax, notwithstanding anything contained in the Income Tax Law, or any other enactment; and,
2. in respect of the 1951 “Agreement between His Majesty’s Government and the States of Guernsey for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income”, revoke its Resolution that that Agreement should have effect made on 13th February 1952, under section 23(1) of the Income Tax (Guernsey) Law, 1950 as amended, in accordance with section 172(2) of the Income Tax Law.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

DOUBLE TAXATION AGREEMENT
WITH THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN
IRELAND FOR THE ELIMINATION OF DOUBLE TAXATION WITH RESPECT TO TAXES ON
INCOME AND ON CAPITAL GAINS AND THE PREVENTION OF TAX EVASION AND
AVOIDANCE

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

2nd October, 2018

Dear Sir

1. Executive Summary

- 1.1. The principal purposes of a Double Taxation Agreement (“DTA”) are for two governments to agree procedures for the prevention of double taxation - that is, taxation under the laws of both territories in respect of the same income - and to prevent tax evasion and avoidance.
- 1.2. Prior to 2008, Guernsey had only two DTAs – one with the United Kingdom (which came into force in 1952) and one with Jersey (which came into force in 1955). In 2012, the DTA with Jersey was replaced by a new agreement, (which broadly followed the Organisation for Economic Co-operation and Development’s Model Tax Convention on Income and on Capital (“the OECD Model”) - one of two of the most commonly used templates for DTAs - the other being the United Nations Model Double Taxation Convention Between Developed and Developing Countries).

- 1.3. The main aim of the OECD Model is to provide a means of settling, on a uniform basis, the most common problems that arise in the field of international juridical double taxation. The Council of the OECD recommends OECD Member Countries, when concluding or revising bilateral conventions, to conform to the Model (as interpreted by the comprehensive commentaries attached to the Model).
- 1.4. On 2nd July, 2018, Guernsey entered into an exchange of letters with the United Kingdom, which included an “Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the States of Guernsey for the Elimination of Double Taxation with Respect to Taxes on Income and on Capital Gains and the Prevention of Tax Evasion and Avoidance” (“the new DTA”).
- 1.5. The purpose of this policy letter is to seek the States approval, in accordance with section 172(1) of the Income Tax (Guernsey) Law, 1975, as amended (“the Income Tax Law”) for the provisions of the new DTA to be given domestic effect.

2. Background

- 2.1. A copy of the new DTA, which is also broadly based on the OECD’s Model Tax Convention on Income and on Capital, is appended to this policy letter.
- 2.2. For the purposes of the new DTA, the parties (ie the governments of Guernsey and the United Kingdom) are referred to as “Territories”.
- 2.3. The new DTA takes account of the minimum standards under the OECD’s Base Erosion and Profit Shifting project (“BEPS”), the principles of which Guernsey has committed to. These BEPS minimum standards are reflected in the title of, and preamble to, the new DTA, and in Articles 23 (“Entitlement to Benefits”) and 25 (“Mutual Agreement Procedure”).
- 2.4. The other principal points of difference between the new DTA and the DTA entered into with Jersey, in 2012 (and a DTA entered into with the Isle of Man at the same time), are:
 - 2.4.1 Article 1 (“Persons Covered”) clarifies that where an entity or arrangement is treated as “fiscally transparent” (for example, in Guernsey, the profits of a partnership are taxed on the individual partners, not the partnership), the income is treated as the income of a resident of a Territory, under the new DTA, only to the extent that it is taxable as such in that Territory.
 - 2.4.2 Article 4 (“Resident”), provides a residence “tie breaker” test for companies to be determined by the mutual agreement of the two

Competent Authorities, having regard to where the company is effectively managed, incorporated or constituted, and other relevant factors.

- 2.4.3 In addition, the Protocol to the new DTA, which forms an integral part of it, clarifies that for the purposes of the agreement the expression “resident of a Territory” includes an exempt Guernsey investment fund.
- 2.4.4 Article 5 (“Permanent Establishment”) excludes from the exceptions to what constitutes a “permanent establishment”, a fixed place of business (in defined circumstances) where the same person, or a closely related person, carries on business from the same or another place in the same Territory.
- 2.4.5 Article 7 (“Business Profits”). At the time of the negotiations with the Isle of Man and Jersey those islands expressed a wish to follow the OECD Model text that had existed until July 2010. Whilst, at that time it was, and remains, Guernsey’s preference to negotiate on the basis of the July 2010 revised OECD Model text, Guernsey agreed to accommodate the Isle of Man and Jersey preference. The new DTA with the United Kingdom follows the July 2010 revised OECD Model text.
- 2.4.6 Article 8 (“International Shipping and Air Transport”), is based on the taxing rights being in the Territory of which an enterprise is a “resident” under the new DTA, rather than the Territory in which the enterprise is effectively managed.

In addition, the Article covers situations where profits are derived from rentals on a bareboat basis, and the maintenance or rental of containers.

- 2.4.7 Articles 10 (“Dividends”), 11 (“Interest”) and 12 (“Royalties”) prescribe that the general principle is that those sources of income may be taxed in the Territory of residence of the recipient as well as the Territory which is the source of the income. However, provisions are also made which remove the taxing rights of the source Territory if the payments are made to the beneficial owner who is a resident of the other Territory:
- except where dividends are derived from income from immovable property by an investment vehicle which is itself exempt from tax (in which case the maximum rate of tax is 15%);
 - in the case of interest, if the beneficial owner of the income is the government of one of the Territories (or an associated entity, such as a

statutory body); an individual; a pension scheme; a bank or building society; another (defined) financial institution; a company whose shares are substantially and regularly traded on a recognised stock exchange, or a company whose shares are 75% or more owned by residents of the other territory.

There is also a provision that other persons may be exempted if the Territory granting the benefit considers that they were not set up or operated with a view to obtaining the benefit as the, or one of the, principal purposes;

- In the case of royalties if the beneficial owner of the income is the government of one of the Territories (or an associated entity, such as a statutory body); an individual; a company whose shares are substantially and regularly traded on a recognised stock exchange; or a company whose shares are 75% or more owned by residents of the other territory.

There is also a provision that other persons may be exempted if the Territory granting the benefit considers that they were not set up or operated with a view to obtaining the benefit as the, or one of the, principal purposes.

2.4.8 Article 13 (“Capital Gains”) provides that gains from the alienation (selling or other transfer) of shares deriving more than 50% of their value from immovable property (other than where there is substantial and regular trading on a recognised stock exchange) may be taxed in the Territory in which the relevant property is based. This preserves both the general principle of Article 13, that gains derived directly from the alienation of immovable property may be taxed in the Territory in which the relevant property is based, and an amendment made to the current DTA in 2015.

2.4.9 Article 17 (“Pensions”) prescribes that such sources of income are only taxable in the Territory in which the pensioner resides. This preserves the same treatment that existed under the existing DTA.

2.4.10 Article 20 (“Other Income”) provides, generally, that income not otherwise covered by the new DTA will be taxable only in the Territory in which the recipient is resident. However, paragraph (2) provides that where income is received from a trust or a deceased person’s estate, the income is to be taxed as if it was derived from its original source (ie as it was received by the trustee or personal representative) and that, for the purposes of the

new DTA, tax paid by the trustee or personal representative is treated as tax paid by the beneficiary.

In addition, paragraph (5) provides that where income covered by Article 20 is higher than would otherwise be the case, because of a special relationship between the payer and the recipient, or between both of them and a third person, the excess paid may continue to be taxed by the Territory of source of the income.

2.4.11 Article 21 contains “Miscellaneous Rules Applicable to Certain Offshore Activities” (currently applicable, in practice, to the activities of exploration or exploitation of the seabed and subsoil and their natural resources carried on by the United Kingdom).

2.4.12 Article 27 (“Assistance in Collection of Taxes”) represents the biggest departure from previous DTAs entered into by Guernsey. This Article, which is based on OECD Model text, provides for each Territory to assist the other in collecting delinquent tax debts.

Whilst the Article sets out in some detail pre-requisites, limitations and procedures for assistance, paragraph 1 provides that “The competent authorities of the Territories may by mutual agreement settle the mode of application of this Article”. Discussions are still ongoing with HM Revenue and Customs (“HMRC”) in relation to this. To give practical effect to Article 27, legislation will also be required to permit legal and other proceedings to be applied to the collection of United Kingdom tax debts in Guernsey. As a consequence, and to allow time for these to be drafted and enacted, Article 28 (2)(b) of the new DTA provides that Article 27 shall only have effect from the date specified in an exchange of letters (ie both Territories are allowed time to introduce the necessary legislation etc). Once the discussions with HMRC have been finalised, and the Law Officers have been consulted on the necessary legislative requirements, a separate policy letter in connection with these matters will be placed before the States.

2.5. Section 172(1) of the Income Tax Law provides:

“If the States by Resolution declare that arrangements specified in the Resolution have been made with the government of any other territory with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of that territory, and that it is expedient that

those arrangements should have effect, the arrangements shall have effect in relation to income tax notwithstanding anything in any enactment.”

2.6. Section 172(2) provides that:

“Any Resolution made under this section may be revoked by a subsequent Resolution.”

Section 172(2) is relevant for the purposes of ensuring that the provisions of the new DTA replace those in the Agreement with the United Kingdom which came into force in 1952.

3. Recommendations

- 3.1 To declare that, in accordance with section 172(1) of the Income Tax Law, it is expedient that the Double Taxation Agreement that Guernsey has entered into with the Government of the United Kingdom of Great Britain and Northern Ireland for the elimination of double taxation with respect to taxes on income and on capital gains and the prevention of tax evasion and avoidance should have effect, with the consequence that that Agreement shall have effect in relation to income tax, notwithstanding anything contained in the Income Tax Law, or any other enactment; and,
- 3.2 in respect of the 1951 “Agreement between His Majesty’s Government and the States of Guernsey for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income”, revoke its Resolution that that Agreement should have effect made on 13th February 1952, under section 23(1) of the Income Tax (Guernsey) law, 1950 as amended, in accordance with section 172(2) of the Income Tax Law.

4. Compliance with Rule 4

- 4.1. Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.
- 4.2. In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty’s Procureur for advice on any legal or constitutional implications. She has

advised that there is no reason in law why the Propositions should not be put into effect.

- 4.3. In accordance with Rule 4(3), there are no Propositions which request the States to approve funding.
- 4.4. In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the Propositions attached to this policy letter have the unanimous support of the Committee.
- 4.5. In accordance with Rule 4(5), the Propositions relate to the duties of the Committee in raising and collecting taxes and revenues and executing and requesting the extension of international agreements to which the Island is invited to acquiesce.

Yours faithfully

G A St Pier
President

L Trott
Vice-President

A Brouard
J Le Tocq
J Stephens



Sir Charles Frossard House
La Charroterie
St Peter Port, Guernsey
GY1 1FH
Tel +44 (0) 1481 717000
www.gov.gg

The Rt Hon Mel Stride MP
Financial Secretary to the Treasury and Paymaster General
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

02 July 2018

Dear *Mel,*

**EXCHANGE OF LETTERS BETWEEN THE UNITED KINGDOM AND GUERNSEY CONCERNING
THE AGREEMENT BETWEEN THE TWO GOVERNMENTS FOR THE ELIMINATION OF DOUBLE
TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS AND THE
PREVENTION OF TAX EVASION AND AVOIDANCE**

I have the honour to acknowledge receipt of your letter of 02 July 2018, which reads as follows:

"I have the honour to propose to you the AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE STATES OF GUERNSEY FOR THE ELIMINATION OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS AND THE PREVENTION OF TAX EVASION AND AVOIDANCE (the AGREEMENT), at Appendix 1 to this letter, and the PROTOCOL, at Appendix 2 to this letter, which shall form an integral part of the AGREEMENT, and that both shall together have effect in accordance with Article 28 of the AGREEMENT.

I have the further honour to propose that, if the above is acceptable to the States of Guernsey, this letter and Appendices 1 and 2 together with your reply will constitute our mutual acceptance of the provisions of the AGREEMENT and PROTOCOL."

I am able to confirm that the States of Guernsey is in agreement with the contents of your letter of 02 July 2018 and this letter will constitute our mutual acceptance of the provisions of the AGREEMENT and PROTOCOL.

Yours sincerely

A handwritten signature in dark ink, appearing to be "G A St Pier", written over the words "Yours sincerely".

Deputy G A St Pier
President, Policy & Resources Committee



HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

Deputy Gavin St Pier
President, Policy & Resources Committee
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

24 July 2018

Dear Gavin

I have the honour to propose to you the AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE STATES OF GUERNSEY FOR THE ELIMINATION OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS AND THE PREVENTION OF TAX EVASION AND AVOIDANCE (the AGREEMENT), at Appendix 1 to this letter, and the PROTOCOL, at Appendix 2 to this letter, which shall form an integral part of the AGREEMENT, and that both shall together have effect in accordance with Article 28 of the AGREEMENT.

I have the further honour to propose that, if the above is acceptable to the States of Guernsey, this letter and Appendices 1 and 2 together with your reply will constitute our mutual acceptance of the provisions of the AGREEMENT and PROTOCOL.

Mel Stride

RT HON MEL STRIDE MP

**UK – GUERNSEY DOUBLE TAXATION AGREEMENT AND PROTOCOL,
GIVEN EFFECT BY AN EXCHANGE OF LETTERS SIGNED IN LONDON ON 2
JULY 2018**

THIS AGREEMENT AND PROTOCOL HAS NOT YET ENTERED INTO FORCE

**THIS WILL HAPPEN WHEN BOTH TERRITORIES HAVE COMPLETED THEIR
PARLIAMENTARY PROCEDURES AND EXCHANGED WRITTEN NOTES**

Contents

ARTICLE 1.....	4
Persons covered	4
ARTICLE 2.....	4
Taxes covered	4
ARTICLE 3.....	5
General definitions.....	5
ARTICLE 4.....	6
Resident.....	6
ARTICLE 5.....	7
Permanent establishment	7
ARTICLE 6.....	9
Income from immovable property	9
ARTICLE 7.....	9
Business profits.....	9
ARTICLE 8.....	10
International shipping and air transport	10
ARTICLE 9.....	11
Associated enterprises.....	11
ARTICLE 10.....	11
Dividends	11
ARTICLE 11.....	12
Interest.....	12
ARTICLE 12.....	14
Royalties	14
ARTICLE 13.....	15
Capital gains.....	15
ARTICLE 14.....	16
Income from employment.....	16
ARTICLE 15.....	16
Directors' fees.....	16
ARTICLE 16.....	16
Artistes and sportsmen.....	16
ARTICLE 17.....	17
Pensions	17

ARTICLE 18.....	17
Government service	17
ARTICLE 19.....	17
Students.....	17
ARTICLE 20.....	17
Other income.....	17
ARTICLE 21.....	18
Miscellaneous rules applicable to certain offshore activities	18
ARTICLE 22.....	19
Elimination of double taxation	19
ARTICLE 23.....	21
Entitlement to benefits	21
ARTICLE 24.....	21
Non-discrimination	21
ARTICLE 25.....	22
Mutual agreement procedure	22
ARTICLE 26.....	23
Exchange of information	23
ARTICLE 27.....	24
Assistance in the collection of taxes	24
ARTICLE 28.....	25
Entry into force	25
ARTICLE 29.....	27
Termination.....	27
PROTOCOL	28

**AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF
GREAT BRITAIN AND NORTHERN IRELAND AND THE STATES OF GUERNSEY
FOR THE ELIMINATION OF DOUBLE TAXATION WITH RESPECT TO TAXES
ON INCOME AND ON CAPITAL GAINS AND THE PREVENTION OF TAX
EVASION AND AVOIDANCE**

The Government of the United Kingdom of Great Britain and Northern Ireland and the States of Guernsey,

Desiring to further develop their economic relationship and to enhance their co-operation in tax matters,

Intending to conclude an Agreement for the elimination of double taxation with respect to taxes on income and on capital gains without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third States or territories),

Have agreed as follows:

**ARTICLE 1
PERSONS COVERED**

1. This Agreement shall apply to persons who are residents of one or both of the Territories.
2. For the purposes of this Agreement, income derived by or through an entity or arrangement that is treated as wholly or partly fiscally transparent under the tax law of either Territory shall be considered to be income of a resident of a Territory but only to the extent that the same income is treated, for purposes of taxation by that Territory, as the income of a resident of that Territory.
3. This Agreement shall not affect the taxation, by a Territory, of its residents except with respect to the benefits granted under paragraph 3 of Article 7, paragraph 2 of Article 9 and Articles 18, 19, 22, 24, and 25.

**ARTICLE 2
TAXES COVERED**

1. This Agreement shall apply to taxes on income and on capital gains imposed on behalf of a Territory or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital gains all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property.

3. The existing taxes to which the Agreement shall apply are in particular:

- a) in Guernsey, the income tax (hereinafter referred to as “Guernsey tax”):
 - b) in the United Kingdom:
 - i) the income tax;
 - ii) the corporation tax; and
 - iii) the capital gains tax;
- (hereinafter referred to as “United Kingdom tax”).

4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Territories shall notify each other of any significant changes that have been made in their taxation laws.

ARTICLE 3

GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:

- a) the term “Guernsey” means the States of Guernsey and, when used in the geographical sense, means the islands of Guernsey, Alderney and Herm, and the territorial sea adjacent thereto, in accordance with international law, save that any reference to the law of Guernsey is to the law of the island of Guernsey as it applies there and in the islands of Alderney and Herm;
- b) the term “United Kingdom” means Great Britain and Northern Ireland but, when used in a geographical sense, means the territory and territorial sea of Great Britain and Northern Ireland and the areas beyond that territorial sea over which Great Britain and Northern Ireland exercise sovereign rights or jurisdiction in accordance with their domestic law and international law;
- c) the terms “a Territory” and “the other Territory” mean Guernsey or the United Kingdom, as the context requires;
- d) the term “person” includes an individual, a company and any other body of persons;
- e) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;

- f) the term “enterprise” applies to the carrying on of any business;
- g) the terms “enterprise of a Territory” and “enterprise of the other Territory” mean respectively an enterprise carried on by a resident of a Territory and an enterprise carried on by a resident of the other Territory;
- h) the term “international traffic” means any transport by a ship or aircraft, except when the ship or aircraft is operated solely between places in a Territory and the enterprise that operates the ship or aircraft is not an enterprise of that Territory;
- i) the term “competent authority” means:
 - (i) in Guernsey, the Director of Income Tax or his delegate;
 - (ii) in the United Kingdom, the Commissioners for Her Majesty’s Revenue and Customs or their authorised representative;
- j) the term “business” includes the performance of professional services and of other activities of an independent character; and
- k) the term “pension scheme” means any scheme or other arrangement which:
 - (i) is generally exempt from income taxation; and
 - (ii) operates to administer or provide pension or retirement benefits or to earn income for the benefit of one or more such arrangements.

2. As regards the application of the Agreement at any time by a Territory, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Territory for the purposes of the taxes to which this Agreement applies, any meaning under the applicable tax laws of that Territory prevailing over a meaning given to the term under other laws of that Territory.

ARTICLE 4

RESIDENT

1. For the purposes of this Agreement, the term “resident of a Territory” means any person who, under the laws of that Territory, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes that Territory and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that Territory in respect only of income or capital gains from sources in that Territory.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Territories, then his status shall be determined as follows:

- a) he shall be deemed to be a resident only 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 only of the Territory with which his personal and economic relations are closer (centre of vital interests);
- b) if the Territory in which he has his centre of vital interests cannot be determined, or if he does not have a permanent home available to him in either Territory, he shall be deemed to be a resident only of the Territory in which he has an habitual abode;
- c) if he has an habitual abode in both Territories or in neither of them, the competent authorities of the Territories shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Territories, the competent authorities of the Territories shall endeavour to determine by mutual agreement the Territory of which such person shall be deemed to be a resident for the purposes of this Agreement, having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of a mutual agreement by the competent authorities of the Territories, the person shall not be considered a resident of either Territory for the purposes of claiming any benefit provided by this Agreement except those provided by Articles 22, 24 and 25.

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; and
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.

4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not 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;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Paragraph 4 shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same Territory and

- a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of this Article, or
- b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

provided that the business activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, constitute complementary functions that are part of a cohesive business operation.

6. For the purposes of paragraph 5, a person or enterprise is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, a person or enterprise shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company’s shares or of the beneficial equity interest in the company) or if another person or enterprise possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a

company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise or in the two enterprises.

7. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 8 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Territory an authority to conclude contracts on behalf of the enterprise, that enterprise shall be deemed to have a permanent establishment in that Territory in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

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

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

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

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

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

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

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

ARTICLE 7

BUSINESS PROFITS

1. Profits of an enterprise of a Territory shall be taxable only in that Territory unless the enterprise carries on business in the other Territory through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits that are attributable to the permanent establishment in accordance with the provisions of paragraph 2 may be taxed in that other Territory.

2. For the purposes of this Article and Article 22, the profits that are attributable in each Territory to the permanent establishment referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise.

3. Where, in accordance with paragraph 2, a Territory adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Territories and taxes accordingly profits of the enterprise that have been charged to tax in the other Territory, the other Territory shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment to the amount of the tax charged on those profits. In determining such adjustment, the competent authorities of the Territories shall if necessary consult each other.

4. Where profits include items of income or capital gains 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

INTERNATIONAL SHIPPING AND AIR TRANSPORT

1. Profits of an enterprise of a Territory from the operation of ships or aircraft in international traffic shall be taxable only in that Territory.

2. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic include:

- a) profits from the rental on a bareboat basis of ships or aircraft; and
- b) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise;

where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

3. The provisions of paragraph 1 shall also apply to profits 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 Territory 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 a Territory 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.

2. Where a Territory includes in the profits of an enterprise of that Territory – and taxes accordingly – profits on which an enterprise of the other Territory has been charged to tax in that other Territory and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Territory if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Territory 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 Territories shall if necessary consult each other.

ARTICLE 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Territory to a resident of the other Territory may be taxed in that other Territory.

2. However, dividends paid by a company which is a resident of a Territory may also be taxed in that Territory and according to the laws of that Territory, but if the beneficial owner of the dividends is a resident of the other Territory;

- a) except as provided in sub-paragraph b), such dividends shall be exempt from tax in the Territory of which the company paying the dividends is a resident;
- b) where dividends are paid out of income (including gains) derived directly or indirectly from immovable property within the meaning of Article 6 by an investment vehicle which distributes most of this income annually and whose income from such immovable property is exempted from tax, the tax charged by the Territory of which the company paying the dividends is a resident shall not exceed 15 per cent of the gross amount of the dividends other than where

the beneficial owner of the dividends is a pension scheme established in the other Territory, where the exemption provided in sub-paragraph a) shall apply.

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

3. The term “dividends” as used in this Article means income from shares, or other rights, not being debt-claims, participating in profits, as well as any other item which is treated as income from shares by the taxation laws of the Territory of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Territory, carries on business in the other Territory of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

5. Where a company which is a resident of a Territory derives profits or income from the other Territory, that other Territory may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other Territory or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other Territory, nor 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 Territory.

ARTICLE 11

INTEREST

1. Interest arising in a Territory and beneficially owned by a resident of the other Territory may be taxed in that other Territory.

2. However, interest arising in a Territory may also be taxed in that Territory according to the laws of that Territory, but if the beneficial owner of the interest is a resident of the other Territory and at least one of the conditions mentioned in paragraph 3 is met, that interest shall be taxable only in that other Territory.

3. The conditions mentioned in paragraph 2 are that:

- (a) the interest is beneficially owned by:
 - (i) that other Territory itself, one of its political subdivisions, local authorities, its Central Bank, or its statutory bodies;
 - (ii) an individual;
 - (iii) a company in whose principal class of shares there is substantial and regular trading on a recognised stock exchange;

- (iv) a company less than 25 per cent of whose shares or other rights are owned, directly or indirectly, by persons who are not residents of that other Territory;
 - (v) a pension scheme;
 - (vi) a bank or building society;
 - (vii) any other financial institution unrelated to and dealing wholly independently with the payer; (the term “other financial institution” here means an enterprise substantially deriving its profits by raising debt finance in the financial markets or by taking deposits at interest and using those funds in carrying on a business of providing finance); or
 - (viii) any other person provided that the competent authority of the Territory which has to grant the benefits determines that the establishment, acquisition or maintenance of that person, or the conduct of its operations, does not have as its principal purpose or one of its principal purposes to secure the benefits of this Article; or
- (b) the interest is paid by a Territory, one of its political subdivisions, local authorities or statutory bodies.

4. For the purposes of paragraph 3(a)(i), the term “statutory bodies” includes any institution wholly or mainly owned directly or indirectly by the Government of either Territory as may be agreed from time to time by exchange of letters between the competent authorities of the Territories.

5. 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. The term shall not include any item which is treated as a dividend under the provisions of Article 10.

6. The provisions of paragraph 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Territory, carries on business in the other Territory in which the interest arises, through a permanent establishment situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

7. Interest shall be deemed to arise in a Territory when the payer is a resident of that Territory. Where, however, the person paying the interest, whether he is a resident of a Territory or not, has in a Territory a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Territory in which the permanent establishment is situated.

8. 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 Territory, due regard being had to the other provisions of this Agreement.

ARTICLE 12

ROYALTIES

1. Royalties arising in a Territory and beneficially owned by a resident of the other Territory may be taxed in that other Territory.

2. However, royalties arising in a Territory may also be taxed in that Territory according to the laws of that Territory, but if the beneficial owner of the royalties is a resident of the other Territory and at least one of the conditions mentioned in paragraph 3 is met, those royalties shall be taxable only in that other Territory.

3. The conditions mentioned in paragraph 2 are that the royalties are beneficially owned by:

- (a) that other Territory itself, one of its political subdivisions, local governments, local authorities, or its statutory bodies;
- (b) an individual;
- (c) a company in whose principal class of shares there is substantial and regular trading on a recognised stock exchange;
- (d) a company less than 25 per cent of whose shares or other rights are owned, directly or indirectly, by persons who are not residents of that other Territory; or
- (e) any other person provided that the competent authority of the Territory which has to grant the benefits determines that the establishment, acquisition or maintenance of that person, or the conduct of its operations, does not have as its principal purpose or one of its principal purposes to secure the benefits of this Article.

4. For the purposes of paragraph 3(a), the term “statutory bodies” includes any institution wholly or mainly owned directly or indirectly by the Government of either Territory as may be agreed from time to time by exchange of letters between the competent authorities of the Territories.

5. The term “royalties” as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information (know-how) concerning industrial, commercial or scientific experience.

6. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Territory, carries on business in the other Territory in which the royalties arise through a permanent establishment situated therein and the right or property

in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

7. Royalties shall be deemed to arise in a Territory when the payer is a resident of that Territory. Where, however, the person paying the royalties, whether he is a resident of a Territory or not, has in a Territory a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Territory in which the permanent establishment is situated.

8. 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 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 Territory, due regard being had to the other provisions of this Agreement.

ARTICLE 13

CAPITAL GAINS

1. Gains derived by a resident of a Territory from the alienation of immovable property referred to in Article 6 and situated in the other Territory may be taxed in that other Territory.

2. Gains derived by a resident of a Territory from the alienation of shares, other than shares in which there is substantial and regular trading on a recognised stock exchange, or comparable interests, deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Territory may be taxed in that other Territory.

3. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Territory has in the other Territory, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other Territory.

4. Gains that an enterprise of a Territory that operates ships or aircraft in international traffic derives from the alienation of such ships or aircraft, or from movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that Territory.

5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4 shall be taxable only in the Territory of which the alienator is a resident.

ARTICLE 14

INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 15, 17, and 18, salaries, wages and other similar remuneration derived by a resident of a Territory in respect of an employment shall be taxable only in that Territory unless the employment is exercised in the other Territory. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Territory.

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

- a) the recipient is present in the other Territory for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending 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 borne by a permanent establishment which the employer has in the other Territory.

3. Notwithstanding the preceding provisions of this Article, remuneration derived by a resident of a Territory in respect of an employment exercised aboard a ship or aircraft operated in international traffic (other than aboard a ship or aircraft operated solely within the other Territory) shall be taxable only in that Territory.

ARTICLE 15

DIRECTORS' FEES

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

ARTICLE 16

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Article 14, income derived by a resident of a Territory as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Territory, may be taxed in that other Territory.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to

another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Territory in which the activities of the entertainer or sportsman are exercised.

ARTICLE 17

PENSIONS

Subject to the provisions of Article 18, pensions and other similar remuneration paid to an individual who is a resident of one of the Territories shall be taxable only in that Territory.

ARTICLE 18

GOVERNMENT SERVICE

1 Remuneration, including pensions, paid by the Government of one of the Territories to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from tax in the other Territory if the individual is not ordinarily resident in that other Territory or (where the remuneration is not a pension) is ordinarily resident in that other Territory solely for the purposes of rendering those services.

2 The provisions of this paragraph shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the Governments for purposes of profit.

ARTICLE 19

STUDENTS

Payments which a student or business apprentice who is or was immediately before visiting a Territory a resident of the other Territory and who is present in the first-mentioned Territory solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that Territory, provided that such payments arise from sources outside that Territory.

ARTICLE 20

OTHER INCOME

1. Items of income beneficially owned by a resident of a Territory, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that Territory.

2. Notwithstanding the provisions of paragraph 1, where an amount of income is paid to a resident of a Territory out of income received by trustees, or by personal representatives administering the estates of deceased persons, and those trustees or personal representatives are residents of the other Territory, that amount shall be treated as arising from

the same sources, and in the same proportions, as the income received by the trustees or personal representatives out of which that amount is paid.

Any tax paid by the trustees or personal representatives in respect of the income paid to the beneficiary shall be treated as if it had been paid by the beneficiary.

3. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the beneficial owner of such income, being a resident of a Territory, carries on business in the other Territory through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

4. Where, by reason of a special relationship between the resident referred to in paragraph 1 and some other person, or between both of them and some third person, the amount of the income referred to in that paragraph exceeds the amount (if any) which would have been agreed upon between them in the absence of such a relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a case, the excess part of the income shall remain taxable according to the laws of each Territory, due regard being had to the other applicable provisions of this Agreement.

ARTICLE 21

MISCELLANEOUS RULES APPLICABLE TO CERTAIN OFFSHORE ACTIVITIES

1. The provisions of this Article shall apply notwithstanding any other provision of this Agreement.

2. In this Article the term “offshore activities” means activities which are carried on offshore in a Territory in connection with the exploration or exploitation of the seabed and subsoil and their natural resources situated in that Territory.

3. An enterprise of a Territory which carries on offshore activities in the other Territory shall, subject to paragraphs 4 and 5 be deemed to be carrying on business in that other Territory through a permanent establishment situated therein.

4. The provisions of paragraph 3 shall not apply where the offshore activities are carried on in the other Territory for a period or periods not exceeding in the aggregate 30 days in any twelve month period beginning or ending in the fiscal year concerned. For the purposes of this paragraph:

- a) where an enterprise of a Territory carrying on offshore activities in the other Territory is associated with another enterprise carrying on substantially similar offshore activities there, the former enterprise shall be deemed to be carrying on all such activities of the latter enterprise, with the exception of activities which are carried on at the same time as its own activities;
- b) an enterprise shall be regarded as associated with another enterprise if one participates directly or indirectly in the management, control or capital of

the other or if the same person or persons participate directly or indirectly in the management, control or capital of both enterprises;

5. Profits derived by a resident of a Territory from:

- a) the transportation, in connection with offshore activities, of supplies or personnel by ship or aircraft to or between places where such activities are being carried on; or
- b) the operation of ships for towing or anchor handling in connection with such activities;

shall be taxable only in that Territory.

6. Income derived by a resident of a Territory from exploration or exploitation rights and gains derived by a resident of a Territory from the alienation of such rights or from the alienation of:

- a) property situated in the other Territory and used in connection with offshore activities carried on in that other Territory; or
- b) shares deriving their value or the greater part of their value directly or indirectly from such rights or such property or from such rights and such property taken together;

may be taxed in that other Territory. In this paragraph “exploration or exploitation rights” means rights to assets to be produced by the exploration or exploitation of the seabed and subsoil and their natural resources in the other Territory, including rights to interests in or to the benefit of such assets.

7. Subject to paragraph 8 of this Article, salaries, wages and similar remuneration derived by a resident of one of the Territories from an employment connected with offshore activities in the other Territory may, to the extent that the duties are performed offshore in that other territory, be taxed in that other territory.

8. Salaries, wages and similar remuneration derived by a resident of one of the Territories from an employment exercised aboard a ship or aircraft undertaking transportation referred to in paragraph 5 a), or aboard a ship undertaking operations referred to in paragraph 5 b), of this Article shall be taxable only in the Territory of which the employee is a resident.

ARTICLE 22

ELIMINATION OF DOUBLE TAXATION

1. In the case of Guernsey, double taxation shall be avoided as follows. Subject to the provisions of the laws of Guernsey regarding the allowance as a credit against Guernsey tax of tax payable in a territory outside Guernsey (which shall not affect the general principle hereof):

- a) subject to the provisions of sub-paragraph c), where a resident of Guernsey derives income which, in accordance with the provisions of the Agreement, may be taxed in the United Kingdom, Guernsey shall allow as a deduction from the tax payable in respect of that income, an amount equal to the income tax paid in the United Kingdom;
- b) such deduction shall not, however, exceed that part of the income tax, as computed before deduction is given, which is attributable to the income which may be taxed in the United Kingdom;
- c) where a resident of Guernsey derives income which, in accordance with the provisions of the Agreement shall be taxable only in the United Kingdom, Guernsey may include this income in calculating the amount of tax on the remaining income of such resident.

2. 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 or, as the case may be, regarding the exemption from United Kingdom tax of a dividend arising in a territory outside the United Kingdom or of the profits of a permanent establishment situated in a territory outside the United Kingdom (which shall not affect the general principle hereof):

- a) Guernsey tax payable under the laws of Guernsey and in accordance with this Agreement, whether directly or by deduction, on profits, income or chargeable gains from sources within Guernsey (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 Guernsey tax is computed;
- b) a dividend which is paid by a company which is a resident of Guernsey to a company which is a resident of the United Kingdom shall be exempted from United Kingdom tax when the exemption is applicable and the conditions for exemption under the law of the United Kingdom are met;
- c) the profits of a permanent establishment in Guernsey of a company which is a resident of the United Kingdom shall be exempted from United Kingdom tax when the exemption is applicable and the conditions for exemption under the law of the United Kingdom are met;
- d) in the case of a dividend not exempted from tax under sub-paragraph b) above which is paid by a company which is a resident of Guernsey 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 mentioned in sub-paragraph a) above shall also take into account the Guernsey tax payable by the company in respect of its profits out of which such dividend is paid.

3. For the purposes of paragraphs 1 and 2, profits, income and chargeable gains owned by a resident of one of the Territories which may be taxed in the other Territory in accordance with this Agreement shall be deemed to arise from sources in that other Territory.

4. The provisions of paragraph 1 shall not apply where the United Kingdom tax payable is in accordance with the Agreement solely because the income referred to in that paragraph is also income derived by a resident of the United Kingdom.

5. The provisions of paragraph 2 shall not apply where the Guernsey tax payable is in accordance with the Agreement solely because the profits, income or chargeable gains referred to in that paragraph are also profits, income or chargeable gains derived by a resident of Guernsey.

ARTICLE 23

ENTITLEMENT TO BENEFITS

1. Notwithstanding the other provisions of this Agreement, a benefit under this Agreement shall not be granted in respect of an item of income or capital gain if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Agreement.

2. Where a benefit under this Agreement is denied to a person under paragraph 1, the competent authority of the Territory that would otherwise have granted this benefit shall nevertheless treat that person as being entitled to this benefit, or to different benefits with respect to a specific item of income or a capital gain, if such competent authority, upon request from that person and after consideration of the relevant facts and circumstances, determines that such benefits would have been granted to that person in the absence of the transaction or arrangement referred to in paragraph 1. The competent authority of the territory to which the request has been made will consult with the competent authority of the other Territory before rejecting a request made under this paragraph by a resident of that other Territory.

ARTICLE 24

NON-DISCRIMINATION

1. A legal person, partnership or association deriving its status as such from the laws in force in a Territory shall not be subjected in the other Territory to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which a legal person, partnership or association of that other Territory in the same circumstances, in particular with respect to residence, is or may be subjected.

2. The taxation on a permanent establishment which an enterprise of a Territory 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.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 8 of Article 11, paragraph 8 of Article 12, paragraph 4 of Article 20, or Article 23 apply, interest, royalties and other disbursements paid by an enterprise of a Territory to a resident of the other Territory shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned Territory.

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

5. Nothing contained in this Article shall be construed as obliging either Territory to grant to individuals not resident in that Territory any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident or in the case of the United Kingdom to its nationals.

ARTICLE 25

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Territories result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Territories, present his case to the competent authority of either Territory. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

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 Territory, with a view to the avoidance of taxation which is not in accordance with this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Territories.

3. The competent authorities of the Territories shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

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

5. Where,

- a) under paragraph 1, a person has presented a case to the competent authority of a Territory on the basis that the actions of one or both of the Territories have resulted for that person in taxation not in accordance with the provisions of this Agreement; and

- b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 within two years from the presentation of the case to the competent authority of the other Territory;

any unresolved issues arising from the case shall be submitted to arbitration if the person so requests. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either Territory. Unless a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision, that decision shall be binding on both Territories and shall be implemented notwithstanding any time limits in the domestic laws of these Territories. The competent authorities of the Territories shall by mutual agreement settle the mode of application of this paragraph.

ARTICLE 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Territories shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of domestic laws concerning taxes of every kind and description imposed on behalf of the Territories, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Territory shall be treated as secret in the same manner as information obtained under the domestic laws of that Territory and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to, the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Territory may be used for other purposes when such information may be used for such other purposes under the laws of both Territories and the competent authority of the supplying Territory authorises such use.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Territory the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Territory;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Territory;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy.

4. If information is requested by a Territory in accordance with this Article, the other Territory shall use its information gathering measures to obtain the requested information, even though that other Territory may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Territory to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Territory to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

ARTICLE 27

ASSISTANCE IN THE COLLECTION OF TAXES

1. The Territories shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Territories may by mutual agreement settle the mode of application of this Article.

2. The term “revenue claim” as used in this Article means an amount owed in respect of taxes of every kind and description imposed on behalf of the Territories, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Agreement or any other instrument to which the Territories are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.

3. When a revenue claim of a Territory is enforceable under the laws of that Territory and is owed by a person who, at that time, cannot, under the laws of that Territory, prevent its collection, that revenue claim shall, at the request of the competent authority of that Territory, be accepted for purposes of collection by the competent authority of the other Territory. That revenue claim shall be collected by that other Territory in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other Territory.

4. When a revenue claim of a Territory is a claim in respect of which that Territory may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that Territory, be accepted for purposes of taking measures of conservancy by the competent authority of the other Territory. That other Territory shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other Territory even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned Territory or is owed by a person who has a right to prevent its collection.

5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Territory for purposes of paragraph 3 or 4 shall not, in that Territory, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that Territory by reason of its nature as such. In addition, a revenue claim accepted by a Territory

for the purposes of paragraph 3 or 4 shall not, in that Territory, have any priority applicable to that revenue claim under the laws of the other Territory.

6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Territory shall not be brought before the courts or administrative bodies of the other Territory.

7. Where, at any time after a request has been made by a Territory under paragraph 3 or 4 and before the other Territory has collected and remitted the relevant revenue claim to the first-mentioned Territory, the relevant revenue claim ceases to be:

- a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned Territory that is enforceable under the laws of that Territory and is owed by a person who, at that time, cannot, under the laws of that Territory, prevent its collection; or
- b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned Territory in respect of which that Territory may, under its laws, take measures of conservancy with a view to ensure its collection;

the competent authority of the first-mentioned Territory shall promptly notify the competent authority of the other Territory of that fact and, at the option of the other Territory, the first-mentioned Territory shall either suspend or withdraw its request.

8. In no case shall the provisions of this Article be construed so as to impose on a Territory the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Territory;
- b) to carry out measures which would be contrary to public policy;
- c) to provide assistance if the other Territory has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice;
- d) to provide assistance in those cases where the administrative burden for that Territory is clearly disproportionate to the benefit to be derived by the other Territory;
- e) to provide assistance if that Territory considers that the taxes with respect to which assistance is requested are imposed contrary to generally accepted taxation principles.

ARTICLE 28

ENTRY INTO FORCE

1. Each of the Territories shall notify the other in writing of the completion of the procedures required by its law for the bringing into force of this Agreement. This Agreement shall enter into force on the date of the later of these notifications and shall thereupon have effect:

a) in Guernsey:

- (i) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of the second month next following the date on which this Agreement enters into force;
- (ii) in respect of income tax, for any year of charge beginning on or after 1st January next following the date on which this Agreement enters into force;

b) in the United Kingdom:

- (i) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of the second month next following the date on which this Agreement enters into force;
- (ii) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6th April next following the date on which this Agreement enters into force;
- (iii) in respect of corporation tax, for any financial year beginning on or after 1st April next following the date on which this Agreement enters into force.

2. Notwithstanding the provisions of paragraph 1:

- a) the provisions of Article 25 (Mutual agreement procedure) and Article 26 (Exchange of information) shall have effect from the date of entry into force of this Agreement, without regard to the taxable period to which the matter relates; and
- b) the provisions of Article 27 (Assistance in the collection of taxes) shall have effect from the date specified in an exchange of letters, without regard to the taxable period to which the matter relates.

3. The 1955 Arrangement between Guernsey and the United Kingdom of Great Britain and Northern Ireland for the avoidance of double taxation with respect to taxes on income, as amended, shall cease to have effect in respect of relief from any tax with effect from the date upon which this Agreement has effect in respect of that tax in accordance with the provisions of paragraph 1 of this Article and shall terminate on the last such date.

ARTICLE 29

TERMINATION

This Agreement shall remain in force until terminated by one of the Territories. Either Territory may terminate this Agreement, by giving notice in writing of termination at least six months before the end of any calendar year beginning after the expiry of five years from the date of entry into force of this Agreement. In such event, this Agreement shall cease to have effect:

- a) in Guernsey:
 - (i) in respect of taxes withheld at source, for amounts paid or credited after the date that is six months after the date on which the notice is given;
 - (ii) in respect of income tax, for any year of assessment beginning on or after 1st January next following the date on which the notice is given;
- b) in the United Kingdom:
 - (i) in respect of taxes withheld at source, for amounts paid or credited after the date that is six months after the date on which the notice is given;
 - (ii) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6th April next following the date on which the notice is given;
 - (iii) in respect of corporation tax, for any financial year beginning on or after 1st April next following the date on which the notice is given.

PROTOCOL

The Government of the United Kingdom of Great Britain and Northern Ireland and the States of Guernsey have agreed upon the following provisions which shall form an integral part of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the States of Guernsey for the Elimination of Double Taxation with respect to Taxes on Income and on Capital Gains and the Prevention of Tax Evasion and Avoidance (“the Agreement”).

1. In relation to the whole Agreement:

The Territories acknowledge that the United Kingdom continues to be responsible for the international relations of Guernsey in international law. This Agreement cannot therefore create obligations which are binding under international law and is not intended to alter or affect the constitutional relationship between Guernsey and the United Kingdom.

It is understood that both Territories will apply this Agreement in the light of the Commentaries on the OECD Model Tax Convention as they may read from time to time, having regard to any observations or other positions that they may have expressed thereon.

2. In relation to Article 4:

It is understood that the term “liable to tax” in paragraph 1 will be interpreted by the Territories in accordance with the principles set out in paragraph 8.6 of the Commentary on Article 4 of the OECD Model Tax Convention as it read on 15 July 2014.

It is further understood that the term "resident of a Territory" includes, in the case of Guernsey, an investment fund that is exempt from tax under an Ordinance made under section 40A of the Income Tax (Guernsey) Law, 1975. For these purposes "investment fund" means any collective investment scheme or fund in which the purchase, sale or redemption of shares or other interests is not implicitly or explicitly restricted to a limited group of investors.

3. In relation to Articles 11, 12 and 13:

It is understood that the term “recognised stock exchange” means:

- a. the London Stock Exchange (including the Alternative Investment Market);
- b. the International Stock Exchange;
- c. any of the stock exchanges in the member States of the European Union;
- d. the Australian Securities Exchange, the Toronto Stock Exchange, the Stock Exchange of Hong Kong Limited, the Tokyo Stock Exchange, the Oslo Stock Exchange (Oslo Bors), the Singapore Exchange Limited, the JSE Limited (formerly the Johannesburg Stock Exchange), the SIX Swiss Exchange, or the NASDAQ system and any stock exchange in the United States of America which is registered with the US Securities and Exchange Commission as a national securities exchange under the US Securities and Exchange Act of 1934, the Stock Exchange of Mauritius; and
- e. any other stock exchange agreed upon by the competent authorities of the Territories.