



Treaty Series No. 33 (1992)

# Protocol

amending the Convention

between the Government of the  
United Kingdom of Great Britain and Northern Ireland  
and the Government of the Kingdom of Denmark

for the Avoidance of Double Taxation and the  
Prevention of Fiscal Evasion with respect to Taxes  
on Income and Capital Gains signed at  
Copenhagen on 11 November 1980

London, 1 July 1991

with

amending Exchange of Notes

Copenhagen, 4 and 6 November 1991

[The Exchange of Notes entered into force on 6 November 1991  
and the Protocol entered into force on 19 December 1991]

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
May 1992*

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**PROTOCOL  
AMENDING THE CONVENTION  
BETWEEN THE GOVERNMENT OF THE  
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND  
AND THE GOVERNMENT OF THE KINGDOM OF DENMARK  
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF  
FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL  
GAINS SIGNED AT COPENHAGEN ON 11 NOVEMBER 1980**

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

Desiring to conclude a Protocol to amend the Convention between the Contracting Parties for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains, signed at Copenhagen on 11 November 1980<sup>1</sup> (hereinafter referred to as "the Convention");

Have agreed as follows:

**ARTICLE I**

(1) Sub-paragraph (c)(i) of paragraph (1) of Article 3 of the Convention shall be deleted and replaced by the following:

“(i) in relation to the United Kingdom, any British citizen or any British subject not possessing the citizenship of any other Commonwealth country or territory, provided he has the right of abode in the United Kingdom; and any legal person, partnership, association or other entity deriving its status as such from the law in force in the United Kingdom;”

(2) Sub-paragraph (f) of paragraph (1) of Article 3 of the Convention shall be deleted and replaced by the following:

“(f) the term “person” comprises an individual, a company and any other body of persons, but does not include partnerships;”.

**ARTICLE II**

The following new provisions shall be inserted immediately after paragraph (3) of Article 5 of the Convention:

“(3A) Notwithstanding the provisions of paragraph (3) of this Article, a project for the construction or installation of a pipeline for the transportation of oil or gas, or a building site associated with such construction or installation, shall constitute a permanent establishment whether or not it lasts for more than 12 months.

“(3B) An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on the activity of making an oil or gas well in the other Contracting State.”

**ARTICLE III**

The following new provisions shall be inserted immediately after paragraph (5) of Article 11 of the Convention:

“(6) The provisions of paragraph (1) of this Article shall not apply where the beneficial owner of the interest is a company other than a quoted company, unless the company shows that it is not controlled by a person, or two or more associated or connected persons together, who or any of whom would not have been entitled to relief under paragraph (1) of this Article if he had been the beneficial owner of the interest.

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<sup>1</sup>Treaty Series No. 20 (1981), Cmnd. 8211.

(7) For the purposes of paragraph (6) of this Article:

(a) a quoted company is any company the shares in which are officially quoted on a stock exchange in the Contracting State of which it is a resident, provided that the conditions for admission to such quotation, and in particular those governing the minimum value of the shares to be admitted, the transferability and the dispersion of the shares, are in conformity with the conditions set out in Schedule A to the directive of the Council of the European Communities dated 5th March 1979 No. 79/279/EEC;

(b) subject to paragraph (8) of this Article, a person or two or more associated or connected persons together shall be treated as having control of a company if, under the laws of the Contracting State in which the interest arises relating to the taxes covered by this Convention, they could be treated as having control of it for any purpose and persons shall be treated as associated or connected if, under those laws, they could be so treated for any purpose.

(8) Where an individual is treated by paragraph (7)(b) of this Article as having control of a company by reason only of the fact that he holds ordinary shares in the company carrying full voting and dividend rights, and that individual holds not more than 20 per cent of the total number of such shares in the company, the shares held by him shall be left out of account in determining whether the company is controlled by a person or two or more associated or connected persons together, provided that not more than 30 per cent of the total of such shares in the company may be left out of account in this manner."

#### ARTICLE IV

The following new provisions shall be inserted immediately after paragraph (4) of Article 12 of the Convention:

"(5) The provisions of paragraph (1) of this Article shall not apply where the beneficial owner of the royalties is a company other than a quoted company, unless the company shows that it is not controlled by a person, or two or more associated or connected persons together, who or any of whom would not have been entitled to relief under paragraph (1) of this Article if he had been the beneficial owner of the royalties.

(6) For the purposes of paragraph (5) of this Article:

(a) a quoted company is any company the shares in which are officially quoted on a stock exchange in the Contracting State of which it is a resident, provided that the conditions for admission to such quotation, and in particular those governing the minimum value of the shares to be admitted, the transferability and the dispersion of the shares, are in conformity with the conditions set out in Schedule A to the directive of the Council of the European Communities dated 5th March 1979 No. 79/279/EEC;

(b) subject to paragraph (7) of this Article, a person or two or more associated or connected persons together shall be treated as having control of a company if, under the laws of the Contracting State in which the royalties arise relating to the taxes covered by this Convention, they could be treated as having control of it for any purpose and persons shall be treated as associated or connected if, under those laws, they could be so treated for any purpose.

(7) Where an individual is treated by paragraph (6)(b) of this Article as having control of a company by reason only of the fact that he holds ordinary shares in the company carrying full voting and dividend rights, and that individual holds not more than 20 per cent of the total number of such shares in the company, the shares held by him shall be left out of account in determining whether the company is controlled by a person or two or more associated or connected persons together, provided that not more than 30 per cent of the total of such shares in the company may be left out of account in this manner."

## ARTICLE V

Paragraph (4) of Article 13 shall be deleted and replaced by the following:

- “(4) Gains derived by a resident of a Contracting State from the alienation of—
- (a) exploration or exploitation rights, or
  - (b) property situated in the other Contracting State and used in connection with offshore activities, as defined in paragraph (1) of Article 28A of this Convention, carried on in that other State, or
  - (c) 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 State.

In this paragraph “exploration or exploitation rights” means rights to assets to be produced by the exploration or exploitation of the sea-bed and subsoil and their natural resources in the other Contracting State, including rights to interests in or to the benefit of such assets.

(5) A gain on property referred to in sub-paragraph (b) of paragraph (4) of this Article which is deemed to be derived by a resident of a Contracting State when an activity in which the property is used ceases to be subject to tax in the other State shall not be taxed by that other State.

(6) Gains from the alienation of any property other than that referred to in paragraphs (1), (2), (3) and (4) of this Article, shall be taxable only in the Contracting State of which the alienator is a resident.”

## ARTICLE VI

Paragraph (1) of Article 14 of the Convention shall be deleted and replaced by the following:

“(1) Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State. However, such income may also be taxed in the other Contracting State if:

- (a) the individual is present in the other State for a period or periods exceeding in the aggregate 183 days in any period of 12 months; or
  - (b) the individual has a fixed base regularly available to him in that other State for the purpose of performing his activities;
- but only so much thereof that is attributable to services performed in that other State.”

## ARTICLE VII

Paragraphs (1), (2) and (3) of Article 15 of the Convention shall be deleted and replaced by the following:

“(1) Subject to the provisions of Articles 16, 18, 19 and 20 of this Convention, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

(2) Notwithstanding the provisions of paragraph (1) of this Article and subject to paragraph (3) of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any period of 12 months, and
- (b) the remuneration is paid by, or on behalf of, an employer who is a resident of the State of which the recipient is a resident, and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

(3) Paragraph (2) of this Article shall not apply to remuneration derived by a resident of a Contracting State, in this paragraph called "the employee", and paid by or on behalf of an employer who is a resident of that State in respect of an employment exercised in the other Contracting State where:

(a) the employee renders services in the course of that employment to a person other than the employer who, directly or indirectly, supervises, directs or controls the manner in which those services are performed; and

(b) the employer is not responsible for carrying out the purpose for which the services are performed.

(4) Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Where a resident of Denmark derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the Scandinavian Airlines System (SAS) consortium, such remuneration shall be taxable only in Denmark."

#### ARTICLE VIII

The following new provision shall be inserted immediately after sub-paragraph (b) of paragraph 1 of Article 19 of the Convention:

"(c) Notwithstanding the provisions of sub-paragraph (b)(ii) of this paragraph, the provisions of sub-paragraph (a) shall apply to remuneration paid to:

(i) employees at the British Embassy or at the British Council in Copenhagen who are not nationals of Denmark, and

(ii) employees at the Danish Embassy in London who are not nationals of the United Kingdom."

#### ARTICLE IX

Paragraph (1) of Article 21 of the Convention shall be deleted and replaced by the following:

"(1) Items of income, wherever arising, other than income paid out of trusts or the estates of deceased persons in the course of administration, which are beneficially owned by a resident of a Contracting State and not expressly mentioned in the foregoing Articles of this Convention, shall be taxable only in that State."

#### ARTICLE X

The following new Article shall be inserted immediately after Article 28:

##### **"Article 28A**

##### **Miscellaneous rules applicable to certain offshore activities**

(1) The provisions of this Article shall apply notwithstanding any other provision of this Convention where activities are carried on offshore in connection with the exploration for or exploitation of oil or gas in the sea-bed and subsoil (in this Article called "offshore activities") situated in a Contracting State.

(2) An enterprise of a Contracting State which carries on offshore activities in the other Contracting State shall be deemed to be carrying on a business in that other Contracting State through a permanent establishment situated therein.

(3) A resident of a Contracting State who carries on offshore activities in the other Contracting State, which consist of professional services or other activities of an independent character, shall be deemed to be performing those activities from a fixed base in that other Contracting State.

(4) Notwithstanding the provisions of paragraph (2) of this Article, profits derived by an enterprise of a Contracting State from the operation, in connection with offshore activities, of ships or aircraft which are in their existing state designed primarily for the purpose of transporting supplies or personnel, or of tugboats or anchor handling vessels, shall be taxable only in the State in which the place of effective management of the enterprise is situated. However, the provisions of this paragraph shall not apply to profits derived during any period in which such a ship or aircraft is contracted to be used mainly for purposes other than to transport supplies or personnel to or between places where offshore activities are being carried on.

(5) (a) Subject to sub-paragraphs (b) and (c) of this paragraph, salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment connected with offshore activities in the other Contracting State shall, to the extent that the duties are performed offshore in that other Contracting State, be taxable only in that other Contracting State.

(b) Subject to sub-paragraph (c) of this paragraph, salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft, to the profits from the operation of which paragraph (4) of this Article applies, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(c) Unless documentary evidence is produced to the competent authority of the other Contracting State that arrangements have been made for the payment of tax thereon in the Contracting State which has the sole right to tax the remuneration in accordance with sub-paragraph (a) or (b) of this paragraph, such remuneration may also be taxed in that other Contracting State."

#### ARTICLE XI

(1) Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Protocol. The Protocol shall enter into force after the expiration of 30 days following the date of the later of these notifications and shall, subject to the provisions of paragraphs (2) and (3) of this Article, thereupon have effect.

(2) The provisions of sub-paragraph (c) of paragraph (1) of Article 19 of the Convention (as added by Article VIII of the Protocol) shall have effect in respect of remuneration received for duties performed in employment on or after 1 January 1980.

(3) Except as provided for in paragraph (2) of this Article the provisions of this Protocol shall have effect:

(a) in the United Kingdom in respect of income tax for any year of assessment beginning on or after 6 April following the calendar year in which the Protocol enters into force,

(b) in Denmark in respect of taxes for the income year which coincides with or replaces the calendar year immediately following that in which the Protocol enters into force and subsequent income years.

This Protocol shall remain in force as long as the Convention remains in force.

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

Done in duplicate at London this first day of July 1991 in the English and Danish languages, both texts being equally authoritative.

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

FRANCIS MAUDE

For the Government of the Kingdom of  
Denmark:

R. THORNING-PETERSEN

**PROTOKOL**  
**OM ÆNDRING AF DEN DEN 11. NOVEMBER 1980 I KØBENHAVN**  
**UNDERTEGNEDE OVERENSKOMST MELLEM REGERINGEN I DET**  
**FORENEDE KONGERIGE STORBRITANNIEN OG NORDIRLAND OG**  
**REGERINGEN I KONGERIGET DANMARK TIL UNGÅELSE AF DOB-**  
**BELTBESKATNING OG FORHINDRING AF SKATTEUNDDRAGELSE FOR SÅ**  
**VIDT ANGÅR SKATTER PÅ INDKOMST OG KAPITALVINDING**

Regeringen i Det Forenede Kongerige Storbritannien og Nordirland og regeringen i Kongeriget Danmark;

der ønsker at indgå en Protokol om ændring af overenskomsten mellem de Kontraherende Parter til undgåelse af dobbeltbeskatning og forhindring af skatteunddragelse for så vidt angår skatter på indkomst og kapitalvinding, som blev undertegnet i København den 11. november 1980 (herefter omtalt som "Overenskomsten");

er blevet enige om følgende:

**ARTIKEL I**

(1) Artikel 3, stykke 1, litra c), (i) overenskomsten skal udgå og erstattes af følgende:

"(i) for så vidt angår Det Forenede Kongerige enhver britisk statsborger eller enhver britisk undersåt, som ikke er i besiddelse af statsborgerskab i noget andet land eller område inden for Det Britiske Statssamfund, forudsat at han har tilladelse til ophold i Det Forenede Kongerige; og enhver juridisk person, ethvert interessentskab og kommanditselskab, enhver forening eller anden sammenslutning, hvis retlige stilling som sådan har hjemmel i den i Det Forenede Kongerige gældende lovgivning;"

(2) Artikel 3, stykke 1, litra f), i overenskomsten skal udgå og erstattes af følgende:

"(f) udtrykket "person" omfatte en fysisk person, et selskab og enhver anden sammenslutning af personer, men ikke omfatte interessentskaber eller kommanditselskaber;"

**ARTIKEL II**

Følgende nye bestemmelser skal indsættes umiddelbart efter artikel 5, stykke 3, i overenskomsten:

"(3A) Uanset bestemmelserne i stykke 3 i denne artikel skal et projekt til anlæg eller montering af en rørledning til transport af olie eller gas, eller et bygningsarbejde, som står i forbindelse med et sådant anlæg eller en sådan montering, udgøre et fast driftssted, hvad enten arbejdet varer mere end tolv måneder eller ikke.

(3B) Et foretagende i en kontraherende stat skal anses for at have et fast driftssted i den anden kontraherende stat, hvis det driver virksomhed med at bore og bygge en olie- eller gasbrønd i den anden kontraherende stat."

**ARTIKEL III**

Følgende nye bestemmelser skal indsættes umiddelbart efter artikel 11, stykke 5, i overenskomsten:

"(6) Bestemmelserne i stykke 1 i denne artikel skal ikke finde anvendelse i tilfælde, hvor renternes retmæssige ejer er et selskab, som ikke er et noteret selskab, medmindre selskabet påviser, at det ikke beherskes af en person, henholdsvis af to eller flere indbyrdes forbundne personer i fællesskab, som samlet eller enkeltvis ikke ville have været berettigede til lempelse i medfør af stykke 1 i denne artikel, såfremt den pågældende havde været renternes retmæssige ejer.

(7) I stykke 6 i denne artikel

- (a) betyder et noteret selskab ethvert selskab, hvis aktier noteres officielt på en fondsbørs i den kontraherende stat, hvori selskabet er hjemmehørende, forudsat at betingelserne for optagelse til en sådan notering og i særdeleshed de betingelser, som gælder for mindsteværdien af de aktier, som optages til notering, samt for omsætteligheden og spredningen af aktierne, er i overensstemmelse med de betingelser, som er fastsat i Skema A til De Europæiske Fællesskabers Rådskonklusion af 5. marts 1979 nr. 79/279/EØF;
- (b) skal med forbehold af stykke 8 i denne artikel en person, henholdsvis to eller flere indbyrdes forbundne personer i fællesskab, anses for at beherske et selskab, såfremt de i den kontraherende stat, hvorfra renten hidrører, i medfør af lovgivningen vedrørende de skatter, som er omfattet af denne overenskomst, vil kunne behandles, som om de behersker selskabet i nogen som helst henseende, ligesom personer skal anses for indbyrdes forbundne, såfremt de i medfør af den anførte lovgivning vil kunne anses for indbyrdes forbundne i nogen som helst henseende.

(8) I tilfælde, hvor en fysisk person i henhold til stykke 7, litra b), i denne artikel anses for at beherske et selskab, alene fordi han ejer almindelige aktier i selskabet med fuld stemmeret og fuld ret til aktieudbytte, og denne fysiske person ikke ejer mere end 20 pct. af det samlede antal af sådanne aktier i selskabet, skal de aktier, som han ejer, ikke medregnes ved afgørelsen af, hvor vidt selskabet beherskes af en person, henholdsvis af to eller flere indbyrdes forbundne personer i fællesskab, idet dog ikke mere end 30 pct. af det samlede antal af sådanne aktier i selskabet vil kunne lades ude af betragtning på denne måde.”

#### ARTIKEL IV

Følgende nye bestemmelser skal indsættes umiddelbart efter artikel 12, stykke 4, i overenskomsten:

“(5) Bestemmelserne i stykke 1 i denne artikel skal ikke finde anvendelse i tilfælde, hvor den retmæssige ejer af royalties er et selskab, som ikke er et noteret selskab, medmindre selskabet påviser, at det ikke beherskes af en person, henholdsvis af to eller flere indbyrdes forbundne personer i fællesskab, som samlet eller enkeltvis ikke ville have været berettigede til lempelse i medfør af stykke 1 i denne artikel, såfremt den pågældende havde været den retmæssige ejer af de omhandlede royalties.

(6) I stykke 5 i denne artikel:

- (a) betyder et noteret selskab ethvert selskab, hvis aktier noteres officielt på en fondsbørs i den kontraherende stat, hvori selskabet er hjemmehørende, forudsat at betingelserne for optagelse til en sådan notering og i særdeleshed de betingelser, som gælder for mindsteværdien af de aktier, som optages til notering, samt for omsætteligheden og spredningen af aktierne, er i overensstemmelse med de betingelser, som er fastsat i Skema A til De Europæiske Fællesskabers Rådskonklusion af 5. marts 1979 nr. 79/279/EØF;
- (b) skal med forbehold af stykke 7 i denne artikel en person, henholdsvis to eller flere indbyrdes forbundne personer i fællesskab, anses for at beherske et selskab, såfremt de i den kontraherende stat, hvorfra royalties hidrører, i medfør af lovgivningen vedrørende de skatter, som er omfattet af denne overenskomst, vil kunne behandles, som om de behersker selskabet i nogen som helst henseende, ligesom personer skal anses for indbyrdes forbundne, såfremt de i medfør af den anførte lovgivning vil kunne anses for indbyrdes forbundne i nogen som helst henseende.

(7) I tilfælde, hvor en fysisk person i henhold til stykke 6, litra b), i denne artikel anses for at beherske et selskab, alene fordi han ejer almindelige aktier i selskabet med fuld stemmeret og fuld ret til aktieudbytte, og denne fysiske person ikke ejer mere end 20 pct. af det samlede antal af sådanne aktier i selskabet, skal de aktier, som han ejer, ikke medregnes ved afgørelsen af, hvor vidt selskabet beherskes af en person, henholdsvis af to eller flere indbyrdes forbundne personer i fællesskab, idet dog ikke mere end 30 pct. af det samlede antal af sådanne aktier i selskabet vil kunne lades ude af betragtning på denne måde.”



## ARTIKEL V

Artikel 13, stykke 4, skal udgå og erstattes af følgende:

“(4) Fortjeneste, som en person, der er hjemmehørende i en kontraherende stat, erhverver ved afståelse af:

- (a) rettigheder til efterforskning eller udnyttelse, eller
- (b) aktiver, som befinder sig i den anden kontraherende stat, og som benyttes i forbindelse med virksomhed uden for kysten som defineret i artikel 28 A, stykke 1, i denne overenskomst, der udøves i den anden stat, eller
- (c) aktier, hvis værdi eller hvor den største del af deres værdi hidrører direkte eller indirekte fra sådanne rettigheder eller sådanne aktiver eller fra sådanne rettigheder og sådanne aktiver under et,

kan beskattes i den anden stat.

I dette stykke betyder “rettigheder til efterforskning eller udnyttelse” rettigheder til aktiver, som skal fremstilles ved efterforskning eller udnyttelse af havbunden, dennes undergrund og disses naturforekomster i den anden kontraherende stat, herunder rettigheder til andele i eller fordele ved sådanne aktiver.

(5) En fortjeneste af aktiver som omhandlet i stykke 4, litra b), i denne artikel, som anses for oppebåret af en i en kontraherende stat hjemmehørende person, når en virksomhed, i hvilken aktiverne benyttes, ophører med at være undergivet beskatning i den anden stat, skal ikke beskattes i den anden stat.

(6) Fortjeneste ved afståelse af alle andre aktiver end de i stykke 1, 2, 3 og 4 i denne artikel omhandlede kan kun beskattes i den kontraherende stat, hvori afhænderen er hjemmehørende.”

## ARTIKEL VI

Artikel 14, stykke 1, i overenskomsten skal udgå og erstattes af følgende:

“(1) Indkomst ved frit erhverv eller ved andet arbejde af selvstændig karakter oppebåret af en fysisk person, som er hjemmehørende i en kontraherende stat, kan kun beskattes i denne stat. Imidlertid kan sådan indkomst også beskattes i den anden kontraherende stat, hvis:

- (a) den pågældende opholder sig i den anden stat i en eller flere perioder, der tilsammen overstiger 183 dage i nogen 12-måneders-periode; eller
- (b) den pågældende har et fast sted, der til stadighed står til rådighed for ham i denne anden stat med henblik på udøvelse af hans virksomhed;

men kun i det omfang, den kan henføres til erhverv udøvet i den anden stat.”

## ARTIKEL VII

Artikel 15, stykke 1, 2 og 3, i overenskomsten skal udgå og erstattes af følgende:

“(1) Såfremt bestemmelserne i artiklerne 16, 18, 19 og 20 i denne overenskomst ikke medfører andet, kan gage, løn og andet lignende vederlag for personligt arbejde i tjenesteforhold oppebåret af en person, der er hjemmehørende i en kontraherende stat, kun beskattes i denne stat, medmindre arbejdet er udført i den anden kontraherende stat. Er arbejdet udført der, kan det vederlag, som oppebæres herfor, beskattes i den anden stat.

(2) Uanset bestemmelserne i stykke 1 i denne artikel, og såfremt stykke 3 i denne artikel ikke finder anvendelse, kan vederlag, som en person, der er hjemmehørende i en kontraherende stat, oppebærer for personligt arbejde i tjenesteforhold, udført i den anden kontraherende stat, kun beskattes i den førstnævnte stat, såfremt:

- (a) modtageren opholder sig i den anden stat i en eller flere perioder, der tilsammen ikke overstiger 183 dage i nogen 12-måneders-periode, og
- (b) vederlaget betales af eller for en arbejdsgiver, der er hjemmehørende i den stat, i hvilken modtageren er hjemmehørende, og
- (c) vederlaget ikke udredes af et fast driftssted eller et fast sted, som arbejdsgiveren har i den anden stat.

(3) Stykke 2 i denne artikel skal ikke finde anvendelse på vederlag, som oppebæres af en person, der er hjemmehørende i en kontraherende stat, i dette stykke benævnt "arbejdstageren", og som betales af eller for en arbejdsgiver hjemmehørende i denne stat for personligt arbejde i tjenesteforhold udført i den anden kontraherende stat i tilfælde, hvor

- (a) arbejdstageren udfører hverv under dette arbejde for en fra arbejdsgiveren forskellig person, som direkte eller indirekte fører tilsyn med, leder eller kontrollerer den måde, hvorpå dette hverv udføres; og
- (b) arbejdsgiveren ikke har ansvaret for frembringelsen af resultatet af det arbejde, i forbindelse med hvilket hvervet udføres.

(4) Uanset de foranstående bestemmelser i denne artikel kan vederlag for personligt arbejde i tjenesteforhold, som udføres om bord på et skib eller et luftfartøj, der anvendes i international trafik, beskattes i den kontraherende stat, i hvilken foretagendets virkelige ledelse har sit sæde.

Når en i Danmark hjemmehørende person modtager vederlag for personligt arbejde, udført på et af Scandinavian Airlines System (SAS) i international trafik anvendt luftfartøj, kan et sådant vederlag kun beskattes i Danmark."

#### ARTIKEL VIII

Følgende nye bestemmelser skal indsættes umiddelbart efter artikel 19, stykke 1, litra b), i overenskomsten:

- "(c) Uanset bestemmelserne i litra (b), (ii), i dette stykke, skal bestemmelserne i litra (a) finde anvendelse på vederlag, som betales til
- (i) ansatte ved Storbritanniens ambassade eller ved The British Council i København, som ikke er danske statsborgere, og
  - (ii) ansatte ved den danske ambassade i London, som ikke er statsborgere i Det Forenede Kongerige."

#### ARTIKEL IX

Artikel 21, stykke 1, i overenskomsten skal udgå og erstattes af følgende:

"(1) Indkomster, hvorfra de end hidrører—bortset fra indkomst udbetalt af båndlagte midler eller fra dødsboer, som er under behandling—hvis retmæssige ejer er en person hjemmehørende i en kontraherende stat, og som ikke er udtrykkeligt behandlet i de foranstående artikler i denne overenskomst, kan kun beskattes i denne stat."

#### ARTIKEL X

Følgende nye artikel skal indsættes umiddelbart efter artikel 28:

##### **" Artikel 28 A**

##### **Forskellige bestemmelser, der finder anvendelse på visse former for virksomhed uden for kysten**

(1) Bestemmelserne i denne artikel skal finde anvendelse uanset enhver anden bestemmelse i denne overenskomst i tilfælde, hvor virksomhed udøves uden for kysten i forbindelse med efterforskning eller udnyttelse af olie eller gas i den havbund og dennes undergrund (omtalt i denne artikel som "virksomhed uden for kysten"), som er beliggende i en kontraherende stat.

(2) Et foretagende i en kontraherende stat, som udøver virksomhed uden for kysten i den anden kontraherende stat, skal anses for at drive erhvervsvirksomhed i denne anden kontraherende stat gennem et dér beliggende fast driftssted.

(3) En person, der er hjemmehørende i en kontraherende stat, som i den anden kontraherende stat udøver virksomhed uden for kysten, der består i udøvelse af frit erhverv eller andet arbejde af selvstændig karakter, skal anses for at udøve den omhandlede virksomhed fra et fast sted i denne anden kontraherende stat.

(4) Uanset bestemmelserne i stykke 2 i denne artikel, kan fortjeneste, som et foretagende i en kontraherende stat i forbindelse med virksomhed uden for kysten erhverver ved driften af skibe eller luftfartøjer, som i deres nuværende stand først og fremmest er bygget med henblik på at transportere forsyninger eller personel, eller ved driften af bugserbåde eller ankerhåndteringsfartøjer, kun beskattes i den stat, i hvilken foretagendets virkelige ledelse har sit sæde. Bestemmelserne i dette stykke skal imidlertid ikke finde anvendelse på fortjeneste, som er erhvervet i nogen periode, i hvilken et sådant skib eller luftfartøj ifølge kontrakt skal anvendes hovedsageligt til andre formål end til at transportere forsyninger eller personel til eller mellem pladser, hvor der udøves virksomhed uden for kysten.

(5) (a) Såfremt litra (b) og (c) i dette stykke ikke medfører andet, kan gage, løn og lignende vederlag for personligt arbejde i tjenesteforhold oppebåret af en person, der er hjemmehørende i en kontraherende stat, i forbindelse med virksomhed uden for kysten i den anden kontraherende stat, i det omfang arbejdet udføres uden for kysten i denne anden kontraherende stat, kun beskattes i denne anden kontraherende stat.

(b) Såfremt litra (c) i dette stykke ikke medfører andet, kan gage, løn og lignende vederlag oppebåret af en person, der er hjemmehørende i en kontraherende stat, for personligt arbejde i tjenesteforhold, som udføres om bord på et skib eller et luftfartøj, på hvis driftsfortjeneste stykke 4 i denne artikel finder anvendelse, kun beskattes i den kontraherende stat, i hvilken foretagendets virkelige ledelse har sit sæde.

(c) Medmindre der fremlægges dokumentbevis for den kompetente myndighed i den anden kontraherende stat for, at der er truffet foranstaltninger til betaling af skat af vederlaget i den kontraherende stat, som har den udelukkende ret til at beskatte dette i overensstemmelse med litra (a) eller (b) i dette stykke, kan sådant vederlag også beskattes i denne anden kontraherende stat."

## ARTIKEL XI

(1) Hver af de kontraherende stater skal give den anden underretning om, at den har gennemført de foranstaltninger, som kræves i henhold til den pågældende stats lovgivning for denne protokols ikrafttræden. Protokollen skal træde i kraft efter udløbet af tredive dage efter datoen for den sidste af disse underretninger og skal med forbehold af bestemmelserne i stykke 2 og 3 i denne artikel have virkning derefter.

(2) Bestemmelserne i artikel 19, stykke 1, litra (c), i overenskomsten (som tilføjet ved artikel VIII i protokollen) skal have virkning med hensyn til vederlag oppebåret for arbejde i tjenesteforhold, som er udført 1. januar 1980 eller senere.

(3) Bortset fra hvad der er fastsat i stykke 2 i denne artikel, skal bestemmelserne i denne protokol have virkning:

(a) i Det Forenede Kongerige for så vidt angår indkomstskat for ethvert skatteår, som begynder den 6. april eller senere efter det kalenderår, hvori protokollen træder i kraft.

(b) i Danmark for så vidt angår skatter for det indkomstår, som falder sammen med eller træder i stedet for det kalenderår, som følger umiddelbart efter det kalenderår, hvori protokollen træder i kraft, og for følgende indkomstår.

Denne protokol skal forblive i kraft, så længe som overenskomsten forbliver i kraft.

Til bekræftelse heraf har de undertegnede, dertil behørigt befuldmægtigede af deres respektive regeringer, underskrevet denne protokol.

Udfærdiget i London den 1 juli 1991 i to eksemplarer på engelsk og dansk, således at begge tekster har samme gyldighed.

For regeringen i Det Forenede  
Kongerige Storbritannien og  
Nordirland:

FRANCIS MAUDE

For regeringen i Kongeriget Danmark:

R. THORNING-PETERSEN

**EXCHANGE OF NOTES  
BETWEEN THE GOVERNMENT OF THE  
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND  
AND THE GOVERNMENT OF THE KINGDOM OF DENMARK  
AMENDING THE PROTOCOL**

No. 1

*Her Majesty's Ambassador at Copenhagen  
to the Minister of Economic Affairs and Taxation of Denmark*

4 November 1991

Your Excellency

I have the honour to refer to the Protocol amending the Double Taxation Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Denmark, signed in London on 1 July 1991.

I also have the honour to propose that the words "after the expiration of thirty days following" in Article XI(1) of the proposed Protocol shall be replaced by the word "on".

If this proposal is acceptable to the Government of the Kingdom of Denmark, I have the honour to propose that this Note together with your Excellency's reply in that sense shall constitute an Agreement between our two Governments in this matter which shall enter into force on the date of your reply.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

N C R WILLIAMS

No. 2

*The Minister of Taxation of Denmark to Her Majesty's Ambassador at Copenhagen*

*6 November 1991*

Your Excellency

I have the honour to acknowledge receipt of Your Excellency's Note of 4 November 1991 which reads as follows:

[As in No. 1]

In reply, I have the honour to inform Your Excellency that the above proposal is acceptable to the Government of the Kingdom of Denmark. Therefore, I agree that your Note and this reply shall constitute an Agreement between our two Governments in this matter which shall enter into force today.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

ANDERS FOGH RASMUSSEN



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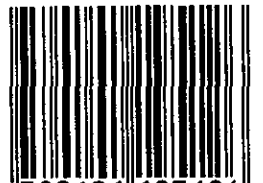
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