756

No. 6042

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND (ON BEHALF OF THE STATE OF SINGAPORE) and JAPAN

Convention (with exchange of notes) for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Singapore, on 11 April 1961

Official text: English.

Registered by the United Kingdom of Great Britain and Northern Ireland on 19 January 1962.

ROYAUME-UNI DE GRANDE-BRETAGNE ET D'IRLANDE DU NORD (AU NOM DE L'ÉTAT DE SINGAPOUR) et JAPON

Convention (avec échange de notes) tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu. Signée à Singapour, le 11 avril 1961

Texte officiel anglais.

Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 19 janvier 1962.

No. 6042. CONVENTION[1] BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND (ON BEHALF OF THE GOVERNMENT OF THE STATE OF SINGAPORE) AND THE GOVERNMENT OF JAPAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME. SIGNED AT SINGAPORE, ON 11 APRIL 1961

The Government of the State of Singapore with the authority and consent of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Japan,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have appointed for that purpose as their respective Plenipotentiaries:

The Government of the State of Singapore:

Dr. Goh Keng Swee, Minister for Finance of the State of Singapore, and

The Government of Japan:

Mr. Kensaku Maeda, Consul-General of Japan at Singapore,

Who, having communicated to each other their respective full powers, found in good and due form, have agreed upon the following Articles:

Article I

1. The taxes which are the subject of the present Convention are—

(a) in the State of Singapore: the income tax (hereinafter referred to as " Singapore tax "); and

(b) in Japan: the income tax and the corporation tax (hereinafter referred to as " Japanese tax ").

2. The present Convention shall also apply to any other tax on income, gains or profits which has a substantially similar character to those referred to in the preceding paragraph and which may be imposed in either Contracting State after the date of signature of the present Convention.

[1] Came into force on 5 September 1961, the date of exchange of the instruments of ratification at Tokyo, in accordance with article XX (2)

Article II

1. In the present Convention, unless the context otherwise requires—

(*a*) the term " Singapore " means the State of Singapore;

(*b*) the term " Japan ", when used in a geographical sense, means all the territory in which the laws relating to Japanese tax are enforced;

(*c*) the terms " one of the Contracting States " and " the other Contracting State " mean Singapore or Japan, as the context requires;

(*d*) the term " tax " means Singapore tax or Japanese tax, as the context requires;

(*e*) the term " Singapore corporation " means any company or any body of persons the business of which is managed and controlled in Singapore and which does not have its head or main office in Japan; and the term " Japanese corporation " means any corporation or other association having juridical personality or any association without juridical personality which has its head or main office in Japan and the business of which is not managed and controlled in Singapore;

(*f*) the terms " corporation of one of the Contracting States " and " corporation of the other Contracting State " mean a Singapore corporation or a Japanese corporation, as the context requires;

(*g*) the term " resident of Singapore " means any person, other than a company or a body of persons, who is resident in Singapore for the purposes of Singapore tax and not resident in Japan for the purposes of Japanese tax and any Singapore corporation; and the term " resident of Japan " means any individual who is resident in Japan for the purposes of Japanese tax and not resident in Singapore for the purposes of Singapore tax and any Japanese corporation;

(*h*) the terms " resident of one of the Contracting States " and " resident of the other Contracting State " mean a resident of Singapore or a resident of Japan, as the context requires;

(*i*) the term " Singapore enterprise " means an industrial (including plantation and agricultural) or commercial enterprise or undertaking carried on by a resident of Singapore; and the term " Japanese enterprise " means an industrial (including plantation and agricultural) or commercial enterprise or undertaking carried on by a resident of Japan;

(*j*) the terms " enterprise of one of the Contracting States " and " enterprise of the other Contracting State " mean a Singapore enterprise or a Japanese enterprise, as the context requires;

(*k*) the term " permanent establishment " when used with respect to an enterprise of one of the Contracting States, means an office, branch, factory,

or other fixed place of business where the business of the enterprise is carried on, but does not include the casual and temporary use of mere storage facility. It includes a farm, a plantation, a mine, a quarry or any other place of natural resources subject to exploitation. It also includes an agency if the agent has and habitually exercises a general authority to negotiate and conclude contracts on behalf of the enterprise or has a stock of merchandise from which he regularly fills orders on its behalf.
In this connection—

(i) an enterprise of one of the Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business dealings in that other Contracting State through a *bona fide* broker, general commission agent, or other independent agent acting in the ordinary course of his business as such;

(ii) the fact that an enterprise of one of the Contracting States maintains in the other Contracting State a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise; and

(iii) the fact that a corporation of one of the Contracting States has a subsidiary corporation which is a corporation of the other Contracting State or which carries on a trade or business in that other Contracting State (whether through a permanent establishment or otherwise) shall not of itsclf constitute that subsidiary corporation a permanent establishment of its parent corporation;

(l) the term " industrial or commercial profits " does not include rents or royalties in respect of motion picture films or of mines, quarries, or other places of natural resources subject to exploitation, or income in the form of dividends, interest, rents, royalties, capital gains, or fees or other remuneration derived from the management, control or supervision of the trade, business, or other activity of another enterprise or undertaking, or remuneration for personal services;

(m) the term " competent authorities " means, in the case of Singapore, the Minister for Finance or his authorised representative; and in the case of Japan, the Minister of Finance or his authorised representative.

2. Where the present Convention provides (with or without other conditions) that income derived from sources within one of the Contracting States shall be exempt from tax of that Contracting State if it is subject to tax of the other Contracting State, and under the law in force in that other Contracting

State the said income is subject to tax by reference to the amount thereof which is remitted to or received in that other Contracting State and not by reference to the full amount thereof, then the exemption to be allowed under the present Convention in the former Contracting State shall apply only to so much of the income as is remitted to or received in that other Contracting State.

3. In the application of the provisions of the present Convention by either Contracting State, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the tax.

Article III

1. The industrial or commercial profits of an enterprise of one of the Contracting States shall not be subject to tax in the other Contracting State unless the enterprise carries on a trade or business in that other Contracting State through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits in that other Contracting State, but only on so much of them as is attributable to that permanent establishment.

2. Where an enterprise of one of the Contracting States carries on a trade or business in the other Contracting State through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive in that other Contracting State if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

3. Where an enterprise of one of the Contracting States derives profits under contracts concluded therein from the sale of goods or merchandise stocked in a warehouse in the other Contracting State for convenience of delivery and not for purposes of display, those profits shall not be attributed to a permanent establishment of the enterprise in that other Contracting State, notwithstanding that the offers of purchase have been obtained by an agent of the enterprise in that other Contracting State and transmitted by him to the enterprise for acceptance.

4. In determining the industrial or commercial profits of a permanent establishment, there shall be allowed as deductions all expenses wherever incurred, reasonably allocable to such permanent establishment, including executive and general administrative expenses so allocable.

5. In determining the tax of one of the Contracting States, no account shall be taken of the mere purchase of goods or merchandise therein by an enterprise of the other Contracting State.