



PRIVATE SECRETARY/INLAND REVENUE

cc Principal Private Secretary  
PS/Paymaster General  
PS/Chief Secretary  
PS/Minister of State  
Mr Lovell  
Mr Houghton  
Mr Dyer

DOUBLE TAXATION AGREEMENTS

In discussion today with Mr Collins the Financial Secretary expressed surprise that certain Double Taxation Agreements (albeit those which are modelled on existing approved material) are not submitted to Ministers for approval before they are laid before the House. The Financial Secretary considers that Ministers should have the chance to question, and discuss with officials, agreements which are to be the subject of affirmative resolutions in the House and which it will be their responsibility to defend in Merits Committee.

Mr Collins also agreed to investigate the possibilities of a review of recent DTAs to see whether any imbalances of savings and roundabouts are revealed.

cc Chairman

Mr Dalton

Mrs Smallwood

Mr Collins ←

Mr Pollard.

MARTIN BROWN

3 December 1975



Note

I was asked to give some verbal briefing today to the Financial Secretary (Mr Sheldon) on the Faroe Islands and Hungary double taxation agreements which are before the Merits Committee tomorrow.

In the course of the discussion he raised three points of general interest.

1. Why did we not ask Ministers to approve these agreements beforehand - Ministers had to stand up and defend them when they came to the Merits Committee and it seemed only right that they should have been asked for their approval at some earlier stage. I explained that these agreements normally followed a very standardised pattern and that we did in fact consult Ministers about any significant points before committing ourselves. The assumption had been that Ministers didn't want to be bothered with them until the question of taking them in the Merits Committee came up. However I had to admit that he had a point and I undertook to take the matter up with ~~the~~ Board.
2. He asked what sort of an eye we kept on the way the balance of the agreements was maintained. I said that we didn't make a regular review of them but that we would be made aware of any changes in balance in the course of their operation - if for example we received a claim for a large amount of relief under a provision in an Article which we had not estimated to be expensive and so forth. He was keen however to know what the costs of the various agreements were and I undertook to see what information we could provide. He is principally interested in the effect of the 1973 changes in the dividend article and I explained that it would not be easy to get much information about this because the claims tended to come in late. (I got the impression that he does not realise - or did not until I pointed it out to him - that double taxation agreements also deal with other matters than ~~individuals~~ <sup>dividends</sup>). \*
3. He also suggested that there might be something to be said for changing the procedure for giving these agreements the force of law so that Parliament didn't have to consider each one positively. He thought that perhaps, when a pattern had been established this would not really be necessary. (It was clear that he was thinking wholly of these dividend protocols and he seemed surprised when I told him we had sixty plus agreements in operation). I pointed out that if we followed up his suggestion we would be asking Parliament to give up some of its power. He left it that this was something we should think about.

\* In the course of the details on the draft Order he undertook to see how far it would be possible to make public the results of such a review of the balance of these agreements.

3/12/77  
4/12



PRIVATE SECRETARY TO THE FINANCIAL  
SECRETARY

DOUBLE TAXATION AGREEMENTS

Your minute of 3 December 1975.

*The present arrangements reflect the wishes of Ministers on the past and we shall be glad to meet the PST's wishes.*  
1. ~~We accept that Ministers should if they wish have the opportunity to consider new double taxation agreements and revisions of old ones at an earlier stage. We propose therefore, if Ministers agree to refer all such agreements to them after they have been initialled by officials and before they go forward for signature. We would propose that at this stage they should be accompanied by a brief note drawing attention to novel or significant features, fuller briefing to be provided as at present when the debate in the Merits Committee have been arranged or in answer to any specific queries Ministers may wish to put.~~

*fairly closely*  
These agreements on the whole follow a standard pattern the lines of which have been laid down at one time or another by Ministers and for this reason past practice has been in general not to refer them up for specific approval. Important variations from the standard form would normally be referred to Ministers during the course of negotiations, and this will continue. Ministers have been continuously informed of progress on the revision of the agreement with the USA and we sent a detailed note on the important points shortly after it was initialled. It is to be signed before the end of this month and we assume therefore that Ministers will not wish to have this agreement put up to them under the proposed new arrangements.

2. We are looking into the question of swings and roundabouts mentioned in your second paragraph and will send a further minute as soon as possible.

*Mr Smallwood*

*I have arranged to get information together to deal with the swings & roundabouts question and also to look into the reasons for our current obligation to put these orders to the House of Commons for positive resolution.*

*2. Next they could be put to Ministers after (which may be a long time after initialling) with the basic brief for debate.*

*1. Submit finally, after initialling, drawing attention to special features*

*2. Provide basic brief after signature, leaving time for further briefing before debate*

*3. Provide brief with any additional briefing and speaking notes for use in Merits Committee.*



Chairman

## DOUBLE TAXATION AGREEMENTS

The reason why we do not refer double taxation agreements to Ministers for approval in draft as a routine is that in the past Ministers of both parties have been content to be spared the burden of looking at these relatively long documents of which the greater part is in common form. We have therefore established a practice with their concurrence under which Ministers have been informed of any unusual features in an initialled agreement so that we have had their specific authority before signature and ratification. We also, as in the case of the United States negotiations, submit our proposed line to Ministers before embarking on important or contentious negotiations.

It is however a long time since the agreements took their present form and the Treasury Ministers of today have had no experience in this field outside government. The practice has rested on the wishes of Ministers, and if the Financial Secretary wishes to see agreements before they are laid in the House then obviously we make arrangements to refer them to him.

The only question is at what stage we should do so. Probably the best time would be after signature so that the information might be relatively fresh in his mind when the agreement comes before the Merits Committee. This would spare the Financial Secretary the burden of looking at agreements which might fall by the wayside before signature because of some problem of politics or of protocol in the other country. This would, of course, be additional to any submissions we would make in the normal course either before or after negotiations on points of principle, sensitivity or particular difficulty.

AHS

AHS

5 December 1975

Mrs Smallwood

I am grateful. Perhaps  
reply can be drafted on  
these lines

MS  
5/1



Chairman

*Mrs Smallwood*

*Thank you. I agree*

*W  
12/12*

# DOUBLE TAXATION AGREEMENTS

Since I drafted my note of 5 December I have seen Mr Collins's note of 3 December of his meeting with the Financial Secretary and have discussed with him. It is clear that the Financial Secretary has two concerns; he would like to be fully briefed well in advance of any debate and to have an opportunity to ask questions and have supplementary briefing provided. He would also like the reassurance of knowing that some Minister has formally approved each initialled agreement before it comes up for debate.

I suggest therefore that in addition to the arrangements suggested in my minute of 5 December we should also submit initialled texts to the Minister of State before they are passed on for the Foreign Office to arrange for signature. At that stage only a covering note would be needed setting out any novel or significant features.

I have drafted the reply for the Financial Secretary's PS on those lines.

*AHS*

AHS

12 December 1975

*In Wilkinson  
P. issue  
note below*

*AHS*

*18/12*





THE BOARD ROOM  
INLAND REVENUE  
SOMERSET HOUSE

12 December 1975

PRIVATE SECRETARY TO THE FINANCIAL SECRETARY

DOUBLE TAXATION AGREEMENTS

Your minute of 3 December 1975.

1. The present arrangements ~~merely~~<sup>but</sup> reflect the wishes of Ministers in the past ~~and~~ we shall be glad to revise them in accordance with the Financial Secretary's wishes.
2. We propose, if Ministers agree, to refer all double taxation agreements, whether new or revised, to the Minister of State for formal approval immediately after they have been initialled by officials and before they go forward for signature. They would be accompanied by a submission drawing attention to novel or otherwise special features.
3. Signature often takes many months after initialling and occasionally an initialled agreement is not proceeded with by the other country. We suggest therefore that the best time to provide the basic brief for debate would be after signature. This should be within weeks, or at the most two or three months, of the debate and would allow time for Ministers to raise questions and ask for fuller briefing.

---

cc Principal Private Secretary  
PS/Paymaster General  
PS/Chief Secretary  
PS/Minister of State  
Mr Lovell  
Mr Houghton  
Mr Dyer

Sir Norman Price  
Mr Dalton  
Mrs Smallwood  
Mr Collins  
Mr Pollard



4. The brief, revised and expanded as appropriate, together with speaking notes would be provided as at present before the debate in the Merits Committee.

5. This would be distinct from the submissions which are made to Ministers before and in the course of negotiations as appropriate. Ministers have, for example, been continuously informed of progress on the renegotiations with the United States and a detailed note was provided shortly after it was initialled. After it is signed, which should be at the end of the year, we shall provide a brief in accordance with the suggestion above.

6. We are looking into the question of swings and roundabouts mentioned in your second paragraph and will report as soon as possible.

A WILKINSON  
PRIVATE SECRETARY  
INLAND REVENUE





PRIVATE SECRETARY/INLAND REVENUE

cc Principal Private Secretary  
PS/Paymaster General  
PS/Chief Secretary  
PS/Minister of State  
Mr Lovell  
Mr Houghton  
Mr Dyer

DOUBLE TAXATION AGREEMENTS

The Financial Secretary was grateful for your note of 16 December 1975. He is content in principle with the arrangements you propose for ensuring that Ministers have a sight of all Double Taxation Agreements before they are called upon to defend them in the House, but subject to other Ministers' views, he suggests that DTAs should be submitted for formal approval to the Minister who is expected to be responsible for their eventual defence in the House. This in turn would obviously depend on the content of the Double Taxation Agreement.

The Financial Secretary looks forward to receiving your further report on the "swings and roundabouts" question.

cc Chairman

Mr Dalton

Mrs Smallwood

Mr Pollard

Mr Collins —

MARTIN BROWN

17 December 1975



PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

T/169/221/1

*Copy for the Hungary file*

ivate Secretary  
General  
etary  
f State

First Standing Committee  
on  
STATUTORY INSTRUMENTS, &c.

*Thursday 4th December 1975*

16 Decemb  
ropose fo  
ation Ag  
e, but  
As shou  
xpected  
. Thi  
le Tax

---

CONTENTS

Draft Double Taxation Relief (Air Transport Undertakings and their Employees) (Hungary) Order 1975.

Draft Double Taxation Relief (Taxes on Income) (Faroe Islands) Order 1975.

*Statutory Instruments considered.*

Committee rose at nineteen minutes past Four o'clock.

---

LONDON

HER MAJESTY'S STATIONERY OFFICE

19p net

W  
ristol  
BT1 4



[MR. SHELDON.]

his. These are matters about which every Minister makes inquiries by reason of the Agreement itself. It is extraordinarily difficult to find the numbers involved because, although the agreement may actually be in effect, one can never be in a position to know for certain how many people are likely to benefit from it. One can make some assessment, however, of how much will be gained or lost as a result. After all, that is what is important. We reckon—this is a formula that is always used in these matters—that the result we have is about as fair a result as we can get.

I have personally gone into the question of how we can monitor double taxation agreements to make sure that the results of the arrangements that we make—although they cannot be predicted exactly at the time of the negotiations—are subsequently seen to be evenly balanced or even, if anything, to be a little on the plus side, and there is no harm in that.

There are difficulties. First, the length of time to file the returns makes it difficult. The first Order of this kind was in the summer of 1973 and results there are only now coming through. Also, the way in which the attribution can be made produces some complexity. I have, however, asked for certain information on this in general. I do not think that this is a particularly important aspect of it, and it may be that we can devise some means of checking the assertions that we make concerning the balance of advantage in these matters.

There is no question of wealth tax being involved because there is no such tax in operation. That will be subject to decisions of the House.

I turn now to the double taxation agreement with Hungary. This is not, in fact, the first such agreement, as I said in my opening remarks. We have an agreement with the Soviet Union which also concerns air transport. As to the number of Hungarian employees who are likely to benefit—nobody else will benefit—it is hard for me to make an assessment of the numbers actually working with the airlines. It will clearly depend on the amount of business undertaken both by Malev, the Hungarian airline, and by our own. It is expected and hoped that the amount

of business will increase and will affect the numbers.

If the hon. Gentleman will allow me to say so, I do not think that this is a very important point. Clearly the costs and benefits will be roughly equal. The number of Hungarian air staff in Britain approximately equates to that of the British personnel in Hungary. I do not think that the net gain or loss is something that need concern us at this stage, although, as I have said, when we come to look at the way in which these matters work I think this will be useful.

What is important is that I hope, as a result of the initiative that I have taken, over the next year or two to be able to place this in the more reasonable area of being able to assess that which we claim and that which actually results. I am hoping that we may get some pointers which would be useful in extending the area of the double taxation agreement so that at any rate we can see that, not only are we assisting in the wider international financial activity from which we will benefit, but that if there are any gains or losses we are fairly covered.

**Mr. Lawson:** I am grateful to the Financial Secretary. As he well knows, we on this side fully accept the principle of double taxation agreements, which have been going for many years. I should also pay a personal tribute to him, because we know that there is no Treasury Minister who is more conscientious than he is. I am particularly glad that he has promised to monitor the double taxation agreements. The two before us are of limited scope but there are some very important ones.

I simply ask the hon. Gentleman whether he will find some means by which the outcome of his monitoring of double taxation agreements, including the important ones which we have with bigger countries on a bigger scale, can be made available to the House and to the public. Monitoring within the cloistered confines of the Treasury is one thing, but we should like the monitoring to be such that Parliament is able to play its part.

**Mr. Sheldon:** Perhaps I may maintain the fairly narrow claim which I made concerning the monitoring. I am seeing how monitoring can best be undertaken.



I explained some of the problems in assessing exactly the amounts of money passing from one country to another. There are certain areas where it can be done fairly easily and others where it is extraordinarily difficult. I am trying to discover how meaningful the assessment can be made as to gains and benefits. The hon. Gentleman is quite right to draw attention to the much larger and more important double taxation agreements that have been made.

The hon. Gentleman knows my strong predilection for publishing whatever we can publish and accepting that the onus is on Government to produce arguments in favour of refraining from publishing rather than the other way round. With that in mind, I look forward to finding some way of making a useful analysis as to how far we are willing to go, as a result of the measures that were put in

train some two years ago, and if it is possible to give information to the House I shall, of course, be glad to do so.

*Question put and agreed to.*

*Resolved,*

"That the Committee have considered the draft Double Taxation Relief (Air Transport Undertakings and their Employees) (Hungary) Order 1975".

DRAFT DOUBLE TAXATION RELIEF (TAXES ON INCOME) (FAROE ISLANDS) ORDER 1975

*Resolved,*

"That the Committee have considered the draft Double Taxation Relief (Taxes on Income) (Faroe Islands) Order 1975".—[Mr. Robert Sheldon.]

*Committee rose at nineteen minutes past Four o'clock.*

---

THE FOLLOWING MEMBERS ATTENDED THE COMMITTEE:

Crawshaw, Mr. Richard (*Chairman*)  
Ellis, Mr. John  
Horam, Mr.  
Lamborn, Mr.  
Lawson, Mr.

Lewis, Mr. Kenneth  
Luard, Mr.  
Mikardo, Mr.  
Radice, Mr.  
Sheldon, Mr. Robert



PS 8564/75

Mr Fawcett

Mr Collins

INFORMATION REQUESTED BY THE PST  
Section 497(8) Income & Corporation Taxes Act 1970  
(Section 56(2) Finance Act (NO 2) 1945)

1. At the briefing meeting prior to discussion by the Commons SI Committee of the Hungary and Faroe Islands draft DTR Orders, the Financial Secretary asked if it was possible to quantify the cost of DT relief. He subsequently promised the Committee that he would look at the feasibility of this. SI Committee, 4 December 1975, Cols 7 - 9, copy filed below). He also asked why double taxation agreements had to be submitted to Parliament for approval. I have been asked to examine the second of these questions.

2. Draft double taxation relief orders need to be approved by Parliament because they are treaties which in theory at least may impose taxation. Although the object of double taxation agreements is most obviously to reduce the tax burden, it is possible that they could in certain circumstances have the effect of increasing the United Kingdom tax charge.

3. Section 497(8) Income & Corporation Taxes Act 1970, originally section 56(2) Finance Act (NO 2) 1945, makes mandatory the laying of double taxation orders before the House of Commons. The note on section 56 (Annex A) in the Parliamentary Papers for the Autumn Bill 1945 is unhelpful. It explains the function of the clause but does not allude to the constitutional reasons which make it necessary.

4. I have examined the drafting papers (T1006/15/46 etc attached) for the first and third 1945 Finance Bills (the Spring Bill was withdrawn and its double taxation provisions carried over into the third Bill which became the No 2 Act) but can find no discussion of why section 56(2) was necessary. However I attach a Solicitor's opinion (30.4.58, T1310/4/58; Annex B) which is concerned with the problem and includes a relevant quotation from Halsbury's Laws of England. I have underlined the sections which relate most closely to the question of double taxation agreements. The nub of the constitutional argument appears to be that:

where taxation is imposed (in a treaty)... it is apprehended that the previous or subsequent consent of Parliament is in all cases required to render the treaty binding upon the subject or enforceable by officers of the Crown.

5. If a double taxation agreement may impose a tax charge then it follows from the Halsbury quotation that such agreements require Parliamentary approval. When the 1945 DT legislation was drafted it was anticipated that the tax treaty with the United States (which had just been negotiated but had still to enter into force) would in some circumstances impose a tax charge.



These circumstances are explained in Annex C which is a copy of the note on the Budget Resolution made necessary because of the possibility of double taxation agreements increasing the tax charge. The power to charge tax was emphasised in subsection (5) of section 51 which is now section 497(5) Income & Corporation Taxes Act 1970.

6. Annex D is a copy of Mr Collins' note of 10 June 1975 (T2103/3/75) in which the question of whether double taxation agreements can impose a tax charge is discussed more fully.

*ny*  
N J MARSH  
12 January 1976



UK-REPUBLIC OF IRELAND

EFFECTIVE RATES OF TAX TAKES

OUTWARD INCOME UK TO IRELAND

TAX RATES:	UK CT	52%	TAX CREDITS:	
	RoI CPT	23%	UK	35
	UK IT	35%		65
	RoI IT	35%	RoI	7
	RoI CT	50%		13

CURRENT IRISH TAX SYSTEM				PROPOSED IRISH CORPORATION TAX SYSTEM			
NO AGREEMENT NO UNILATERAL RELIEF	NO AGREEMENT UNILATERAL RELIEF	CURRENT AGREEMENT AS AMENDED 1973/1975	OECD TYPE AGREEMENT	NO AGREEMENT NO UNILATERAL RELIEF	NO AGREEMENT UNILATERAL RELIEF	CURRENT AGREEMENT AS AMENDED 1973/1975	OECD TYPE AGREEMENT
<b>PORTFOLIO DIVIDENDS - INDIVIDUALS</b>							
Tax credit via S.27, not repayable.	Tax credit via S.27, not repayable. No Unilateral relief due.	Tax credit under agreement, repayable.	Tax credit under agreement, 15% withholding tax.	← as for present system →			
Underlying profit 100 UK CT 52 Net remitted 48 RoI IT on net 16.8	Tax takes as for no agreement - no Unilateral relief, aside	Underlying profit 100 UK CT 52 TC, repaid 25.85 Net remitted 73.85  Net UK tax: 100-73.85 26.15 RoI IT on 73.85 25.85	Underlying profit 100 UK CT 52 TC 25.85 w/h tax 11.08 Net remitted 62.77  Net UK tax: 100-62.77 37.23 RoI IT on 73.85 25.85 TCR for w/h tax 11.08 Net RoI tax 14.77 UK ER 37.22%				
UK ER 52%	UK ER 52%	UK ER 26.15%	UK ER 37.22%	UK ER 52%	UK ER 52%	UK ER 26.15%	UK ER 37.22%
RoI ER 16.8%	RoI ER 16.8%	RoI ER 25.85%	RoI ER 14.77%	RoI ER 16.8%	RoI ER 16.8%	RoI ER 25.85%	RoI ER 14.77%
Total tax burden 68.8%	Total tax burden 68.8%	Total tax burden 52%	Total tax burden 52%	Total tax burden 68.8%	Total tax burden 68.8%	Total tax burden 52%	Total tax burden 52%
<b>PORTFOLIO DIVIDENDS - COMPANIES</b>							
No tax credit.	No tax credit. No Unilateral relief due.	Tax credit under agreement, repayable.	Tax credit under agreement, 15% withholding tax.	No tax credit.	No tax credit. No Unilateral relief due.	Tax credit under agreement, repayable.	Tax credit under agreement, 15% withholding tax.
Underlying profit 100 UK CT 52 RoI CPT on 48 11.04 RoI IT on 36.96 12.94  Total RoI taxes: 11.04 + 12.94 23.98	Tax takes as for no agreement - no Unilateral relief, aside.	Net remitted and UK tax as for individuals above.  Net remitted 73.85 RoI CPT 16.99 RoI IT on 56.86 19.9  Total RoI tax: 16.99 + 19.9 36.89	Net remitted and UK tax as for individuals above.  RoI taxes on 73.85 RoI CPT 16.99 RoI IT on 56.86 19.9  Total RoI tax: 16.99 + 19.9 36.89 TCR for w/h tax 11.08 Net RoI tax 25.81	Underlying profit 100 UK CT 52 RoI CT on 48 24	Tax takes as for no agreement - no Unilateral relief, aside.	TC, repaid 25.85 Net remitted 73.85 Net UK tax: 100-73.85 26.15 RoI CT on 73.85 25.85	TC 25.85 w/h tax 11.08 Net remitted 62.77 Net UK tax: 100-62.77 37.23 RoI CT on 73.85 25.85 TCR for w/h tax 11.08 Net RoI tax 14.77
UK ER 52%	UK ER 52%	UK ER 26.15%	UK ER 37.22%	UK ER 52%	UK ER 52%	UK ER 26.15%	UK ER 37.22%
RoI ER 23.98%	RoI ER 23.98%	RoI ER 36.89%	RoI ER 25.81%	RoI ER 24%	RoI ER 24%	RoI ER 36.89%	RoI ER 25.81%
Total tax burden 75.98%	Total tax burden 75.98%	Total tax burden 63.04%	Total tax burden 63.04%	Total tax burden 76%	Total tax burden 76%	Total tax burden 63.04%	Total tax burden 63.04%

ER = Effective Rate  
TC = Tax Credit  
TCR = Tax Credit Relief



PRESENT IRISH TAX SYSTEM

		ESTIMATED TAXABLE INCOME £m	PRESENT IRISH TAX SYSTEM																				
			No Agreement, No unilateral relief				No Agreement, Unilateral Relief				Current agreement with 1973 Amdt				Conventional OECD Pattern				OECD Pattern with US Dividend Proposal				
			UK		RoI		UK		RoI		UK		RoI		UK		RoI		UK		RoI		
			E.R.	TAKE	E.R.	TAKE	E.R.	TAKE	E.R.	TAKE	E.R.	TAKE	E.R.	TAKE	E.R.	TAKE	E.R.	TAKE	E.R.	TAKE	E.R.	TAKE	
<u>OUTWARD INCOME UK TO RoI</u>				%	£m	%	£m	%	£m	%	£m	%	£m	%	£m	%	£m	%	£m	%	£m	%	£m
Portfolio dividends - individuals	44.8	52	23.3	16.8	7.53	52	23.3	16.8	7.53	26.15	11.71	25.85	11.58	37.23	16.68	14.77	6.62	37.23	16.68	14.77	6.62		
companies	0.39	52	0.2	23.98	0.09	52	0.2	23.98	0.09	26.15	0.1	36.89	0.14	37.23	0.14	25.81	0.1	37.23	0.15	25.81	0.1		
charities & supn. funds	19.2	52	9.98	-	-	52	9.98	-	-	26.15	5.02	-	-	37.23	7.15	-	-	37.23	7.15	-	-		
Trade dividends	0.25	52	0.13	23.98	0.06	52	0.13	-	-	52	0.13	-	-	52	0.13	-	-	42.13	0.1	7.82	0.02		
Branch profits	2.19	52	1.14	23.98	0.52	52	1.14	-	-	52	1.14	-	-	52	1.14	-	-	52	1.14	-	-		
Trade interest	0.1	35	0.03	32.47	0.03	35	0.03	14.95	0.01	-	-	49.95	0.05	10	0.01	39.95	0.04	10	0.01	39.95	0.04		
Portfolio interest	3.45	35	1.21	22.75	0.78	35	1.21	-	-	-	-	35	1.21	10	0.34	25	0.86	10	0.34	25	0.86		
Royalties	0.08	35	0.03	22.75	0.02	35	0.03	-	-	-	-	35	0.03	-	-	35	0.03	-	-	35	0.03		
Pensions - private	0.58	35	0.2	22.75	0.13	35	0.2	-	-	-	-	35	0.2	-	-	35	0.2	-	-	35	0.2		
governmental	1.98	35	0.69	22.75	0.45	35	0.69	-	-	-	-	35	0.69	35	0.69	-	-	35	0.69	-	-		
Migrant workers	28.36	35	9.93	22.75	6.45	35	9.93	-	-	-	-	35	9.93	35	9.93	-	-	35	9.93	-	-		
TOTAL OUTWARD	101.38		46.84		16.06		46.84		7.63		18.1		23.83		36.21		7.85		36.19		7.87		
<u>INWARD INCOME RoI TO UK</u>																							
Portfolio dividends - individuals	9.66	17.52	1.69	49.95	4.82	17.52	1.69	49.95	4.82	26.95	2.6	23	2.22	15.4	1.49	34.55	3.34	15.4	1.49	34.55	3.34		
companies	0.1	26.03	0.03	49.95	0.05	26.03	0.03	49.95	0.05	40.04	0.04	-	-	28.49	0.03	34.55	0.03	28.49	0.03	34.55	0.03		
charities & supn. funds	4.14	-	-	49.95	2.07	-	-	49.95	2.07	-	-	-	-	-	-	34.55	1.43	-	-	-	1.43		
Trade dividends	22.78	26.03	5.93	49.95	11.38	2.05	0.47	49.95	11.38	25.15	5.73	26.85	6.12	2.05	0.47	49.95	11.38	25.15	5.73	26.85	6.12		
Branch profits	11.39	26.03	2.96	49.95	5.69	2.05	0.23	49.95	5.69	29	3.3	23	2.62	2.05	0.23	49.95	5.69	2.05	0.23	49.95	5.69		
Trade interest	1.54	33.8	0.52	35	0.54	17	0.26	35	0.54	52	0.8	-	-	42	0.65	10	0.15	42	0.65	10	0.15		
Portfolio interest	1.44	22.75	0.33	35	0.5	-	-	35	0.5	35	0.5	-	-	25	0.36	10	0.14	25	0.36	10	0.14		
Royalties	1.72	22.75	0.39	35	0.6	-	-	35	0.6	35	0.6	-	-	35	0.6	-	-	35	0.6	-	-		
Pensions - private	.....	22.75	.....	35	.....	-	-	35	.....	35	.....	-	-	35	.....	35	.....	-	-	35	.....		
governmental	.....	22.75	.....	35	.....	-	-	35	.....	35	.....	-	-	35	.....	35	.....	-	-	35	.....		
Migrant workers	.....	22.75	.....	35	.....	-	-	35	.....	35	.....	-	-	35	.....	35	.....	-	-	35	.....		
TOTAL INWARD	52.77		11.85		25.65		2.68		25.65		13.57		11.93		3.83		22.16		9.09		16.9		
TOTAL OUTWARD	101.38		46.84		16.06		46.84		7.63		18.1		23.83		36.21		7.85		36.19		7.87		
GRAND TOTAL	154.15		58.69		41.71		49.52		33.28		31.67		35.76		40.04		30.01		45.28		24.77		

DECEMBER 1975

D-2580-6-10/75



CONFIDENTIAL

PS 5577/75

Mr Collins

REPUBLIC OF IRELAND  
COMPARATIVE COSTS

I attach the latest revision of the calculations of estimated income flows and tax takes. They comprise:

- A. Summary of tax takes
- B. Detailed table of tax takes
- C. Detailed estimates of income flows used in B.
- D. Calculations of effective rates used in B.

H B THOMPSON

8 December 1975



CONFIDENTIAL

ANNEX A

PS 5577/75

UK-REPUBLIC OF IRELAND  
COMPARATIVE TAX TAKES - SUMMARY

	<u>£ million</u>		
	<u>UK TYPE</u>	<u>ROI TAKE</u>	<u>COMBINED TAKE</u>
<u>PRESENT IRISH TAX SYSTEM</u>			
No agreement, no unilateral relief	58.69	41.71	100.4
No agreement, unilateral relief	49.52	33.28	82.8
Current agreement with			
1973 amendment	31.67	35.76	67.43
Coventional OECD agreement	40.04	30.01	70.05
OECD pattern with US			
dividend proposal ( $\frac{1}{2}$ credit			
on trade dividends)	45.28	24.77	70.05
<u>PROPOSED IRISH CORPORATION TAX SYSTEM</u>			
No agreement, no unilateral relief	58.68	41.74	100.42
No agreement, unilateral relief	49.51	33.3	82.81
Current agreement with			
1973 amendment	23.33	44.11	67.44
Conventional OECD agreement	40.03	30.02	70.05
OECD pattern with US dividend			
proposal	42.35	27.7	70.05
<u>UK TAKE AS PERCENTAGE OF TOTAL TAKE</u>			
	<u>Present Irish system</u>	<u>Irish CT system</u>	
No agreement, no unilateral relief	58.46%	58.43%	
No agreement, unilateral relief	59.86%	59.78%	
Current agreement with 1973			
amendment	46.97%	34.59%	
Coventional OECD agreement	57.16%	57.15%	
OECD pattern with US			
dividend proposal	64.64%	60.46%	

(UK source income is 65.77% of total of outward and inward flows)



CONFIDENTIAL



THE BOARD ROOM  
INLAND REVENUE  
SOMERSET HOUSE

A J Wiggins Esq  
H M Treasury  
Great George Street  
LONDON SW1

2 October 1974

Dear John,

When we spoke last week about double taxation and related topics I explained some of the problems of costing and said that we hoped to have figures based on an up-to-date appraisal by the end of the month. Meanwhile you may like to have some indications of the likely orders of magnitude; they are not sufficiently firm for circulation or quotation and should be regarded as for your personal information.

Subject to these reservations, the total amount of double taxation relief (credit) allowed in 1970/71 apart from oil companies was £m600, of which, say, £m400 was agreement relief and £m200 unilateral relief. In addition the oil companies under the law as it stands account for over £m1,000. These figures involve tax only, and not the balance of payments; and since foreign tax which does not qualify for credit ranks as a deduction in computing taxable income, the abolition of credit would save only half these amounts.

On inward investment I cannot at present give you the costs of relieving various types of income going abroad. An indication of the scale of cost on dividends is the £m30 which represents the gain from the imputation system compared with the split rate and £m20 compared with the classical system. This is a balance of payments gain.

On the outward investment side, the cost of allowing double taxation relief against advance corporation tax is estimated at £m100 (not a balance of payments cost). It would be realistic to assume that any concession to inward investment would lead a modification of the imputation system in favour of our companies trading overseas.

I am writing similarly to Cecil Hodges.

Yours sincerely  
Anne Smallwood

Sent  
Comm  
44.

Ms A H Smallwood

(30 mtd. - not 7  
mtd. - tax credit  
under 07/74 to no.



REVENUE AND BALANCE OF PAYMENTS EFFECTS OF ABOLISHING  
CREDIT FOR FOREIGN TAX: NOTE BY INLAND REVENUE

1. The attached schedule gives our estimates of (a) the increased UK tax yield and (b) the effect on the UK balance of payments, of abolishing the present system of giving credit for foreign tax and allowing foreign tax as a deduction from income. Our figures are by country and also by broad industry group: they cover interest, branch profits and portfolio and direct dividends, other than those related to oil earnings.
2. The figures should be treated with considerable caution. They are based on 1971 incomes, and the latest year for which we have any useable tax information (tax on 1971 incomes was paid in the year ended October 1973) before the present imputation system of corporation tax was introduced; we do not yet have comparable figures for the tax paid in the year ended October 1974. The figures are based on returns relating to relief for foreign tax, adjusted for under-reporting in the light of the published Balance of Payments figures.
3. On the basis of these figures the total Revenue gain from the withdrawal of credit for overseas tax both under double taxation agreements and under our unilateral relief provisions would be about £125 million, excluding oil company taxes. Of this about £20 million would be the gain from withdrawing unilateral relief only.
4. Comparable figures for oil companies are even more difficult to estimate, but the gain for 1974/75 is likely to be of the order of £m100-£m150.
5. It is not possible to give a separate estimate of the gain from the abolition of credit for underlying tax only but it would seem reasonable to assume that it would represent a large part of the £40 million relating to manufacturing



companies operating mainly at home. (It will be recalled that in DT 8 and DT 9 we considered the possibility of abolishing credit for underlying tax only.) The gain from withdrawing credit for underlying tax under our unilateral relief provisions only would be correspondingly smaller - possibly about £10 million.

6. The estimate of £65 million for the effect on the Balance of Payments is based on the assumption that there would only be an increase in remittances to the UK where a UK company receives trade dividends (and so may have some control over the amount of the dividends) and would wish to receive the same post-tax income from these dividends as before any change. The oil company relief does not affect the balance of payments.



A. REVENUE AND BALANCE OF PAYMENTS EFFECTS BY COUNTRY (EXCLUDING OIL)

<u>Country of origin of income</u>	<u>Effect on revenue £m</u>	<u>Effect on balance of payments £m</u>
<u>Countries with DT agreements</u>		
USA	22	11
Canada	6	4
British West Indies	3	3
Australia	12	8
New Zealand	3	2
Malaysia	8	2
Japan	1	-
South Africa	22	12
Kenya	3	1
Ghana	2	-
Nigeria	2	1
Rhodesia	1	-
West Germany	10	7
France	3	3
Netherlands	2	2
Belgium	3	1
Switzerland	2	1
Republic of Ireland	1	-
<u>Countries with no agreement</u>		
Mexico	2	1
India	5	2
Hong Kong	1	-
Rhodesia	1	-
Brazil	5	3
Argentina	2	1
Turkey	1	-
<u>Unallocated</u>	2	-
GRAND TOTAL	125	65

B. REVENUE EFFECT BY INDUSTRY (EXCLUDING OIL)

	£m
<u>Companies operating mainly at home</u>	
Manufacturing	40
Finance	30
Other	35
<u>Companies operating mainly abroad</u>	
Finance	5
Other	15
TOTAL	125



Mr Collins

## DOUBLE TAXATION AGREEMENTS

1. In your discussion with the Financial Secretary on 3 December (about the United Kingdom double taxation agreements with the Faroe Islands and Hungary) you agreed to investigate the possibilities of a review of recent double taxation agreements to see whether any imbalances of swings and roundabouts were revealed. You also told the Financial Secretary that we would think about the procedure for giving double taxation agreements the force of law.

### Swings and Roundabouts

2. Three ways of monitoring some of the swings and roundabouts of double taxation agreements occur to me - through inspectors of taxes, from the Inspector of Foreign Dividends and by looking at the flows between countries compiled by the Department of Trade:

i. through inspectors of taxes

Inspectors report details of assessments which are processed by Statistics Division. Mr Meadows has summarised some details in his minute of 12 January (Annex A). A snag of using this information for this purpose seems to be that the amounts are not broken down by country (although I suppose that it would be possible if time-consuming to conduct some sample checks). As you will see, Statistics Division have not yet processed any reports of assessments made under the imputation system.

ii. from the Inspector of Foreign Dividends (also CI(Claims) and CI(PD) Foreign Section)

IFD circulate half-yearly reports of gross dividends paid by United Kingdom companies to qualifying non-residents relieved at source or by repayment. The latest reports we have are for the half-year ended 5 October 1975 (Annex B). These figures are by country and are thus perhaps more informative. Of course both these sets of figures [(i) and (ii)] are one-sided and do not therefore provide any comparison with flows the other way round.

iii. income flows between countries

The Department of Trade send us flows on application. They are broken down into dividends, unremitted net profits of subsidiaries, interest, net profits of branches and royalties and cover both inward and outward investment. (They are based on the voluntary returns of firms). Examples for the United States are attached (Annex C). Similar figures are also published in the Business Monitor by the Department of Trade. One disadvantage of using this information is that it does not show what relief has actually been given but it is possible to compute what could be due by working out the tax takes of the two countries (cf Annex D).

3. It seems to me that the third of these methods of assessing relief may be the most suitable for this purpose, and I have looked



at the flows for seven of our major treaty partners from 1970 to 1973 (Annex E).

4. I also attach copies of minutes to Ministers at the time of the United States negotiations showing how we kept Ministers informed of the cost of the various alternatives (Annex F), and other assorted papers on costs (Annex G).

5. My conclusion is that the problems of quantifying swings and roundabouts are so great that we ought to try to discourage Ministers as much as possible for the reasons I give in my draft reply.

#### Statutory Instruments

6. Mr Marsh reported separately on this below. The burden of his findings is that agreements need the approval of Parliament because they may impose tax.

7. I attach a draft reply to the Financial Secretary.

P.W.F.

P W FAWCETT  
5 February 1976

PS I meant to say when I gave you this that I had intended to check Mr Marshall's figures in Annex E more fully as when I looked at a couple of points in his note on Statutory Instruments but couldn't manage to do this in today's rush. Perhaps I could do this when I get back from Morocco.

Mr

6/2



PS/FINANCIAL SECRETARY

DOUBLE TAXATION AGREEMENTS

1. The Financial Secretary will recall that at the time when the Statutory Instruments relating to the double taxation agreements with the Faroe Islands and Hungary were being considered in the House in December we agreed to investigate the possibilities of a review of recent double taxation agreements to see whether any imbalances of swings and roundabouts were revealed.

2. We are now making a report on this further to our minute of 16 December.

3. The Financial Secretary will of course know that a committee of Treasury and Inland Revenue representatives has been reviewing the whole question of double taxation relief on the instructions of the Paymaster General.

The relief of double taxation

4. The United Kingdom seeks in two ways to prevent, or substantially reduce, the double taxation which occurs when the same income is taxed in the hands of the same taxpayer in two countries. First, it has made between 60 and 70 double taxation agreements under which each country agrees to give up or reduce its tax in certain specified kinds of case by exemption, reduction of rate or giving credit for overseas tax on income which is not exempted and so doubly taxed. Secondly, where relief is not due under an agreement, relief for overseas tax is given unilaterally.

5. Our double taxation agreements usually comprise some 25 ~~odd~~ articles covering dividends, interest, royalties and branch profits (where the cost of relief can be significant), a number of other subjects such as pensions and teachers where it would sometimes be possible but not easy to quantify the cost of relief and finally matters where the cost is completely unquantifiable but the intangible benefits can be considerable (such as providing that our Industry is not discriminated against when it trades abroad).

*The salaries of*



Dividends Articles

6. The Dividends Article is generally by far the most important article in our agreements in terms of cost, at any rate as far as our major agreements are concerned, and it may be useful for the purposes of this minute to describe it briefly.

7. We normally aim to get the overseas country's withholding tax on dividends reduced to 15 per cent in the case of portfolio dividends and 5 per cent in the case of trade dividends. In this we follow the OECD model convention. Under the classical system introduced in the United Kingdom in 1965, the Dividends Article was normally drafted on an entirely reciprocal basis. Since the introduction of the imputation system, however, our Dividends Articles have inevitably lost some of their symmetry. Under the imputation system there is, in form at least, no withholding tax on dividends and thus nothing on which the normal type of Dividends Article can bite. What we have done therefore is to offer the tax credit (in general available under domestic law only to United Kingdom residents) to portfolio shareholders resident in the other country subject to United Kingdom tax at a minimum of 15 per cent on the aggregate of the dividend and the tax credit. We have until just recently refused to offer the tax credit to trade investors. In return for the offer of the tax credit to portfolio shareholders our aim has in general been to get the other country (unless it is a developing country) to reduce its withholding tax on dividends to direct shareholders to 5 per cent.

Other Articles

8. The other main subjects of our agreements are the following. Companies operating through branches in the other country (which is the normal pattern for banking and insurance companies) are protected by a 'permanent establishment' article (which prescribes rules for taxing branch profits). Under our shipping article the sole taxing right is normally with the country of residence. Professors and teachers visiting the other country benefit from exemption of earnings for



teaching during a visit not exceeding two years. Pensioners and temporary visitors are generally exempt from tax in the other country. Interest and royalties are normally taxable only in the country of residence. Individuals and companies trading or investing in the other country have the benefit of a non-discrimination article.

#### Reciprocity

9. A general point we would make is that a double taxation agreement is very much a bargain struck between two countries and it is often expedient to trade one point for another. There is clearly scope for this because the two sides are often trying to find common ground between two different tax systems. Reciprocity must therefore be assessed in terms of the whole agreement and not just one or a few articles. The difficulty of weighing up the balance of agreements is that the cost of some articles is more quantifiable than others and that some articles are completely unquantifiable in terms of cost.

#### Monitoring of agreements

10. The Financial Secretary asked what checks were made on the way the balance of our agreements was maintained and we said that while we did not make a regular review of our agreements we would normally be aware of any changes in balance in the course of their operation - if, for example, we received a claim for a large amount of relief under a provision in an article which we had not estimated to be expensive.

11. We have regular sources of information which can be of assistance in assessing the cost of double taxation relief. These are returns by inspectors of taxes of relief given and details of income flows from the Department of Trade (ie dividends, interest, royalties and branch profits) in respect of most but not all of our treaty countries. The former of course only reflect the traffic one way and do not therefore provide any comparison with flows the other way round. The latter on the other hand do not show what relief has actually been given but it is possible to compute from them what are likely to have been the tax takes of the two countries.



12. We understand that the Financial Secretary was particularly interested in the effect of the changes in the corporation tax system introduced in 1973. The latest year for which we have figures is in fact 1973 and it is not therefore yet possible to compare the cost of relief before and after the change. It is hoped that figures for 1974 will be available within the next few months.

13. We have however tried to estimate in global terms the cost of double taxation relief on the latest information available. We estimate the total Revenue cost of giving credit for foreign tax both under our double taxation agreements and under our unilateral relief provisions, rather than allowing foreign tax as a deduction from income (in accordance with section 516, Income and Corporation Taxes Act 1970) is about £165 million for non-oil company taxes and £100 - 150 million for oil company taxes. y.

14. We have also been examining the income flows provided by the Department of Trade for several of our major treaty partners - Australia, Canada, France, Western Germany, Japan, South Africa and the United States for the last few years for which figures are available (1970 to 1973). It is clear from these that the proportion of the amounts have not (with a few exceptions) altered very significantly so that with the fairly static and comparable tax rates which were in force during the period we would not have expected that the balance of the agreements changed appreciably. 36

15. It would be possible in some cases to obtain figures from other sources in respect of some of the other articles in our agreements. For example, we may sometimes be able to get details of temporary workers, teachers, or pensions paid abroad, and indeed have done so in some cases in the past, but such figures are often incomplete and do not in any event reflect revenue flows of any very significant size. As we have mentioned above, there is a third category of articles such as the non-discrimination article whose benefits are so intangible (but nevertheless considerable) as to be incapable of



any quantification in terms of cost. We would mention in passing that Industry often considers this latter article to be among the most important in our agreements.

The value and desirability of monitoring agreements

16. It would then be possible to carry out more extensive monitoring of our agreements and to maintain such monitoring as a regular feature of our work. However we think that such regular monitoring would be expensive in time and, as we have indicated above, somewhat limited in value. Further, we consider that there might be positive disadvantages in publishing such information. First, because the swings and roundabouts as a whole would be difficult to quantify properly, misleading conclusions might quickly be drawn from them. What might be a reasonably balanced agreement as a whole might appear otherwise if the disadvantages were more easily quantifiable than the advantages. Secondly, publication might make the task of future negotiations more difficult than they would otherwise be. If we struck what we thought was a good bargain for us on a published article and this was published, the partner country might be expected to press very hard to have the advantage reversed or at any rate lessened in future negotiations. If, on the other hand, we had to be content with a not so good bargain and this was also publicised, future partner countries might be somewhat reluctant to agree to better terms in their negotiations. We would not underestimate the assiduity of our treaty partners in ferreting out such information and using it against us in negotiations and would mention in this context that we have from time to time had words quoted at us in treaty negotiations from the Report of the Select Committee on Corporation Tax which gave as one of the advantages of the imputation system the good bargaining position that system would afford the United Kingdom in double taxation agreement negotiations.

General conclusions

17. Assessments of costs are clearly important in negotiating agreements and do analyse recent trends and report them

Cont/.....



to Ministers during the more important treaty negotiations. Such information can be very useful in the case of the interest and royalties articles where we have sometimes agreed in the case of developing countries to modify our approach of insisting on the country of residence having the sole right to taxation, to take account of an imbalance of traffic between the two countries. There are however constraints on our negotiating stance. We have some moral obligation to abide by the provisions of the OECD model double taxation convention which we have helped to formulate over the years and it is in any event unrealistic to expect partner countries to agree to a substantial modification of the pattern of tax takes which have previously been obtaining. In short, we have in negotiations to make the best deal we can under the circumstances.

18. As far as monitoring the balance of agreements after they have been made is concerned, it would certainly be possible to provide Ministers with some figures on a regular basis (although it would require extra staff to do this work, depending on the size of the monitoring) but we would suggest that in view of the difficulties of assessing the swings and roundabouts of agreements as a whole and the other disadvantages mentioned above it might be misleading and unwise to publish this information. The alternative is to continue to report to Ministers on the costs of the various alternatives when we are negotiating agreements or when any significant changes in the balance of existing agreements become apparent.

### Statutory Instruments

19. The Financial Secretary also discussed with Mr Collins on 3 December the procedure for presenting Statutory Instruments to Parliament.

20. We have been considering this matter further and are advised that the reason for separate presentation to Parliament of each agreement is that where taxation is imposed in a treaty the consent of Parliament is required to make the treaty binding upon the subject or enforceable by officers of the Crown. Although the object of double



- 7 -

taxation agreements is most obviously to reduce the tax burden, it is possible that they will in some circumstances have the effect of increasing the United Kingdom tax charge. The power to charge tax is emphasised in section 497 (5), Income and Corporation Taxes Act 1970.

PRIVATE SECRETARY  
INLAND REVENUE

18963-69

166

1556



REPORT OF GROSS DIVIDENDS PAID BY UNITED KINGDOM COMPANIES TO  
QUALIFYING NON-RESIDENTS RELIEVED AT SOURCE OR BY REPAYMENT

8564/75

HALF YEAR ENDED 5 OCTOBER 1975

This report sets out information about United Kingdom company dividends relieved at source or by repayment by IFD under the terms of Double Taxation Agreements (other than that with the Republic of Ireland). Dividends relieved by CI(Claims) and CI(PD) Foreign Section are not included in the figures below; these particulars are supplied direct to the Statistics Division. The figures below relate solely to dividends. In addition, substantial amounts of interest, royalties etc are similarly relieved. The tables do not distinguish between income fully relieved and that only relieved down to a specified rate of tax.

Table I indicates the total amount of dividends relieved by repayment and at source (with comparable figures for earlier periods) and analyses the relief as between direct and portfolio investment. Table II further analyses portfolio relief according to the method of giving the relief, whilst Table III summarises, country by country, the numbers of repayment claims received in IFD.

OVERALL POSITION

In the half-year ended 5 October 1975 the gross dividends relieved amounted to £m7.3. The corresponding figures for previous half-years are given in Column 1 of Table I below. Due to the continued slow progress of re-negotiation of the dividend articles in Double Taxation Agreements so as to confer a title to the tax credit applicable to dividends paid by United Kingdom companies after 5 April 1973, this figure remains below what might be regarded as the norm under the imputation system. However, the small increase recorded in the report for the previous half-year in the amount of relief given by repayment on portfolio dividends following the introduction of the simplified procedure whereby British subjects are able to obtain payment of tax credit (less income tax as appropriate) on such dividends under the terms of the existing agreements, has been maintained. Fluctuations in the figures for particular countries sometimes arise through variations in timing of claims within this category - thus residents of Malta were quick to take advantage of the procedure in the half-year to 5 April 1975 and the figure for the current half-year has fallen off somewhat. The very recent extension of this procedure to residents of Rhodesia is expected to be reflected in the next report. The much larger figures of dividends relieved in periods to 5 October 1973 related in the main to direct investment, which does not qualify for relief after 5 April 1973. The continued fall in the figures shown in Appendix A shows that almost all claims relating to direct investment have now been processed. Accordingly, the great majority of the dividends shown in the present report relate to portfolio investment.

The 'P' arrangement figure arises from three cases in which retrospective relief at source was given in respect of dividends due before 6 April 1973. The revised 'G' arrangement for giving credit at source has now been extended to Malta and the Falkland Islands but the 'Q' arrangement is still limited to Malaysia. Discussions are still continuing regarding the proposed credit at source scheme for dividends on shares belonging to French residents registered in the name of SICOVAM.

Most of the repayment claims by French residents now being received in respect of United Kingdom dividends are renewal claims; about 30% of the dividends shown relate to years before 1973/74. The rate of receipt of claims is largely dependent on the French banks and is liable to fluctuate considerably. Whereas a particularly high figure was shown in the previous half-year's report, the number received in the current half-year is similar to that for the half-year ended 5 October 1974.



With the compliments of the  
Inspector of Foreign Dividends

B

INLAND REVENUE  
LYNWOOD ROAD  
THAMES DITTON  
SURREY  
KT7 ODP

Telephone: 01-398 4242

717  
FD

I

# DIRECT AND PORTFOLIO INVESTMENT

(All figures relate to gross dividends)

	TOTAL DIVIDENDS RELIEVED BY REPAYMENT AND AT SOURCE	DIRECT INVESTMENT  GROSS DIVIDENDS RELIEVED UNDER "P" ARRANGEMENT AT SOURCE AND BY REPAYMENT	PORTFOLIO INVESTMENT	
			RELIEVED AT SOURCE (ALL ARRANGEMENTS OTHER THAN THE "P" ARRANGEMENT)	REPAYMENT
	1	2	3	4
Claims processed in 1/2-year ended:	£m	£m	£m	£m
5.4.73	209.7	180.8	7.5	21.4
5.10.73	200.7	178.4	0.7	21.6
5.4.74	13.6	3.8	-	9.8
5.10.74	6.6	0.6	0.03	6.0
5.4.75	7.2	0.03	0.06	7.2
5.10.75	7.3	0.01	0.13	7.3

Appendices A, B and C show the analysis of columns 2, 3 and 4 respectively, by countries.

Table II shows the analysis of columns 3 and 4 according to the various methods of giving relief.



TABLE II

## PORTFOLIO INVESTMENT ANALYSED

The breakdown of columns 3 and 4 of Table I is as follows:-

ANALYSIS OF DIVIDENDS RELIEVED AT SOURCE AND BY REPAYMENT, OTHER THAN 10% HOLDING CASES

REPAYMENTS

RELIEF AT SOURCE

HALF YEAR ENDED	APPROVED NOMINEE (G ARRANGEMENT	AMERICAN DEPOSITARY (H ARRANGEMENT)	GERMAN DEPOSITARY RECEIPTS* (GDR ARRANGEMENT)	FOREIGN SHARE- HOLDERS ON OVER- SEAS REGISTERS OF UK COMPANIES (Q ARRANGE- MENT)	TOTAL RELIEF AT SOURCE ON PORTFOLIO INVESTMENTS
1	2	3	4	5	6
£m	£m	£m	£m	£m	£m
5.4.73	21.4	4.1	0.01	0.5	7.5
5.10.73	21.6	0.2	-	0.3	0.7
5.4.74	9.8	-	-	-	-
5.10.74	6.0	-	-	0.03	0.0
5.4.75	7.2	0.01	-	0.05	0.0
5.10.75	7.3	0.004	-	0.13	0.1

\*"Shell" Transport and Trading holdings only.

At Appendices B and C is a per country analysis of this information.



# DIVIDEND CLAIMS RECEIVED

DIVIDEND CLAIMS RECEIVED

Table III below sets out the number of repayment claims received in IFD during 1/2 year ended 5 October 1975. Reports up to 5.4.73 also set out the number of claims for relief at source under the "P" Arrangement and indicated the countries where relief was given to a substantial extent by means of other arrangements ("G", "Q", "GDR" and "H" Arrangements). These arrangements terminated with effect from 6.4.73 but for those countries indicated by the notes at the foot of this table revised "G" and "Q" Arrangements for giving credit at source have now been introduced.

The table will show up at an early stage any rush of claims by residents of a particular country but French and Australian claims are received periodically in bulk, which may inflate the figure shown for a particular report.

TABLE III  
DIVIDEND CLAIMS RECEIVED.

DIVIDEND CLAIMS RECEIVED			8
Antigua	1	Montserrat	84
Australia	1,818	Netherlands	5
Austria	17	Netherlands Antilles	1,536
*Barbados	36	New Zealand	5
Belgium	12	Nigeria	24
*Belize	-	Norway	-
Botswana	1	Pakistan	76
*Brit Solomon Is	6	Portugal	115
Brunei	-	Rhodesia	2
Canada	841	St Christopher & Nevis	4
*Cyprus	40	St Lucia	2
*Denmark	73	St Vincent	7
Dominica	5	*Seychelles	-
*Falkland Is	8	Sierra Leone	85
Fiji	3	Singapore	145
*Finland	1	South Africa	-
*France	16,128	South West Africa	11
Gambia	1	Swaziland	38
Germany	74	*Sweden	379
Ghana	1	Switzerland	6
*Gilbert & Ellice Is	-	Trinidad & Tobago	513
Grenada	1	USA	-
Guyana	1	Virgin Islands	69
Israel	18	Zambia	
Italy	18		
*Jamaica	28		
Japan	5	Total	23,166
Lesotho	1		
Luxembourg	-		
Malawi	-		
*Malaysia	161	Total received in	
*Malta	752	previous half year	34,556
Mauritius	1		

\*relief also available under the "G" Arrangement.  
/ =    "       "       "       "       "       "Q"       "



## APPENDIX A

## PER COUNTRY ANALYSIS OF DIRECT INVESTMENT DIVIDENDS

GROSS DIVIDENDS PAID BY UK COMPANIES RELIEVED FROM UK INCOME TAX AT SOURCE AND BY REPAYMENT  
WHERE THE HOLDING BY THE OVERSEAS COMPANY AMOUNTS TO 10% OR MORE

COUNTRY	PERIOD ENDED					
	5.4.1973	5.10.1973*	5.4.1974*	5.10.1974*	5.4.1975*	5.10.1975*
	£	£	£	£	£	£
Australia	526,907	542,038	-	-	-	-
Austria	1,632	-	-	-	-	-
Belgium	53,840	240,831	-	-	-	-
Canada	1,077,600	6,357,730	80,000	20,998	17,395	-
Denmark	361,105	725,266	9,000	-	-	-
Fiji	-	-	-	-	6,278	-
Finland	-	127,929	-	537,917	-	-
France	1,360,153	2,313,717	128,770	24,000	-	-
Germany (Federal Republic of)	269,217	1,029,757	1,441	-	-	-
Israel	54,761	-	19,597	-	-	-
Italy	150,112	1,588,773	-	-	-	-
Japan	55,545	18,866	-	-	-	-
Luxembourg	4,500,000	2,561,700	-	-	-	-
Malaysia	-	-	-	-	-	6,89
Malta	10,013	-	743,782	-	-	-
Netherlands	3,534,507	24,347,345	-	-	-	-
Netherlands Antilles	-	80,000	-	-	-	-
New Zealand	184,399	219,399	-	-	-	-
Norway	790,000	4,283,500	-	-	-	-
Portugal	66,427	9,980	-	-	-	-
Singapore	131,564	17,049	-	-	-	-
South Africa	1,273,838	3,036,639	42,896	475	-	-
Swaziland	9,955	-	-	-	-	-
Sweden	3,920,984	2,857,829	190,000	-	-	-
Switzerland	9,818,748	14,347,311	239,171	2,728	11,291	3
Trinidad & Tobago	-	32,500	-	-	-	-
USA	152,665,082	111,179,994	2,355,673	8,800	-	-
Virgin Islands	-	2,450,000	-	-	-	-
Zambia	-	-	-	-	-	-
Totals	180,826,389	178,368,153	3,810,330	594,918	34,964	

NOTE: This table includes all 10% holding cases, irrespective of whether the normal preferential rate of relief was appropriate.

\* The figures shown for the half-years other than that ended 5 April 1973 represent dividends paid up to 5 April 1973 but for which the requisite reports or claims were received subsequently.



## APPENDIX B

PER COUNTRY ANALYSIS OF PORTFOLIO DIVIDENDS RELIEVED AT SOURCE  
 GROSS DIVIDENDS PAID BEFORE 6.4.73 BY UK COMPANIES TO QUALIFYING NON-RESIDENTS (OTHER THAN 10% HOLDING CASES) RELIEVED AT  
 SOURCE FROM UKIT AND DIVIDENDS PAID AFTER 5.4.73 BY UK COMPANIES TO NON-RESIDENTS ENTITLED TO RECEIVE TAX CREDIT AT SOURCE

COUNTRY	PERIOD ENDED					
	5.4.1973	5.10.1973*	5.4.1974	5.10.1974	5.4.1975	5.10.1975
	£	£	£	£	£	£
Antigua	11	-	-	-	-	-
Australia	222,426	11,046	-	-	-	-
Austria	-	-	-	-	-	-
Barbados	-	-	-	-	-	-
Belgium	19,544	22,815	-	-	-	-
Br Honduras (Belize)	38	8	-	-	-	-
Br Solomon Islands	48	51	-	-	-	641
Canada	284,399	39,706	-	11	914	294
Cyprus	3,227	1,060	-	69	256	-
Denmark	4	16	-	-	-	-
Dominica	405	129	-	-	-	-
Falkland Islands	1,337	299	-	-	-	1,650
Finland	-	-	-	168	9,684	-
France	2,350	677	-	-	-	-
Gambia	164	19	-	-	-	-
Germany	10,599	445	-	-	-	-
Ghana	61	35	-	-	-	-
Gilbert & Ellice Islands	-	-	-	-	-	-
Grenada	-	-	-	-	-	-
Guyana	-	-	-	-	-	-
Israel	7,703	1,932	-	-	14	82
Jamaica	4,337	407	-	-	48,338	129,792
Malaysia	-	-	74	30,993	-	48
Malta	50,143	15,630	-	-	-	-
Mauritius	4,637	2,436	-	-	-	-
Montserrat	1,852	130	-	-	-	-
Netherlands	15,601	4,705	-	-	-	-
New Zealand	70,374	9,078	-	-	-	-
Nigeria	199	21	-	-	-	-
Norway	1,018	295	-	-	-	-
St Christopher & Nevis	-	-	-	-	-	-
St Lucia	1,520	664	-	-	-	-
St Vincent	1,539	205	-	-	-	-
Seychelles	689	30	-	-	-	-
Sierra Leone	18	-	-	-	-	-
Singapore	146,791	17,692	-	-	-	-
South Africa	218,921	276,215	-	-	-	-
Swaziland	17	14	-	-	-	-
Sweden	65	71	-	-	136	159
USA	6,445,141	296,366	75*	-	-	-
Virgin Islands	-	-	-	-	-	-
Zambia	1,651	299	-	-	-	-
TOTALS	7,516,829	702,496	149	31,241	59,342	132,666

The various Arrangements listed below for giving relief at source were terminated with effect from 6.4.1973 but revised 'G' and 'Q' Arrangements were introduced in March 1974 to give tax credit at source.

'G' Arrangement where holdings are registered in the name of an approved nominee.

GDR' Arrangement for German residents only relating to German Depositary Receipts issued by Norddeutscher  
 Assenverein AG Hamburg in respect of ordinary shares of the 'Shell' Transport and Trading Co Ltd

'A' Arrangement for American residents only relating to American Depositary Receipts issued by US banks.

'F' Arrangement for foreign shareholders on overseas registers of UK companies.

\* Figures shown for the half year to 5.10.1973 and one item to 5.4.1974 represent dividends paid up to  
 1973 but for which the requisite declarations etc were received subsequently.



## APPENDIX C

PER COUNTRY ANALYSIS OF PORTFOLIO DIVIDENDS RELIEVED BY REPAYMENT  
GROSS DIVIDENDS PAID BY UK COMPANIES TO QUALIFYING NON-RESIDENTS RELIEVED FROM UKIT BY REPAYMENT

COUNTRY	PERIOD ENDED					
	5.4.1973	5.10.1973	5.4.1974	5.10.1974*	5.4.1975*	5.10.1975†
Antigua	£ 2,057	£ 601	£ 2,630	£ -	£ 66	£ 144
Australia	1,050,372	1,425,618	992,129	762,041	803,181	1,228,118
Austria	123,652	26,282	18,028	20,674	14,033	6,699
Barbados	13,122	27,064	24,870	14,199	24,792	31,444
Belgium	214,991	147,272	69,118	84,856	22,253	8,696
Botswana	199	315	255	118	482	43
Br Honduras (Belize)	7,313	952	1,673	1,646	-	-
Br Solomon Islands	206	952	1,527	1,089	77	402
Brunei	-	-	-	-	-	-
Burma	-	-	-	-	-	-
Canada	1,070,491	1,220,173	687,058	494,457	659,799	833,965
Cyprus	16,433	24,952	34,643	28,529	28,805	34,322
Denmark	45,958	168,149	252,718	209,125	261,185	104,820
Dominica	1,492	838	883	-	504	330
Falkland Islands	3,291	3,918	101	243	1,873	4,455
Faroe Islands	-	-	-	-	-	-
Fiji	-	442	52,459	-	727	-
Finland	121	4,152	62,188	7	2,127	-
France	8,369,042	2,587,879	2,608,511	1,596,306	1,549,081	1,788,856
Gambia	-	-	-	-	-	-
Germany (Fed Republic of)	338,207	231,680	136,555	37,499	68,131	41,007
Ghana	5	5	-	-	-	336
Gilbert & Ellice Islands	-	-	-	-	-	-
Grenada	797	431	-	-	1,996	633
Guyana	647	-	2,514	-	547	274
Israel	47,476	30,013	63,523	69,179	123,066	73,047
Italy	30,776	23,381	18,490	5,363	46,202	36,446
Jamaica	14,467	144,132	24,749	19,172	69,001	82,249
Japan	11,608	7,267	12,003	13,496	387	-
Lesotho	-	258	-	-	-	-
Luxembourg	3,378	1,775	113	-	6,578	896
Malaysia	307,564	66,011	37,221	126,844	79,168	37,506
Malta	643,269	640,472	300,389	142,100	1,043,702	702,324
Mauritius	273	854	19,213	328	1,282	-
Montserrat	984	216	428	2,296	1,235	1,808
Netherlands	1,054,080	933,306	417,827	513,778	173,341	127,178
Netherlands Antilles	1,012,100	53,455	76,580	4,746	1,102	861
New Zealand	543,442	668,785	509,205	266,567	713,885	764,797
Nigeria	413	2,829	5,448	5,249	1,381	1,815
Norway	65,976	64,539	134,100	51,458	26,971	9,899
Pakistan	-	-	-	-	-	-
Portugal	66,999	60,637	47,185	66,537	60,211	80,608
Rhodesia	281,910	342,689	366,651	155,917	155,997	49,499
St Christopher & Nevis	3,259	630	2,121	503	1,807	1,050
St Lucia	2,064	625	1,879	408	40	8,249
St Vincent	341	-	253	56	5,007	590
Seychelles	3,228	12,010	11,473	13,090	4,533	5,472
Sierra Leone	-	-	-	-	-	-
Singapore	84,702	105,891	564,749	86,717	83,998	40,562
South Africa	1,213,074	264,580	269,293	58,387	125,854	97,716
South West Africa	2,098	2,297	13	1,156	-	-
Swaziland	4,767	7,224	5,907	3,843	21,144	2,724
Sweden	38,658	265,466	19,422	151,944	39,350	36,960
Switzerland	1,711,889	801,626	572,238	393,154	251,269	430,302
Trinidad & Tobago	14,656	14,264	11,660	13,786	13,109	5,560
USA	2,911,174	11,210,167	1,344,521	600,026	704,605	554,334
Virgin Islands	52,243	500	2,104	240	1,043	1,936
Zambia	40,949	46,046	44,196	11,172	29,985	26,735
TOTALS	21,426,213	21,643,620	9,830,814	6,028,301	7,224,912	7,265,967

0 The figures have been arrived at by grossing net dividends at the rate applicable to the majority of claims received.  
The rate of 38.75% has been used.

\* These figures have been arrived at by grossing net dividends at 38.75% except those paid after 5.4.73 for which the rate of 30% has been used.

† These figures have been arrived at by grossing net dividends at 38.75% except those paid after 5.4.73 for which the rate of 33% has been used.





THE BOARD ROOM  
INLAND REVENUE  
SOMERSET HOUSE

8 April 1976

PRIVATE SECRETARY TO THE FINANCIAL SECRETARY

1. The Financial Secretary asked us in December (your minute of 3 December 1975 - a copy attached) to examine the possibilities of a review of recent double taxation agreements to see whether any imbalances of swings and roundabouts are revealed.

2. Our understanding was that he was primarily interested to know what in fact was happening under the agreements which we have been making since the new, imputation, system of company taxation came into force in 1973.

3. In the main the Agreements which have been given the force of law in the UK in 1973 and subsequent years have been Agreements revising the Articles dealing with dividends in longstanding wider Agreements dealing comprehensively with the relief of double taxation on all forms of income.

4. Before we negotiate we estimate the likely effects of the Agreement, on the basis of the available figures of income flows between the two countries, and it is always possible to revise this estimate on the basis of figures for later years. But in relation to the actual operation of the Agreements it is not yet possible and indeed may

---

cc Principal Private Secretary  
PS/Paymaster General  
PS/Chief Secretary  
PS/Minister of State  
Sir Douglas Wass  
Mr Lord  
Mr Couzens  
Mr Lovell  
Mr Houghton  
Mr Turnbull  
Lord Kaldor

Sir Norman Price  
Mr Dalton  
Mrs Smallwood (origin)  
Mr Moorcraft (2)  
Mr Isaac  
Mr Boyd (2)  
Mr Boyles  
Mr Brooman  
Mr Collins



never be possible, for a variety of reasons, to make a judgment about the balance of advantage in respect of these amended Articles separately. For one thing we do not have complete information; we know what we have paid out in credit and tax relief to the residents of these countries but we cannot expect to know what the other countries have given up to our residents. In any case our figures of what we have paid out do not yet tell the complete story - claims come in irregularly over several years, the relief arrangements could not be operated at the earliest before the end of July 1973 (when the first of the Agreements providing this new treatment for dividends were given the force of law in the UK) and we shall need to wait at least some months still before we can see a regular trend developing.

5. Even if it were practicable striking a balance in respect of the treatment of dividends in isolation would not necessarily provide significant information. Leaving aside a very small number of Agreements limited to Shipping and Air Transport Profits, the great majority of the sixty or so Double Taxation Agreements which we have concluded since 1946 are fully comprehensive Agreements. In assessing the balance of advantage of a comprehensive agreement when it is first negotiated it is necessary to view the Agreement as a whole and in monitoring the effect of the Agreement as time goes by it is still necessary to do this.

6. This raises wider questions:

- a. What do we mean by the balance of advantage?
- b. How can we quantify the constituent elements?
- c. What can we do if the balance seems to be changing?



- d. What sort of arrangements should we make for keeping Ministers informed about changes?
- e. What can or should be said in public about such monitoring of this kind as we are able to do?

7. What do we mean by balance?

Our comprehensive double taxation agreements do a number of different things. For example they provide reliefs or exemptions from UK tax to residents of the other countries (and in some cases give them dividend credit); they provide reliefs or exemptions from other countries' taxes for UK residents; they provide rules governing the relief which the UK gives to its own residents for the other countries' taxes which they have paid and sometimes giving them relief for tax which they have not paid (because of development incentive reliefs) in the other countries. To some extent the effect of these provisions is, in theory at least, quantifiable in money terms. The agreements also however provide protection to UK traders and investors against arbitrary or discriminatory taxation and oblige the UK to refrain from discriminating against the other country's nationals or enterprises; they also contain provisions for exchange of information enabling both countries the better to counter tax avoidance, evasion and fraud. These intangible advantages and obligations are much more difficult to quantify than the reciprocal concessions of tax made by the partner countries. Still less tangible and even more difficult to quantify, are the indirect encouragement to international trade and investment generally which is provided by the fact that the UK, in common with many other countries maintains a network of such Agreements laying down a broadly accepted code of fiscal conduct and providing a framework in which traders and investors can operate. These intangibles may weigh very heavily in the scales and it is not sufficient



therefore simply to strike a balance relating only to the strictly quantifiable factors. In the case of an agreement with a developing country the imbalance of trade and investment between the UK and the other country often makes for a different kind of balance than that acceptable between the UK and say a major European country. In those cases the intangibles may have to weigh more heavily than they would do in relation to a European country. This may be a fair reflection of the fact that protection against fiscal discrimination is generally worth more from developing countries, because they are more likely to include deliberately discriminatory fiscal practices in their general law than are developed countries. In the case of many of the smaller countries the income flowing between us and them is so small that we have no worthwhile figures to work on and the initial desirability and continuing justification for an agreement has to be assessed by reference almost wholly to the intangible factors. Similarly in the case of other countries the fact that we give a great deal of relief for double taxation unilaterally means often that the difference between having and not having an agreement is very largely the value of the intangible factors. Balance therefore is an imprecise concept.

How can we quantify the constituent elements?

8. In trying to calculate the tax gain or loss arising in practice out of particular Articles of an Agreement we are faced with a fundamental difficulty - that we do not know what the other country is giving up to its own residents, nor, except incidentally, do we know what it is giving up to ours. We could explore the possibility of getting information about this from our treaty partners but it is unlikely that they will be able to supply a great deal. In monitoring an Agreement therefore we are confined for a sizeable part of the exercise to estimates made on the basis of income flows and of judgments about the order of size based on general background information or sometimes on cases which have given rise to particular problems.



The information about income flows comes from surveys of inward and outward investment made by the Department of Industry. This is based on voluntary returns made by a selection of companies, and while it provides useful guidance about what are usually the major income flows, viz the earnings of direct investment in branches and subsidiaries, it cannot be regarded as precise and it provides no means of assessing the volume of income from portfolio investment, remuneration from employment, pensions etc.

9. The information which we collect ourselves comes from a variety of sources. Some, like the amount we pay out as tax credits in relation to dividends, is collected centrally and we know what we are paying to residents of each of the other countries. This however relates (until now) to what for most agreements is a relatively unimportant amount being portfolio dividends only. For years before 1973 we had information about the relief which we had given by way of reduced withholding taxes in relation to dividends going both to portfolio and direct investors but this system no longer operates. Other information like the amount which we are crediting against UK tax in respect of overseas tax on the profits and income of UK residents - which is usually the most sizeable element - is recorded in the files of the local offices where it is worked out, but it would be impracticable without a disproportionate expenditure of effort to make a country by country analysis of all the relief which they are giving. (We do get returns from local offices but only of the bigger cases.) Our own sources of information for this purpose are therefore limited.

10. But there are other indicators of whether or not any agreement is working satisfactorily. A major one could be the watch we and the interested UK taxpayers keep on developments in other countries' tax laws and practice. Increases in their tax rates, changes in the incidence of their taxes on particular industries or forms of investment,



changes in the way they tax companies and dividends - these could often be clear signals to the need to reconsider the terms of an Agreement and would be visible long before they had shown up in changes in the statistics which inevitably are a year or two in arrears. We keep in close touch with the CBI, the British Insurance Association and the General Council of British Shipping especially in order to keep a look out for this kind of thing. So far however it has been changes in the UK tax law which have in fact compelled us to make most of our substantial changes in these agreements.

11. Other indicators are occasionally provided when taxpayers or their representative organisations complain that the Agreement does not work to their satisfaction or when individual cases are reported by local offices showing that an agreement is being applied so as to give relief in unintended circumstances, or that an item which had been ceded in negotiations as unimportant has developed an unexpected costliness - the discovery for example of the fact that the British Virgin Islands agreement was being used as a means of avoiding UK tax on a large scale indicated clearly that the balance of the agreement was weighted so far against the UK that it was necessary to bring it to an end.

What can we do if the balance seems to be changing?

12. It would be wasteful of effort to seek to maintain a closer or more detailed watch on the operation of these agreements than is needed to indicate the incidence of changes which would justify us in going to the other country and asking them to revise the agreement. It would be difficult to ask for a revision simply on the grounds that the financial balance had shifted unless the shift was substantial and more than merely temporary. It would also depend on the reason for the change. An imbalance caused by changes in the flow of income, unless it were very large, would be a different proposition from one caused by manipulation of the exemptions or reliefs provided by the Treaty; closing loopholes for avoidance or for misuse of the Agreement would not necessarily be matters of balance,



and would normally be done as soon as the avoidance or abuse became manifest. The Agreements, moreover, are very largely in a standard form. This is based on a model worked out in 1963 by the OECD Fiscal Committee which attempted to lay down broad rules of what can be internationally accepted as right standards for countries to operate in taxing income arising in one country to residents of another, regardless of whether or not the rules happen to be profitable for them. Alteration or omission of standard Articles may therefore need strong justification. Amendment of an agreement may in any case be impracticable if the other country is in a position to insist on maintaining a balance in its favour - and there are of course countries which can do this against us. Therefore while it is obviously right to try to monitor these agreements as far as practicable there is nothing to be gained by over elaborate and short-term calculations of balance.

What sort of arrangements can we make for informing Ministers?

13. Since the new system of corporation tax was introduced we have been involved in a programme of revising nearly all our old agreements - mainly but not wholly to take account of this change. In addition we have been involved in negotiations for new agreements with a number of other countries. In all these cases we have had to make an assessment of the balance of advantage involved in the best agreement that we can negotiate. How elaborate the assessment has been has necessarily varied in accordance with the size of the relevant income flows and the amount of information available. The re-negotiation of the United States agreement called for very detailed consideration of the extension of the amendment of the dividend article in the Danish Agreement to apply to the Faroe Islands neither called for nor allowed the possibility of a very detailed survey. But one way or another we have in fact over the last three or four years been engaged on a country by country reassessment of the balance of advantage of these agreements.

14. In some cases we have consulted Ministers during negotiations about the effect on the ultimate balance of



Our Ref. 1000 1000 1000  
various proposals made by the other country or of their resistance to our proposals, where these have been of importance. We would do this in any case and we would similarly report to Ministers any significant indications of imbalance which came to our notice during the currency of an agreement if they seemed to call for and to present the possibility of an attempt to revise an agreement in any important particular. We will continue to do this.

15. The only practicable way of improving our capacity to assess the quantifiable balance of advantage of each Agreement would be to prepare for each country annually - instead of, as hitherto, only when the Agreement is about to be revised - so far as the information is available to make it possible, an analysis of the proportion of the income flowing between the two countries which each country takes in tax. An annual analysis would provide a basis for a running review. But one could not expect very much from it. Variations in the relative tax takes from one year to another, even if they were considerable in amount would at the most indicate a need for investigation and one would in fact need to see how they worked out over a period before one could draw any very sound conclusions from them. Such an annual exercise would certainly be useful as a long stop in order to ensure that significant changes in balance did not slip by unnoticed. But it would mean a lot of work and while present staffing limitations continue we do not feel that it could be undertaken on a large scale. To begin with at any rate it would have to be confined to a small number of the more important agreements such as those with the United States, Ireland, France and Germany. Since the exercise would provide only partial and indirect indications of the way the balance was moving we would not propose to trouble Ministers with the details. If it revealed a need for changes we should of course bring the matter to the notice of Ministers.

#### What can be said in public about our monitoring?

16. It is not possible to monitor Agreements with complete precision. Even if it could be done more precisely however



there would be considerable problems about publicising the details. It is not going to help us in our relations with other countries if we let it appear that we have made a better bargain than they have: it will be more difficult to make an agreement in the first place if we published this kind of information and it will be more difficult in the second place to keep it going unamended. Nor is it going to help us to let it appear that they have made a good bargain - they will find it less easy to make a less good bargain in future, and other countries would be stimulated to ask us to give as much to them. The necessary imprecision involved in making an assessment of the balance of advantage makes it all the more undesirable to give the impression that the scales are weighted in one direction or the other, and this would be the effect of publishing the results of our monitoring.

17. While therefore it does not seem to us to be practicable to produce for publication any statistical information which would illuminate our monitoring of the operation of these agreements, Ministers might reasonably say that in such monitoring the quantifiable benefits and obligations - the amount of tax given up by one or other Government - have to be weighed together with the intangible benefits and obligations such as those which protect the traders and investors of both countries against arbitrary or discriminatory taxation and that the value of an agreement has therefore to be assessed on a broad basis. With the help of affected taxpayers and their representative organisations, the Inland Revenue keep a close and continuous watch on changes in the tax law and practice of our partner countries and how these affect the operation of the Agreements (and they also keep under review the effect on Agreements of changes in United Kingdom law and practice). In this way they are able to see major alterations of balance developing rather earlier than they could hope to do by collecting figures of tax given up etc which clearly must follow the event. The normal day to day operation of the agreements also throws up indications of points of special difficulty etc.



The Revenue are in addition trying to improve their capacity to assess the quantifiable aspects of the agreements but there is nothing they could usefully publish by way of statistical information. The information available to the United Kingdom is necessarily one sided (since we do not know what relief the other countries give) and much of the United Kingdom information which would be needed for a financial monitoring is unobtainable in detail (a country by country analysis of the reliefs given under upwards of sixty agreements in up to 700 local offices would mean an expensive use of manpower which could not be justified at present.

It could in any case be damaging for the Revenue to publish the results of their monitoring simply for the information of the public. They would then also be available abroad, and if they showed the balance changing in the United Kingdom's favour this would stimulate the other country to ask for changes in its favour, and if they showed the opposite they would not necessarily help the United Kingdom to get a better bargain. It might mean that we had to accept equally disadvantageous bargains from other countries.

If a serious imbalance is perceived to be developing the right thing for the Inland Revenue to do, subject to the authority of Ministers, is to seek to amend the Agreement at the earliest suitable opportunity, if that is possible, or even if necessary to bring it to an end. This would be the normal practice. It seems sensible to allow it to continue.

18. The Financial Secretary also asked, when double taxation agreements with Hungary and the Faroe Islands were before the House of Commons Merits Committee in December 1976, why the law required us to secure a positive resolution of the House for these items of subordinate legislation.

The origin of the relevant rule (S 497(8)) seems to have been the view that the House of Commons should make a positive decision about a statutory instrument which in certain circumstances could impose tax. (S 497(1) authorises double taxation agreements inter alia to contain arrangements for charging the income arising from sources in the United Kingdom to persons not resident in



the United Kingdom). In fact the Agreements do not normally impose charges; they rather allow reliefs: but the possibility that they might impose a charge presents a substantial argument for requiring a positive resolution of the House before they can be given the force of law.

Even if that factor were not present it is arguable that these Agreements give relief over a wide field of taxation, and that in the light of the sensitivity of the House of Commons to taxation matters it is proper to allow the House an opportunity to debate them. Put another way, it seems most likely that any proposal to take this right away from the House would be a matter of serious controversy.

A WILKINSON  
Private Secretary  
Inland Revenue

Mr Collins also agreed to investigate the possibilities of a review of recent DTAs to see whether any imbalances of advantage and roundabouts are revealed.

cc Chairman  
Mr Dalton  
Mr. Smithson  
Mr. Collins  
Mr. Pidd

MARTIN PUGH  
3 December 1971





PRIVATE SECRETARY/INLAND REVENUE

cc Principal Private Secretary  
PS/Chief Secretary  
PS/Minister of State  
Sir Douglas Wess  
Mr Lord  
Mr Couzens  
Mr Lovell  
Mr Houghton  
Mr Turnbull  
Lord Kaldor

DOUBLE TAXATION AGREEMENTS

The Financial Secretary has noted your minute of 8 April. He has commented that the basic problem is that we do not seem to have a clear quantification of relief given by other countries (your para 2) and has minuted:

"The whole point about "balance of advantage" is that it provides a check on whether the DTAs we have negotiated have in fact protected our interests. Without this check we do not know whether in general we are too tough or, more important, not tough enough".

I will be in touch to arrange a meeting.

Mr Collins —

cc Chairman

Mr Dalton

Mrs Smallwood

Mr Moorcraft (2)

Mr Boyd

Mr Boyles

Mr Isaac

Mr Brooman

MARTIN BROWN

14 April 1976



Note of Meeting - 3 May 1976

Present:-

The Financial Secretary	-	Mr Sheldon
The Minister of State	-	Mr Denzil Rees
Mrs Smallwood	-	Inland Revenue
Mr Collins	-	Inland Revenue
Mr Houghton	-	Treasury
Mr Brown	-	Treasury, PS to the FST

The Financial Secretary explained that he had asked for the meeting in order to follow up the Revenue's minute on the monitoring of double taxation agreements. His problem, he explained, is to reassure himself in the absence of quantifiable data that when he is asked to recommend a double taxation agreement to the House as a reasonably balanced deal he can happily do this.

He was concerned to know therefore whether in general having double taxation agreements was advantageous to the UK, whether the Revenue looked to income flows as a basic quantifiable starting point in assessing the value of an agreement, how the Department in fact sets about preparing for negotiations and what factors it takes into account in deciding whether a new agreement is desirable or a proposed revision is needed or acceptable, and how in the absence of quantifiable data one can get a notion of what the other country is giving up and a proper sense of what is an appropriate agreement, and indeed what in general is a good and what a bad agreement. Mrs Smallwood explained that double taxation agreements were one element of the wider Government approach to inward and outward investment and trade and that the question whether they were in general advantageous to the UK depended very largely on an assessment of the role they played in this wider scene. But, assuming that the UK would continue to give unilateral relief in the absence of an agreement, an agreement would provide an advantage to the extent that it reduced the other country's tax. She confirmed that the Revenue did look to the flows of income between the two relevant countries in beginning to make an assessment of whether and what sort of agreement ought to be aimed at, but pointed out that the basic data was not always very full or up-to-date. For major countries more information would be available than for others, though in many of the smaller countries the income flows would be so limited that the amounts involved in any agreement would be too small to make it very useful to talk about a financial balance. While in preparing for negotiations it is possible to use out of date information and try to up date it on the basis of a judgment of trends, including non-fiscal trends, one needed up-to-date information for monitoring the development of an existing agreement and the processes of preparation and monitoring were not therefore quite the same. She explained in some detail the processes involved in preparing for negotiations - consultations with other Departments, and with the representatives of commerce and



industry, study of the other country's law and any special problems arising out of this or other circumstances, study of income flows etc and underlined the function of the OECD model agreement in shaping the content of any new or revised agreement. Mr Houghton emphasised too the limitations on the variability of articles in our agreements which are imposed by the fact that the OECD model ~~is~~ widely accepted by a wide spectrum of developed countries and acts an important guideline to some extent even for developing countries.

The Financial Secretary asked what the OECD Model was and what we would do if it turned out not to provide an advantageous pattern for the UK.

Mrs Smallwood explained that the Model agreement was, broadly, our standard agreement, and that it was unlikely that following it would turn out to be disadvantageous to us since we had had a large hand in drafting it, but that if it did cease to provide a satisfactory pattern we would have to seek to reopen the general argument about what should be in it. She emphasised the necessity, in assessing what could be regarded as acceptable in an agreement, of weighing carefully the intangible factors involved - the flows of income between the UK and developing countries could not be expected to be even approximately the same in both directions and the intangibles could be very important in this context, more so than in the context of agreements with developed countries where the income flows would be more equal. The problem with the developing countries, as the Minister of State indicated in the discussion, is illustrated by our negotiations with Brazil where we are under two sorts of pressure, first to match all the reliefs which the other country gives and second to allow the other country a much higher tax take than we have hitherto thought reasonable. We are under considerable pressure from some of our own taxpayers and from other Government Departments to accept onerous terms in order to help UK traders and investors to achieve a bigger share in trade with and investment in Brazil. The Revenue would in fact be very unhappy about accepting these disadvantageous fiscal terms for non fiscal reasons, but they had to be considered. One of the intangibles here moreover was the fact that other countries felt more easily able to accept this kind of bargain, although in some cases their own tax systems helped them to do so - if a country relieves double taxation, as for example France, the Netherlands and Belgium do, by simply exempting income from a foreign permanent establishment, then they have no problem about matching the other country's reliefs.

Asked which of our Agreements could be regarded as good agreements Mrs Smallwood said that our agreement with the US was certainly a good one, as were those we had negotiated or were negotiating with our EEC partners. In getting what the Financial Secretary described as the feel of an agreement in the absence of quantitative data we do have a wide ability to sense the agreement's effect - our regular contacts with the CBI, other Departments, particularly the Trade Departments and the FCO, our study of changes in other countries' laws and so on. But we don't have quantitative information about what the other country is giving up under the agreement. Also we have to bear in mind that the local Embassy people, our traders in the area, and the other interested people who contribute to our assessment of how things are going, are looking at these things from their own point of view. The



Financial Secretary somewhat ruefully commented that it was clearly difficult to make a satisfactory judgment when your sources of information had an interest in the result. The discussion was broken off at this point because the Financial Secretary clearly could spare no more time. We were therefore unable to elaborate on the less tangible fiscal advantages of non discrimination, and the arm's length rule.

Mrs Smallwood said however that the Revenue in future briefing on double taxation agreements would bear the Financial Secretary's comments in mind.





PRIVATE SECRETARY/INLAND REVENUE

*— Mr Collins*  
*cc Chairman*  
*Mr Dalton*  
*Mrs Smallwood*  
*Mr Moorcraft (6)*  
*Mr Boyd (2)*  
*Mr Baylis*  
*Mr Pearson*  
cc Principal Private Secretary  
PS/Chief Secretary *Mr Bowen*  
PS/Minister of State  
Sir Douglas Wass  
Mr Lord  
Mr Couzens  
Mr Lovell  
Mr Houghton  
Mr Turnbull  
Lord Kaldor

#### DOUBLE TAXATION AGREEMENTS

The Financial Secretary and the Minister of State discussed your minute of 3 April with Mrs Smallwood, Mr Collins and Mr Houghton on 3 May.

The Financial Secretary said that his interest in the question of balance of advantage on double taxation agreements stemmed from the last time he had had to defend a DTA before the House. He could not justify to himself the arguments about the balance of advantage and found it difficult to tell whether DTAs in general were beneficial or disadvantageous to the UK.

Mrs Smallwood said that DTAs had to be seen in the context of the general economic situation in the countries involved, and it should be noted that apart from the tax content of the agreement the UK also had an interest in outward and inward investment stimulated by DTAs. Starting from the position where the UK gave unilateral relief for foreign taxes, the UK would automatically benefit from a DTA where other countries reduced taxes on its account. Even apart from this however, it was fair to say that the UK rarely lost out on a DTA deal.



it was by no means easy to monitor the balance of advantage following the signature of a DTA, but before negotiations the Revenue, in contrast with certain countries which believed DTAs to be Good Things per se, attempted to assess whether the DTA would in fact be beneficial to the UK. This was easier to estimate for developed countries where there was a considerable inwards and outwards flow of investment which was therefore documented, than for a developing country where available information was harder to come by.

In response to a question from the Financial Secretary, Mrs Smallwood said that before negotiations on the DTA were commenced, the Inland Revenue took advice from the Departments of Industry, Trade, Treasury and FCO about the economic importance of the country with which negotiations were to commence, and also asked the CBI and investment, trade and shipping etc concerns for their opinion. Regular confidential discussions were held with all parties. The Revenue then obtained information from the Bank of England about income flows, and started work on a draft agreement, using as a basis the OECD agreement, which in turn was based on UK ideas and therefore in principle was not disadvantageous to this country. If it was thought at any stage that double taxation agreements in general were becoming disadvantageous to the UK, the Inland Revenue would seek to re-open the debate with the OECD on the model agreement, and also on individual agreements as they arose for review.

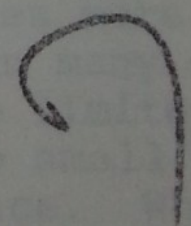
Mrs Smallwood further pointed out that, as income flows between the UK and the participants to agreements were uneven, the UK would probably not get satisfactory arithmetical balance in its DTAs, but there would nonetheless be benefits in foreign trade terms. Within the developing world there were problems involved both in giving special relief to encourage UK investment in foreign countries and also in cases where developing countries demanded a higher tax take from dividends in the context of a DTA.



On the subject of knowing the concessions which a particular country was granting, the Inland Revenue found it difficult to quantify precisely what was or would be given up by negotiating countries, but they had a good feel for the general shape of how things were moving; were well informed on general changes in tax law in the negotiating countries; and by means of exchange of information monitored specific items like reductions and exemptions in withholding taxes.

In general Mrs Smallwood felt that the Inland Revenue had done well on the balance of advantage for double taxation agreements with the USA and with EEC countries, but that there were difficulties at present over certain countries' practice of giving exemption for foreign trading profits. France, Germany, Belgium and Holland gave such relief on profits from foreign branches, and this was proving a difficulty with the agreement with Brazil, where "pioneer reliefs" were being offered by Brazil but where the rest of the terms of the DTA were very unfavourable to the UK.

Concluding the meeting, the Financial Secretary felt that he and the Minister of State now had a better understanding of the considerations which faced the Inland Revenue in the negotiation of double taxation agreements, and he hoped the Revenue now had a better idea of what sort of information to put in briefing for Ministers about individual DTAs which came up for Ministerial approval following successful negotiation.



MARTIN BROWN

✓ May 1976



Our Ref: Stata 45/51-

SECRET

1973 figures

Country	Date of payment	Income from	1973 figures										1974 figures										Total cost to UK	Total income to UK		
			DIRECT DIVIDENDS					POSTPAID DIVIDENDS					INTEREST					ROYALTIES								
			Gross income	Normal rate	Agreement rate	Cost to UK	Gross income	Normal rate	Agreement rate	Cost to UK	Gross income	Normal rate	Agreement rate	Cost to UK	Gross income	Normal rate	Agreement rate	Cost to UK	Gross income	Normal rate	Agreement rate	Cost to UK			Gross income	Normal rate
USA	Signed 3/12/73	To UK	55.9	71.86	30	5	19.77	33	47.1	30	15	7.1	4.3	6.14	30	NIL	1.84	36.09	51.5	30	NIL	15.45	44.36			
		From UK	173.5	220.21	NIL	5	35.7	8.5	13.08	-	15	2.62	11.6	17.84	35	NIL	6.24	97.18	149.5	35	NIL	52.32	96.88	-52.52		
Canada	unilateral	To UK	18.6	21.9	25	15	2.19	8.3	11.1	25	15	1.11	2.7	3.2	15	15	NIL	4.55	5.35	15	15	0.27	3.57			
		From UK	5.2	NIL	NIL	NIL	1.8	2.77	-	15	15	.55	.4	.62	35	15	.12	.52	.8	35	15	.2	.87	+2.7		
Australia	1968	To UK	43.9	62.7	30	15	9.14	18.2	24	30	15	4.39	7.2		10	10	NIL	8.1	14.7	45	10	5.1	18.4			
		From UK	5.3	NIL	NIL	NIL	6				NIL				35	10	NIL	.17	.26	35	10	.06	.06	+12.36		
New Zealand	1966	To UK	6.4	15	15	NIL	NIL	8.9	15	15	NIL	NIL	.5		15	-	NIL	1.07	1.26	15	10	.06	.06			
		From UK	-		NIL	NIL	3				NIL				35	-		.09	.14	35	10	.03	.03	+ .03		
South Africa	1969	To UK	69.2	57.9	15	5	5.79	37.4	15	15	NIL	2.4		10	10		NIL	5.17	5.9	12.3	NIL	.73	6.52			
		From UK	1.7		NIL	NIL	4.5				NIL				35	10	-	.08	.12	35	NIL	.04	.04	+6.68		
France	1968	To UK	16.3	27.73	25	5	4.35	1.4	1.28	25	15	.73	.3	.4	25	10		.06	8.89	11	19.2	NIL	2.11	7.25		
		From UK	4.7		NIL	NIL	8.1	12.44	NIL	15	15	4.47	.2	.3	35	10	.07	6.09	9.37	35	NIL	3.28	5.84	+1.61		
Federal Republic of Germany	1967	To UK	36.8	25	25	NIL	1	.13	25	15		.02	1.4	1.9	25	NIL		.5	9.72	12.96	25	NIL	3.24	3.76		
		From UK	.8		NIL	NIL	1.3				NIL		.2	.3	35	NIL	.1	2.76	4.2	35	NIL	1.5	1.6	+2.16		
Belgium	1970	To UK	19.7	24.6	20	15	1.23	1.25	20	15		.06	.8	1	20	15		.05	4.24	5.3	20	NIL	1.06	2.4		
		From UK	3.2		NIL	NIL	2				NIL		.2	.3	35	15	.06	1.38	2.1	35	NIL	.72	.78	+1.62		
Netherlands	1968 + unilateral protocol	To UK	22.1	29.5	25	5	5.9	4.5	25	15		.6	2.4	3.2	25	NIL		.8	2.56		NIL	NIL	NIL	2.4		
		From UK	20.6	26.1	NIL	5	4.2	1.5	2.31	15		.38	3.2	4.9	35	NIL	1.7	4.83	7.4	35	NIL	2.57	8.93	-1.63		
Switzerland	1955 + 1967 protocol + 1975 protocol	To UK	8.7	12.4	30	5	3.1	.1	.14	30	15	.02	4.3	6.1	30	NIL		1.8	1.45		NIL	NIL	NIL	1.45		
		From UK	16.5	20.9	NIL	5	3.4	5.1	7.25	15		1.57	7.1	10.9	35	NIL	3.8	10.83	16.6	35	NIL	5.8	14.57			