

Mrs Ingram.
With your pt. type 1 + 3
for issue. both the letter & the
background note

Mr Gunn

A 10/11/75

I have deleted Article 24. from the
Master Copy of the draft double taxation
convention in the folder opposite. This
means that the following Articles which
delete the deleted article will require
re-numbering e.g. Article 25 becomes 24
so on.

All you please retype the article numbers
appropriate and make two copies of
each of the renumbered articles.

Our ref T1169/228/75

J M Myall Esq
Department of Trade
Commercial Relations and Exports
1 Victoria Street
LONDON
SW1H 0ET

Dear Mr Myall

EGYPT: DOUBLE TAXATION AGREEMENT

You spoke to Adams recently about the Joint
Economic Commission Meeting which commences
on 22 November.

We have drawn up a draft of a comprehensive
double taxation agreement and should be
grateful if this could be handed over at
the Meeting for presentation to the
... Egyptian Revenue authorities. I enclose also
a note giving background information
together with a suggested speaking note.

Yours sincerely

I P GUNN

DOUBLE TAXATION AGREEMENT

UNITED KINGDOM/ARAB REPUBLIC OF EGYPT

BACKGROUND

In 1947 we outlined to the Egyptians our proposals for a comprehensive double taxation agreement. Although the Egyptians said they were interested in such an agreement they took no steps to enter into negotiations. We subsequently presented the Egyptians with a draft agreement in 1955 and again in 1961 and they responded in 1964 with their own draft agreement. We suggested that talks should be held in 1965 but the Egyptians did not take this up.

More recently we have been trying periodically to conclude an agreement limited to air transport profits only but the Egyptians do not seem to be interested at present in such an agreement. They may however prefer to consider the possibility of having a comprehensive agreement with us and we would be pleased to discuss this with the Egyptian taxation authorities.

SPEAKING NOTE

The United Kingdom ^{welcomes} the opportunity to explore the possibility of concluding a comprehensive double taxation agreement with Egypt. We feel that by providing clear and equitable rules for the taxation treatment of income which is subject to double taxation, such an agreement would foster the development of trade and investment between our two countries and would be evidence of co-operation between the two Governments.

The Inland Revenue has prepared a draft agreement for the consideration of the Egyptian authorities. The purpose of this draft is to facilitate the negotiations and to show the shape of our present thinking; it is in no way an attempt to dictate the outcome of the negotiations before they start. The Inland Revenue would be pleased to meet the Egyptians for talks ~~either~~ in Cairo ~~or~~ London at a mutually convenient ^{with a second round, if necessary, in London} date and hopes that it will be possible to conclude an agreement between our two countries.

Confederation of British Industry



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I P Gunn Esq
Board of Inland Revenue
Somerset House
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24 November 1975

CONFIDENTIAL

Dear Mr. Gunn

EGYPTIAN DOUBLE TAXATION AGREEMENT

With reference to our telephone conversation I enclose a copy of a rough draft of our comments to Mr Myall of the Department of Trade which I hope you will find acceptable. We expect to send a slightly more comprehensive formal reply to that Department within the next few days which I will copy to you.

As I mentioned we were intending to discuss this question with you before we let the Department of Trade have any comments. However, I was advised at lunchtime on Thursday last, of the imminent departure of the UK representatives on the Joint Commission - a week or so earlier than we had expected. I have, therefore, had to send the draft as it stands to Mr Myall on the understanding that it does not necessarily represent the finally agreed CBI view which will be contained in the formal reply. I have let him know that we shall be in contact with you about it.

Our overseas Department receives such requests from the Department of Trade from time to time and we are now trying to ensure that any answer is given by the tax experts who attend the joint CBI/ICC Working Group meetings at Somerset House rather than by those who are not too familiar with the technical implications. This should avoid any future complications over such representations.

If you should have any comments on the content of the draft or the procedure please do not hesitate to telephone me.

Yours sincerely,

Paul Moran

Paul E Moran
Taxation Department

Director-General:
Campbell Adamson
Secretary:
E M Felgate

DRAFT: EGYPTIAN DOUBLE TAXATION AGREEMENT

There has been a wide expression of interest in a double taxation treaty with Egypt and there would seem to be little doubt that if a satisfactory agreement can be reached there would be substantial interest among those members we have consulted, in investment in Egypt.

The main point which has been raised is that the agreement should, in general, follow the OECD Model Agreement. Certain points should, however, be made more explicit, in particular a satisfactory article concerning business profits. The Agreement should forestall any possibility of the use of the "indirect" method of assessment on a permanent establishment, barring circumstances in which the Revenue authorities had failed (after reasonable endeavours) to obtain from a non-resident taxpayer the data required to compute the base for taxation. In short, this method should only be operated as a penalty. The Agreement should state quite explicitly that costs attributable to the permanent establishment, wherever incurred, would be deductible in computing the tax base. Sufficient safeguards should be provided to debar the respective Revenue authorities from reaching outside their territorial boundaries in order to make claims upon profits accruing elsewhere on ingredients, or components, of the goods or services sold by the permanent establishment.

Withholding taxes on royalties, management fees and parent company expenses should not be permitted under the Agreement to the extent that the payments constitute no more than a reimbursement of expenses to the recipients.

It is suggested that the "arm's length" article for associated enterprises should provide for corresponding adjustments in one territory when additional amounts have been added to profits in the other.

The rule provided in Article 15 of the OECD Model Agreement covering residents of a Contracting State who are present for a period not exceeding 183 days in the other Contracting State should, of course, be included in the Agreement.

It is, of course, of especial importance that full allowance is made on the UK side for the 'tax-sparing' provisions made in the Egyptian Investment Law.

One matter of general interest is that one of our members has pointed out that, in the past, the local tax authorities in Egypt have tended to pursue an independent course and to ignore even rulings of the central tax authority. It is particularly important that UK firms should be satisfied that this sort of situation is unlikely to occur again. If there is any chance of taking this point up informally with the Egyptians it would be most helpful.



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I P Gunn Esq
Secretaries' Office
Inland Revenue
Somerset House
WC2

Your reference

Our reference Department of Trade
CRE 5/2

Date 4 December 1975

Dear Gunn

EGYPT: DOUBLE TAXATION AGREEMENT

Thank you for your letter of 11 November and for the draft double taxation agreement which I acknowledged verbally before leaving for the Joint Commission meeting in Cairo. The draft agreement was presented to the Egyptians informally during the meeting: formal presentation was to be made by the Embassy in Cairo to the Ministry of Foreign Affairs and will doubtless have been effected by now.

I cannot report any particular reaction from the officials to whom we presented the draft in the Joint Commission. Like us, they were not taxation experts. However, I was told before leaving Cairo that the Egyptian tax people will want to be given details of the British income tax system (sic) and a list of the countries with which the United Kingdom has concluded double taxation agreements of the kind now proposed to Egypt. I am sure that you will hold this information readily available and you may wish to send it direct, and in advance of any more formal request, to Allan Ramsay who is the First Secretary, Economic at our Cairo Embassy.

Yours sincerely

J M MYALL

cc P J Wogan NENAD FCO
A Ramsay Cairo



Inland Revenue
POLICY DIVISION
Somerset House
London
WC2R 1LB

Telephone Enquiries 01-438 6223

P F M Wogan Esq
Near East and North Africa Department
Foreign and Commonwealth Office
LONDON
SW1A 2AH

Your reference

NFE 20/548/2

Our reference

T1169/228/75

Date

23 December 1975

Dear Wogan

DOUBLE TAXATION - EGYPT

I refer to Myall's letter of 4 December (which was copied to you) saying that our draft of a comprehensive double taxation agreement with Egypt has been handed over to the Egyptians for presentation to their Revenue officials.

... I should be grateful if our Embassy in Cairo could pass the enclosed booklets explaining our tax system to the Egyptian tax authorities together with lists of the countries with whom we have comprehensive double taxation agreements. If the Egyptians require any further information we shall be glad to supply it.

With regard to paragraph 3 of Ramsay's note to you dated 11 December, we are preparing additional copies of the draft agreement and these will be sent to you shortly for forwarding to the Egyptian authorities. We should like to have talks with the Egyptians at an early date, but our time table for discussions in 1976 is already getting rather full and the pressure on our time is likely to increase. At the moment, we are free throughout February and would be willing to go to Cairo at any time during that month for preliminary talks at which we could explain to the Egyptians the provisions of our draft and deal with any questions they might care to raise. This could clear the way for formal negotiations in London at a mutually convenient date later in the year.

We should be grateful if our Embassy in Cairo could put this suggestion to the Egyptians and let us know as soon as possible what they say.

Yours sincerely

I P GUNN

CBI REPRESENTATIONS ON AN EGYPTIAN DOUBLE TAXATION AGREEMENT

There has been a wide expression of interest in a double taxation treaty with Egypt and there would seem to be little doubt that if a satisfactory agreement can be reached there might be substantial interest among our members, in investment in Egypt.

We would hope that the Agreement should, in general, follow the OECD Model Agreement. Certain points should, however, be made more explicit, in particular a satisfactory article concerning business profits. The Agreement should forestall any possibility of the use of the 'indirect' method of assessment on a permanent establishment, barring circumstances in which the Revenue authorities had failed (after reasonable endeavours) to obtain from a non-resident taxpayer the data required to compute the base for taxation. In short, this method should only be operated as a penalty. The Agreement should state quite explicitly that costs attributable to the permanent establishment, wherever incurred, would be deductible in computing the tax base. Sufficient safeguards should be provided to debar the respective Revenue authorities from reaching outside their territorial boundaries in order to make claims upon profits accruing elsewhere on ingredients, or components, of the goods or services sold by the permanent establishment.

Withholding taxes on royalties should not be permitted under the Agreement, nor on management fees and parent company expenses to the extent that the payments constitute no more than a reimbursement of expenses to the recipients.

It is suggested that the 'arm's length' article for associated enterprises should provide for corresponding adjustments in one territory when additional amounts have been added to profits in the other.

The rule provided in Article 15 of the OECD Model Agreement covering residents of a Contracting State who are present for a period not exceeding 183 days in the other Contracting State should be included in the Agreement.

It is, of course, of especial importance that full allowance is made on the UK side for the 'tax-sparing' provisions made in the Egyptian Investment Law.

One further matter of interest is that one of our members has pointed out that, in the past, there tended to be discrimination against foreign businesses, and local tax authorities in Egypt tended to pursue an independent course, failing to make their assessments on the basis of the law or judgments in the High Courts. Use of the mutual agreement procedures would be useful in curbing such excesses.

Confederation of British Industry



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I P Gunn Esq
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19 January 1976

Dear Mr Gunn

ANGLO-EGYPTIAN TREATY NEGOTIATIONS

A copy of the final version of our representations on the above is attached. For the record, I am sending a copy to the Department of Trade but I understand that their interest is now peripheral. If we have any further direct approaches from other Departments I will let you know before sending any reply. As you will see the final text is merely a 'polished' version of the draft which you already have. I apologise for the delay between the draft and the composition of the final version.

Incidentally, thank you for your letter on Morocco. I am collecting views from our members and will write to you again with our comments.

Yours sincerely

Paul E. Moran

Paul E Moran
Taxation Department

Enclosure

GRS 130
PRIORITY
EN CLAIR

FM CAIRO 041025Z

UNCLASSIFIED

TO PRIORITY FCO TEL NO 114 OF 3.2.76.

UK/EGYPT DOUBLE TAXATION AGREEMENT: RAMSAY'S LETTER
OF 15 JANUARY TO WOGAN.

1. THE MINISTRY OF FOREIGN AFFAIRS HAVE NOW CONFIRMED
THAT THEY WOULD WELCOME A VISIT BY OFFICIALS FROM THE
INLAND REVENUE STARTING ON MONDAY 23 FEBRUARY FOR
PRELIMINARY TALKS.
2. GRATEFUL TO KNOW IF THE PROPOSED DATE IS ACCEPTABLE:
SUBJECT TO ANY VIEWS INLAND REVENUE MAY HAVE, TWO DAYS
SHOULD BE SUFFICIENT FOR DISCUSSION AND THE TEAM COULD
ARRIVE AT CAIRO ON SUNDAY 22 FEBRUARY DEPARTING ON
WEDNESDAY 25 FEBRUARY.
3. THE EGYPTIANS HAVE ALSO ASKED FOR COPIES OF OUR DOUBLE
TAXATION AGREEMENTS WITH OTHER COUNTRIES ESPECIALLY THE
DEVELOPING ONES. GRATEFUL IF THESE COULD BE SENT BY BAG.

MORRIS

FILES
NENAD
FRD
SIR A DUFF
MR WEIR

I telephoned Quinlan &
said this was not an.
He will propose
week beginning 22 March
or w/b. 10 May.

My 6/2

GRS 120

PRIORITY

CYPHER CAT A

RESTRICTED

FM FCO 030955Z

RESTRICTED

TO PRIORITY CAIRO TELNO 151 OF 3 MAR.

MY TELNO 83: UK/EGYPT DOUBLE TAXATION AGREEMENT

1. IN THE ABSENCE OF ANY EGYPTIAN REPLY TO DATES PROPOSED IN MY TEL UNDER REFERENCE INLAND REVENUE'S PROGRAMME HAS BEEN FILLING UP. THEY NOW CONSIDER THAT RATHER THAN HOLDING PRELIMINARY MEETINGS WITH THE EGYPTIANS THEY SHOULD MAKE ONE VISIT AND TRY TO CONCLUDE AN AGREEMENT.
2. IN THEIR EXPERIENCE A VISIT OF TEN DAYS IS NORMALLY REQUIRED TO REACH AGREEMENT AND THEY COULD FIT THIS IN AS FROM 24 MARCH OR FROM 10 MAY.
3. PLEASE ENQUIRE IF THIS PROPOSAL WOULD SUIT THE EGYPTIANS, AND IF EITHER OF THESE PROPOSED DATES WOULD BE SUITABLE TO THEM.
4. INLAND REVENUE WOULD ALSO LIKE CONFIRMATION THAT ENGLISH LANGUAGE WOULD BE USED IN NEGOTIATIONS.

CALLAGHAN

FILES
NENAD
MR WEIR

COPIES TO:

MR I P GUNN INLAND REVENUE
MR J MYALL CRE5 DOT

RESTRICTED

GRS 130
PRIORITY
CYPHER CAT A

RESTRICTED

FM CAIRO 101133Z MAR

RESTRICTED

TO PRIORITY FCO TEL NO 249 OF 10.3.76.

YOUR TELNO 151: DOUBLE TAXATION AGREEMENT.

1. THE EGYPTIANS AGREE TO THE PROPOSAL THAT INLAND REVENUE SHOULD VISIT CAIRO FOR TEN DAYS FOR THE PURPOSE OF CONCLUDING AN AGREEMENT. THEY ARE ANXIOUS TO MAKE AS EARLY A START AS POSSIBLE BUT NEITHER THEY NOR WE SEE ANY PROSPECT OF OBTAINING SUITABLE HOTEL ACCOMMODATION IN MARCH AND WE HAVE ADVISED THEM THAT NEGOTIATIONS MAY HAVE TO WAIT UNTIL MAY.
2. WE RECOMMEND THAT WE SHOULD NOW GO FIRM ON 10 MAY. IF YOU AGREE WE SHALL NOTIFY THE EGYPTIANS ACCORDINGLY. IN VIEW OF PERENNIAL DIFFICULTIES OVER HOTEL ACCOMMODATION IT WOULD BE HELPFUL TO KNOW AS SOON AS POSSIBLE THE NUMBER OF INLAND REVENUE TEAM.

MORRIS

FILES
NENAD
MR WEIR

COPIES TO
MR I P GUNN
INLAND REVENUE
MR J MYALL CRE5 DOT

RESTRICTED

9 telephoned Amman
He will telegram to Cairo
(1) going firm on 10 May.
(2) Revenue team will consist of
2/3 people. 11/3

Mr Gunn

T 1169/228/75

EGYPT

Under Egyptian law dividends paid by Egyptian companies are liable to the tax on income from movable capital, the defence tax, the war tax and the supplementary taxes; these taxes are deducted by the company and paid over to the Egyptian Government.

The companies are however allowed to deduct dividends paid out of current profits when calculating their liability to the tax on profits; no deduction is allowed for dividends paid out of past profits.

Thus where profits are fully distributed the Egyptian Government receives the taxes on dividends but no tax on profits. Where no distribution is made it receives the tax on profits only. In the case of a partial distribution it receives the taxes on dividends on the distributed profits and the tax on profits on undistributed profits. Therefore there is economic double taxation only to the extent that dividends are paid out of past years' profits.

All Egypt's DTAs allow Egypt to charge dividends paid by companies which are (or are deemed to be) residents of Egypt to the tax on income from movable capital, the defence tax and the supplementary taxes (and in the case of the USA the recently (1973) imposed war tax). It would therefore be unrealistic to expect Egypt to give us better terms. Egypt's DTAs provide that dividends paid out of current profits are to be deducted in arriving at the taxable income of the company and some provide that where the recipient is an individual the general income tax on the dividends is limited to a specified percentage.

It would seem that the Egyptian system bears some resemblance to the UK system before 1965 where there was no tax on dividends paid to the UK Government in addition to the tax on the company's profits. Under the Egyptian system where dividends out of current profits there is no profits tax paid by the company thereon.

There are a number of points to consider.

1. The best that we might hope for is that profits should not be taxed twice ie by a profits tax and a dividends tax (as happens when dividends are paid out of past profits). Perhaps we could ask the Egyptians why they give less favourable treatment where profits are temporarily reinvested.

2. It seems likely that Egypt will want to charge dividends, where received by an individual, to the general income tax in addition to the tax on income from movable property, the defence tax, the war tax and the supplementary taxes and if this is the case we should try to ensure that the general income tax rate does not exceed 15 per cent. I think we could accept a proposal for the taxation of dividends paid by Egyptian companies to United Kingdom residents on these lines. Trade investors who are more important would be treated more favourably than portfolio investors.

3. There is a difficulty concerning the amount of credit to be allowed in respect of dividends paid by companies registered in the UK but managed and controlled in Egypt. The problem is set out in Mr Daymond's note of 13 January 1956 (Tab A) on T1169/26/56 and both IFD and CI made comments thereon.

deleted
It seems to have been decided at that time to take the line that we should insert a provision in the Elimination of double taxation article to the effect that we would treat the taxes on dividends generally as a direct tax but where the dividends were paid by a company registered in the UK but managed and controlled in Egypt we would deem the taxes to be indirect taxes.

I wonder whether it would be more logical to regard, for the purpose of credit, the taxes on dividends in all cases as indirect taxes as there will be no further tax chargeable on the company's profits (except where the dividends are paid out of past profits). I do not think that the nature of the tax should be regarded as having been altered merely because the company happens to be registered in the UK. It may be that the difficulty envisaged in 1956 no longer applies on the grounds that such a company would be regarded for the purposes of the DTA as a resident of Egypt and the company would be entitled to deduct the Egyptian taxes from the dividends paid to UK residents. In view of the changes that have taken place since 1956 eg the withdrawal of underlying relief for portfolio investors perhaps we might ask Technical Division for their comments on this point.

4. In Egypt's DTAs dividends paid by a company which is a resident of the other country whose activities lie solely or mainly in Egypt are to be taxed in Egypt in accordance with the Article. In the Austrian DTA "mainly" is to be construed as meaning 90 per cent of the activities of the company.

5. Another feature of Egypt's DTAs is that a company of the other country which has a permanent establishment in Egypt is deemed to have distributed as dividends 90 per cent of its profits liable to the tax on profits. Such deemed dividends will be subject to tax in accordance with the article. It would appear that these deemed dividends would be allowed as a deduction in computing the profits of the permanent establishment liable to the tax on profits.

W. H. Adams
18 March 76

SUMMARY OF REPRESENTATIONS

CBI

1. The DTA should follow, in general, the OECD Model.
2. The Business profits article should prevent Egypt from taxing profits on an arbitrary basis except where proper accounts are not submitted.
3. Costs, wherever incurred, of a permanent establishment should be deductible.
4. The country where the permanent establishment is situated should not be allowed to levy extra-territorial tax on profits accruing outside that country on ingredients or components of the goods or services sold by the permanent establishment.
5. There should be no withholding taxes on royalties, management fees or parent company expenses to the extent that the payments constitute no more than a reimbursement of expenses to the recipients.
6. The Associated enterprises article should provide for corresponding adjustments in one country when additional amounts have been added to profits in the other.
7. In the Employments article the 183 day rule should be included.
8. The UK should give matching credit for Egyptian tax spared.
9. The Mutual agreement article should be included as the local tax authorities in Egypt tend on occasions not to follow Egyptian Law.

General Council of British Shipping

The DTA should include the usual shipping exemption article.

International Fiscal Association

1. OECD lines if possible.
2. Permanent Establishment should be precisely worded to eliminate any prejudice against specific business eg Ass Co's.
3. No arbitrary system of assessment of profits should be used if A/C's are available.
4. Tax Sparing - scope for concession should be fully explored.
5. Royalties, management fees, etc - if not on OECD lines, no tax should be levied where group payments represent only reimbursement of expenses.
6. Can dividends and interest be included in definition of profits?

MATCHING CREDIT

In 1974, Egypt passed Law 43, which dealt with the Investment of Arab and Foreign Funds, and Free Zones. This law provides that investment in certain specified fields should receive privileged treatment, including exemption from taxes for five years (or in certain cases eight years). The object is to encourage foreign investment in industry, mining, tourism, transport, land reclamation and housing projects - the particular fields are specified in Article 3 of the law.

These tax reliefs granted by Egypt would be cancelled out as far as United Kingdom companies are concerned unless we include in any Convention a provision giving matching credit. We should use the opportunity this gives us in negotiation by getting better terms, (perhaps lower dividend and interest rates) than the United States of America, who do not give matching credit in their Agreements.

I suggest an additional paragraph in the draft Article on the Elimination of double taxation, to read on the lines of the following

"For the purpose of paragraph (1) of this Article, the term "Arab Republic of Egypt tax payable" shall be deemed to include any amount which would have been payable as Egyptian tax for any year but for: ~~or~~

- a. a reduction or exemption from tax granted for that year or any part thereof under Article 15 of Law 43, passed by the Peoples Assembly on 9 June 1974 so far as it was in force on, and has not been modified since, the date when this Agreement was signed, or has been modified only in minor respects so as not to affect its general character: or
- b. any other provision which may subsequently be made granting an exemption or reduction of tax which is agreed by the competent authorities of the United Kingdom and the Arab Republic of Egypt to be of a substantially similar character, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character."

APH

3/5/76

COMMENTS ON UK DRAFT DOUBLE TAXATION CONVENTION

Title and Preamble

The draft, when first prepared, had a Capital article but this was deleted before the draft was forwarded to the Egyptians. The words "and capital" which appear twice on this page should be deleted.

Personal scope

Egypt has included such an article in DTAs with Finland and Norway and will presumably be able to agree our draft.

Taxes Covered

Should Petroleum Revenue Tax be included in the list of UK taxes? If so, we should find out what, if any, tax Egypt imposes on her oil producers. Foreign Intelligence section do not report any such tax.

In the list of Egyptian taxes, I think the supplementary taxes referred to in (viii) should be spelt out. These taxes are:

National Security Tax)	Both these taxes
Jehad Tax)	are expressed as a rate
	of tax on profits.
Municipality Tax	This tax is expressed as a
	percentage of the tax already
	charged.

In the USA/Egypt Convention, Jehad Tax is referred to as War Tax, and the Municipality Tax is not referred to specifically, but a provision as in (viii) is included in the Article to sweep up this tax.

General definitions

The Egyptian definitions of Egypt and Egyptian national shown in the UK draft have been taken from Egypt's DTAs. We shall have to ask the FCO for their comments on the definitions that the Egyptians want to include. It is preferable to have the definition of nationals in this Article rather than in the Non-discrimination article as the term national will probably be shown in other article - Fiscal domicile and Governmental functions.

Egypt's DTAs do not include a definition of international traffic. In the UK draft the term is shown in the Capital gains and Employments articles.

Fiscal domicile

The UK draft is very similar to the articles in Egypt's DTAs with Finland and Norway. The only main difference is that the UK draft has additional words in paragraph (1) - "the term does not include " to the end of the paragraph. These words are included by us to prevent a UK diplomat in Egypt from being regarded for the purposes of the Convention as a resident of Egypt and consequently entitled to a reduction of UK tax on UK investment income. If the Egyptians are unhappy with this we could suggest including in the Diplomatic and consular officials article a provision on the lines of that in the Philippines DTA.

Permanent establishment

In paragraph (2) the Egyptians may want to include a "farm, plantation and a warehouse". We can agree to a farm and a plantation. In the case of a warehouse there is a conflict with the words in sub-paragraphs (a) and (b) of paragraph (3) - "storage, display or delivery". If the Egyptians press this we could suggest words we have used in our DTAs with the Sudan and Jamaica - "a warehouse, in relation to persons providing storage facilities for others".

In sub-paragraph (h) - building site etc - the Egyptians will ask for a period of 6 months. We can agree as we have this period in a large number of our DTAs.

The remainder of the UK draft article is similar to Egypt's DTAs with Finland, Norway and Austria.

Limitation of relief

This Article does not appear in a number of our recent conventions (eg Korea, Spain, USA, Poland, Romania). It does not appear in the USA/Egypt Convention.

Income from immovable property

Egypt should be able to agree the UK draft article as it is very similar to Egypt's DTAs with Finland and Norway.

Business profits

Egypt's DTAs with Finland and Norway follow the OECD Model and I think we could agree to include paragraphs (4) and (6) of the Model if the Egyptians want this.

In paragraph (3) of the UK draft we like to retain the words in brackets to prevent the possibility of, say, a branch of a UK company in Egypt claiming a deduction for capital expenditure or non-admissible revenue expenditure; otherwise such a branch could be in a better position than a branch of a UK company in the UK.

Shipping and air transport

The Egyptians should be able to agree our draft which is based on residence as this is the test in their DTAs with Italy, Austria and Sweden. There are additional words in Egypt's DTA about dividends. These would provide that dividends paid by a UK company our of shipping and air transport profits to a non-resident of Egypt are to be exempt from Egyptian tax. If we allow Egypt to tax dividends generally in such circumstances - see under Dividends - we should include these additional words to provide protection for UK shipping and air transport enterprises.

Associated enterprises

Egypt's DTAs have, in addition to the paragraph in the UK draft, a paragraph stating that a country may estimate the arm's length profit when sufficient information is not supplied to enable an accurate figure to be calculated. The UK view is that such an additional paragraph is not necessary as we have power to make an estimate under UK law. We would therefore prefer to omit such a provision which would make no difference in practice; if the Egyptians felt very strongly about this I think we could agree to include a paragraph on these lines.

In Egypt's DTAs with Italy and Sweden there is provision that as a result of an adjustment to the profits of one enterprise, the profits of the other enterprise are to be adjusted as appropriate. The UK method for dealing with this is to make a provision in the Elimination of double taxation article [paragraph (4)] for one country to give credit in respect of the income which is subject to double taxation.

Dividends

It is certain that Egypt will want to subject dividends flowing from Egypt to the United Kingdom to the:

- Tax on Income from movable capital
- Defence Tax
- National Security Tax
- War Tax
- Supplementary Tax

All these taxes would be deducted at source, and would be allowed as a deduction from the company's current year profits. In addition, dividends paid to individuals would be subjected to the general income tax. We should aim to limit this to 15/20%. The USA obtains 20 per cent.

Interest

Interest would seem to be liable to the same taxes as dividends, but in the USA/Egypt agreement there is a provision that the tax be limited to 15% in the case of the Contracting State in which the recipient is not resident.

Royalties

Foreign Intelligence Section report that there is no mention of Royalties in the Egyptian tax laws. It seems, from what they say, as if there is no tax on Royalties at present. In the USA/Egypt agreement, however, there is a provision on Royalties, on a mirror image basis, but this may be a precautionary measure. It would be as well to clarify this with the Egyptians.

Capital gains

Paragraph (5) of the UK draft is not included in any of Egypt's DTAs. Its purpose is to maintain our right to tax gains of persons who are ordinarily resident but not resident in the UK.

The Finland and Norway DTAs follow the UK draft with the important exception that gains in general are taxable only in the country of source. However, Egypt may be able to accept our draft as in the DTAs with Italy, Austria, Germany and Sweden gains are generally taxable only in the country of residence.

We prefer to refer to "capital gains" rather than "gains" throughout the article.

Independent personal services

The UK view is that the sole test should be whether the taxpayer has a fixed base in the other country. The provision of personal services if similar to the sale of goods and the fixed base is equivalent to a permanent establishment. If the Egyptians cannot be persuaded to agree (they have not agreed to such an article in any of their DTAs) we would prefer to have a fixed base test and a 183 day test as in their DTAs with Finland and Norway rather than to combine this article with the Employments article.

Employments

There should be no difficulty here as Egypt's DTAs with Finland and Norway are similar to the UK draft. One minor difference is that in paragraph (3) of the UK draft we refer to the country of residence of the operator whereas Egypt's DTAs with Finland and Norway refer to the country of effective management.

Directors' fees

The UK draft article is the same as the articles in Egypt's DTAs with Finland and Norway and Egypt should be able to accept our draft.

Articles and athletes

Egypt's DTAs with Finland and Norway include an article on the lines of paragraph (1) of the UK draft. Paragraph (2) of the UK draft is an avoidance provision and follows a recent amendment to the OECD Model; presumably the Egyptians will be in favour of this.

Pensions

The UK draft article is similar to that in Egypt's DTAs with Italy, Austria, Germany and Sweden and there should be no difficulty. The DTAs with Finland and Norway do not include annuities.

Governmental functions

Egypt's DTAs with Italy, Germany and Sweden follow the UK draft - tax is levied only in the source country unless the taxpayer is a sole national of the other country. In the case of Finland and Norway both countries may tax and in the case of Austria only the country of source may tax.

Students

Egypt's DTAs with Germany and Sweden cover, as in the UK draft, payments for maintenance, education or training. If the Egyptians want to expand the scope to include earnings we might bear these points in mind:

1. We may want to have a limit on the amount of earnings to be exempted. In recent DTAs we have included a limit of £500 but £600 in the case of Cyprus. This would be in addition to the personal allowance - £675 for 1975/76 - so that (with a £600 limit) a student would not pay UK tax until his income exceeded £1,275. Instead of having a limit we could have a provision to exempt earnings reasonably necessary for maintenance, education or training (see our DTAs with Jamaica, Kenya and Zambia).
2. We should include words similar to those in brackets in paragraph (1)(b) of Article XVIII of our Malaysian DTA - "(other than any rendered by a business [or technical] apprentice to a person or partnership to whom he is apprenticed)".
3. We may wish to include a provision that the benefits of the article are not to be given for more than 5 years. (See our DTAs with Jamaica, Kenya and the Philippines).

Teachers

We prefer to include a subject to tax test so that exemption from tax is not given in both countries and we might put this point to the Egyptians. None of their DTAs includes such a provision.

In their DTAs with Finland and Norway researchers are also included and we could agree to cover these. (See our Jamaica DTA).

Income not expressly mentioned

The Egypt/Austria DTA, like the UK draft, provides for taxation only in the country of residence but under the DTAs with Finland and Norway tax may only be levied in the source country. There is no article in Egypt's DTAs with Italy, Germany and Sweden. If Egypt cannot agree our proposal we would prefer to have no article.

Elimination of double taxation

It may be as well here to specify that all the taxes listed in the taxes covered Article should be regarded as income taxes for the purposes of UK credit.

Personal allowances

This Article has not been included in many of our recent agreements, and could perhaps be dropped. There is no such Article in the USA/Egypt Convention.

Non-discrimination

There is nothing in Egypt's other DTA's to suggest that this Article would not be agreed in the form of our draft.

We may wish to consider deleting, in paragraph (4) of this Article, the words "nor as obliging the United Kingdom" to the end. This would seem to be no longer appropriate.

Mutual agreement procedure

The UK draft is similar to Egypt's DTAs. We would prefer not to have any time limit for representations. (the Italy DTA has a 2 year limit) in view of the delays that may occur where an appeal is made and not to provide for consultation in cases not covered by the DTA - see the Finland DTA Article 25, paragraph (3).

If the Egyptians bring it up we could perhaps include in this article nationals, who may be resident in third countries, as well as residents. See the Austrian DTA and the revised OECD Model.

Exchange of information

The UK draft shows our preferred version of this article but we could agree to an article on the lines of our DTAs with Spain, Cyprus, Malaysia or the Sudan which are similar to the articles in Egypt's DTAs.

Diplomatic and consular officials

This should present no difficulty. The UK draft is the same as Egypt's DTAs with Finland and Norway.

Territorial extension

This could be deleted if the Egyptians do not want to include it.

Entry into force

We prefer to specify the commencing dates rather than (as in Egypt's DTAs with Norway and Finland) refer to the date of entry into force of the Convention as businessmen can make plans with certainty that the DTA will apply.

Termination

This should present no difficulty.

RESTRICTED

BRIEF NO 2



EGYPT

UK/EGYPT COMMERCIAL RELATIONS AND TRADE BRIEF

The UK/Egypt Joint Commission

1 Despite the chronic balance of payments difficulties and doubtful future prospects Egypt remains a country of considerable importance and influence, and on where there are opportunities to be taken. The trick is to distinguish the real from the fanciful.

2 Against this background the UK/Egypt Economic, Industrial and Technological Cooperation Agreement was signed on 11 June 1975, and the work of its Joint Commission will provide a framework in which Egyptian needs can be matched to UK skills and technology.

3 The Joint Commission met for the first time in Cairo from 22-26 November. Although suffering from inadequate preparation on the Egyptian side important opportunities for British consultants, contractors and manufacturers in the fields of urban development, housing, ports and transport were discussed. Subjects discussed included the prospects for increased UK participation in Egypt's economic and infrastructure development, and the scope for UK private sector investment in Egypt.

4 The Egyptian Government were given details of a large number of companies interested in investment in Egypt. For their part the Egyptian Government provided information about priority projects in which UK participation would be welcome taking advantage of the credit facilities already made available by the UK (see Brief No 5) and also of funds which Egypt could draw from other Arab countries. In order to create a framework for investment by UK companies in Egypt, the two Governments have already concluded an Investment Protection Agreement. During the Joint Commission meeting it was agreed that discussion of a Double Taxation Agreement would go ahead.

UK/Egypt Trade

	1974	1975
5		
UK Exports	52.4	107.7
UK Imports	37.2	40.9

UK/Egypt trade has been on a steadily rising trend in recent years and, with UK exports increasing by 105.5% in 1975 to £107.7m, we have done particularly well. Imports, however rose only marginally to £40.9m.



5 UK Exports in 1975 were dominated by machinery and transport equipment (£54.8m); general manufactures (£17.2m); chemicals (£14.0m); fruit and vegetable (£7.1m).

7 UK Imports were concentrated on fuels (£32.3m); food and live animals (£2.9m) and fruit and vegetables (£2.7m).

8 None of these ^{expert} successes take account of the significant ^{achievements of} inroads which our consultants have made over the last year. Particularly, the success of Clifford Culpin & Partners, Sir William Hulcrow & Partners, and Bullen & Partners in securing master plan studies for Ismailia, Port Suey and Port Said ~~will~~ do much to pave the way for future successes in the consultancy field, and, it is hoped, contracting.

9 Much of the future for British exports, and, therefore, to some extent the future success of the work of the Joint Commission, will depend upon Egypt's ability to attract surplus petro-dollars, and the extent to which ECGD ~~feel~~ able to extend credit facilities (see Brief No 5)

9 Egypt's needs are many and her ideas on what she wants are clear. Only the best of technology will do and prompt delivery is important. The most immediate areas of promise are

- a Agricultural machinery
- b Agricultural drainage equipment
- c Agricultural spraying equipment
- d Power units
- e Tractors
- f Machine tools
- g Port handling equipment
- h Sewerage and water purification equipment
- i Hotel equipment
- j Spinning and weaving equipment.

The bulk of this business may well be small scale and financed under very short term credit. Such opportunities provide relatively secure prospects of payment. At the same time the Government will probably continue to encourage large prestige projects. Where payment is from Egyptian sources we shall need to tread with caution since the risks may outweigh the attractions. Alternative means of payment - surplus Arab petro-dollars, provide a more promising source of payment and here, under the ECGD 5/25 facility (see Brief No 5) we can be a little more encouraging. As in all Arab markets of this kind, British Manufacturers experience great difficulty in engaging the interest of the wealthy Arab in specific projects.

BRIEF FOR MR DEAKINS VISIT TO EGYPT 19 - 21 MARCH

EGYPT: INTERNAL

Background

1. The Arab Republic of Egypt is the most populous of the Arab states; with a population of around 35 million people which is about a third of the total population of the Arab world. Although Egypt is about four times the size of the UK most of the population live in the narrow strip of fertile land formed by the Nile Valley and its delta - a total of about 16,300 square miles only. The remainder of the country, apart from a few oases, the canal zone, and parts of the northern coastal strip is unproductive desert.
2. Almost two thirds of the population still depend on agriculture for their livelihood despite the fact that there have been strenuous efforts over the past 25 years at industrialisation. The density of the population averages 1,800 per square mile and is increasing by nearly 3% per annum.

Political Structure

3. Egypt is a republic with an executive President, assisted by a Vice-President, a Prime Minister and Council of Ministers. Ultimate power of decision rests with the President who appoints and dismisses the Vice-President, the Prime Minister and the Cabinet. Under the present constitution (1971) the President is elected for a period of six years. President Sadat, whose present term of office expires this year, has been nominated

for re-election. The sole political party is the Arab Socialist Union (ASU) and the elected body is the Peoples' Assembly, whose members must belong to the ASU. The ASU has, theoretically, a watching brief on the formulation of internal and external policy.

Economy

4. Before the 1973 war the Egyptian economy was already under severe strain and Egypt was suffering from balance of payments difficulties, a heavy burden of external debts and considerable unemployment. These difficulties were compounded by the war and the situation became worse during 1974 and 1975 because of the steep rise in world food prices. (Despite the strength of her agricultural economy Egypt still depends on imports for some 50% of her food requirements.) The continued diversion of resources to the war effort has led to shortages of basic commodities and to a further lowering of the already low standard of public services.

5. Egyptians have been made aware in recent months of the seriousness of the country's economic situation and there are signs that the resulting strains could have political consequences in the foreseeable future. The Government have been short of ideas on how to remedy the situation. The 'Open Door' policy has attracted little foreign investment. These economic difficulties are compounded by Egypt's political problems in the Arab world resulting from the second Sinai disengagement agreement.

6. Egypt is in need of vast sums of international aid to support her balance of payments position and project aid for her redevelopment plans. Aid has been provided at varying levels in the past, notably by Saudi Arabia, Kuwait, the United Arab Emirates, the United States and by various Western countries. President Sadat has just undertaken a tour of the Arab 'paymaster' countries returning to Cairo on 29 February. Press reports in Egypt apparently based on informed sources credit the President with having secured immediate assistance of \$650 million, but more emphasis is being laid on the fund to be established with the participation of the Gulf States and international agencies to bolster Egypt's economy in the longer term. A meeting of Arab Foreign Ministers is said to be being arranged shortly to activate the fund.

Covering

GPS 200
PRIORITY
CYPHER/CAT A

CONFIDENTIAL

FM F C O 121045Z

CONFIDENTIAL
TO PRIORITY CAIRO TELNO 289 OF 12 MAY 1976.

DOUBLE TAXATION AGREEMENT

PLEASE PASS TO MR POLLARD OF I R TEAM.

1. INLAND REVENUE SUGGEST THE FOLLOWING ADDITION TO ARTICLE 24 (ELIMINATION OF DOUBLE TAXATION):-

"5. THE PROVISIONS OF THIS ARTICLE SHALL NOT APPLY TO

(A) A COMPANY WHOSE ACTIVITIES INCLUDE THE EXTRACTION OF PETROLEUM:

THE ACQUISITION OR DISPOSAL OF PETROLEUM OR OF RIGHTS TO EXTRACT, ACQUIRE OR DISPOSE OF PETROLEUM:

THE REFINING OR PROCESSING OF CRUDE PETROLEUM:

THE OWNERSHIP, OPERATION OR MANAGEMENT OF SHIPS OR PIPELINES USED FOR TRANSPORTING OR CONVEYING PETROLEUM OR PETROLEUM PRODUCTS:

OR

(B) TO A COMPANY WHICH IS ASSOCIATED WITH A COMPANY CARRYING ON SUCH ACTIVITIES.

6. FOR THE PURPOSES OF THIS ARTICLE A COMPANY IS ASSOCIATED WITH ANOTHER COMPANY IF EITHER COMPANY DIRECTLY OR INDIRECTLY CONTROLS THE OTHER, OR IF ANY THIRD PERSON OR PERSONS (RELATED TO EACH OTHER OR ACTING TOGETHER) DIRECTLY OR INDIRECTLY CONTROL BOTH."

CROSLAND.

FILES
NENAD

COPIES TO:
MRS A H SMALLWOOD
INLAND REVENUE, SOMERSET
HOUSE

CONFIDENTIAL

FM

IMMEDIATE
CYPHER CAT A
GRPS 240

CONFIDENTIAL

FM CAIRO 131500Z MAY

CONFIDENTIAL

TO IMMEDIATE FCO TEL NO 479 OF 13 MAY 1976.

PLEASE PASS URGENTLY TO MRS. SMALLWOOD, BOARD OF INLAND
REVENUE, SOMERSET HOUSE, LONDON. COPY TO MR HOPKINS,
INLAND REVENUE.

FROM POLLARD.

URGENT AND CONFIDENTIAL

EGYPT TAX TREATY.

1. NEGOTIATIONS DIFFICULT BUT HAVE MANAGED TO PERSUADE
EGYPTIAN TEAM TO ACCEPT THE FOLLOWING ADDITION TO
PARAGRAPH ONE OF ARTICLE 22 (ELIMINATION OF DOUBLE TAXATION)

''PROVIDED THAT THIS PARAGRAPH SHALL NOT APPLY TO A
COMPANY WHICH IS A RESIDENT OF THE UNITED KINGDOM AND
IS A PETROLEUM COMPANY WITHIN THE MEANING OF THE OIL
TAXATION ACT 1975''.

EGYPTIANS VERY CONSCIOUS OF THE SIGNIFICANCE OF THIS
PROVISO TO THE EGYPTIAN ECONOMY IF UNILATERAL TAX CREDIT
RELIEF FOR PETROLEUM COMPANIES WERE TO BE WITHDRAWN. MINISTER
OF FINANCE HAS YET TO SAY WHETHER THE PROVISION IS ACCEPTABLE.
FEEL THAT THERE IS NO CHANCE OF ACCEPTANCE BY EGYPTIANS OF
THE DRAFT IN TELNO 289 OF 12 MAY. AND TO PRESS THIS ON THEM
WOULD PREJUDICE THE AGREEMENT WHICH IT IS HOPED WILL BE
INITIALLED ON MONDAY EVENING. CONSIDER THE OIL COMPANY
EXCLUSION CLAUSE AS PROVISIONALLY ACCEPTED DOES THE TRICK BUT
IF NOT SATISFACTORY GRATEFUL IF YOU WOULD SUGGEST ANY MINOR

CONFIDENTIAL

/ AMENDMENTS

CONFIDENTIAL

AMENDMENTS REQUIRED. IF DEFECTIVE IN SUBSTANCE AND DOES NOT
GIVE US WHAT WE WANT PLEASE NOTIFY BEFORE MONDAY EVENING IF
POSSIBLE SO THAT INITIALLING CAN BE DEFERRED.

2. WE WILL BE RETURNING ON TUESDAY 18 MAY ON FLIGHT BA120
ARRIVING HEATHROW 21.20 HOURS. GRATEFUL IF WIVES COULD BE
NOTIFIED.

MORRIS

[ADVANCED AS REQUESTED]

FILES

NENAD
FRD
ENERGY D

COPIES TO:

MRS A H SMALLWOOD } BOARD OF
MR D HOPKINS } INLAND REVENUE
SOMERSET HOUSE
WC2

Mr Hopkins

T 1169/228/75

NOTE FOR THE RECORD: UK/EGYPT DOUBLE TAXATION NEGOTIATIONS

After consulting Mr Cleave of the Solicitor's Office about the proposed addition to paragraph 1 of Article 22 of the draft UK/Egypt double taxation agreement (as set out in FCO telegram No 479 of 13 May 1976) I spoke to Mr Quinlan's assistant at the FCO and dictated the following telegram to be sent to Mr Pollard urgently:

"Urgent and Confidential

Double Taxation Agreement

Please pass to Mr Pollard of IR team.

1. Inland Revenue say that the proposed addition to paragraph 1 of Article 22 (elimination of double taxation) is acceptable except for the final words "within the meaning of the Oil Taxation Act 1975". There is no definition of petroleum company for the purposes of this Act as a whole but only for the purposes of Schedule 9. The final words in the proviso should therefore be replaced by "as defined for the purposes of Schedule 9 to the Oil Taxation Act 1975". The proviso will then read "provided that this paragraph shall not apply to a company which is a resident of the United Kingdom and is a petroleum company as defined for the purposes of Schedule 9 to the Oil Taxation Act 1975".


2. Wives have been notified of departure plans."

I was told that the telegram would probably be sent within an hour and that I would be sent a copy of it this afternoon.

SA

D HOPKINS
14 May 1976

بسم الله الرحمن الرحيم


جمهورية مصر العربية

وزارة المالية

مكتب الوكيل
لشئون الضرائب

Sayed Mohamed Habib
Undersecretary of State
for Taxation Affairs
Ministry of Finance
15 Mansour Street
Lazoghly
Cairo - Arab Republic of EGYPT

Cairo, May 17, 1976.

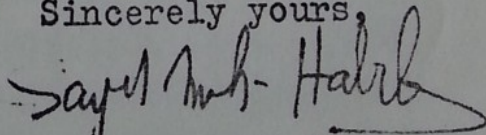
Mr. B POLLARD
Inland Revenue
Room 72
West Wing
Somerset House
LONDON WC2R 1LB
UNITED KINGDOM

Dear Mr. Pollard:

I have the honour to inform you that it would facilitate in the ratification of the tax convention, which was initialled on the 17th of May, if assistance could be given by the British Authorities in the translation into Arabic. This would help speed things up considerably and we would be most grateful if such help could be provided.

Hearty regards and best wishes.

Sincerely yours,



Sayed M. Habib
Undersecretary of State
for Taxation Affairs
Ministry of Finance

7583

Mr T Quinlan
Near East and North Africa Department
Foreign and Commonwealth Office
LONDON SW1

21 May 1976

Dear Quinlan

UK/EGYPT DOUBLE TAXATION AGREEMENT

We have just arrived back from Egypt, and I am pleased to say that we were able to initial an agreement with the Egyptians. I attach a copy for perusal by your Treaty Section.

The Egyptians asked us to let them have the original initialled text, together with eleven copies - they do not have a copying machine of their own. These are enclosed and I would be glad if you would forward them via the diplomatic bag for the Embassy, for handing to the Egyptians. No doubt you will remind the Embassy that this agreement is confidential between governments and the contents must not be disclosed under any circumstances to a third party.

Mr Habib of the Egyptian Ministry of Finance, who led the Egyptian team in the negotiations, asked us if we could arrange for an Arabic translation of the text, and I attach his letter. Could you look into whether this is possible? I attach an extra copy of the agreement for translation.

The Egyptians mentioned that they would like signature to take place in London, and no doubt we can bear this in mind when the time comes to make arrangements for signature.

Yours sincerely

Hearty regards and best wishes.

I P GUNN

CONFIDENTIAL

PS 7078/75

PRIVATE SECRETARY TO THE CHIEF SECRETARY

OIL COMPANIES: RELIEF FOR TAXES PAID TO
PRODUCER GOVERNMENTS: UK/EGYPT DOUBLE
TAXATION AGREEMENT

1. In his minute of 11 March Mr Matheson said that the Paymaster General, then Mr Dell, agreed that consultations should proceed with other interested Departments over the proposal in our minute of 9 March that action should be taken to put an end to the oil companies' use of the double taxation relief rules. A copy of our minute of 9 March is attached.

2. These consultations are proceeding and we shall report further in due course. Before we are able to do so however we shall have commenced negotiations with the Egyptian Government about a double taxation agreement. These talks which were arranged some months ago ^{and} have already been postponed once ^{and} are now due to start on

10 May in Cairo: *we do not think that, without creating difficulties, this could be*

3. The Egyptian Government is one of the Middle Eastern Governments which have through their State Oil Company entered into arrangements with a UK oil company of the sort referred to in our minute of 9 March. These arrangements are designed to produce a liability to Egyptian tax which, because of our credit rules, eliminates the UK tax charge.

4. One of the possible courses of action which Ministers will no doubt wish to consider is to withdraw unilateral relief for overseas tax on oil companies' profits and to grant

credit under double taxation agreements only where the arrangements for taxing the oil companies' profits in the overseas country are satisfactory. This option must be kept open under the agreement with Egypt, and it would be necessary as a minimum to exclude oil companies from the benefit of the credit article in the proposed double taxation agreement.

5. This would doubtless make the companies suspect that the Government was contemplating the withdrawal of credit for foreign taxes on oil production. This is the more likely since the US Internal Revenue Service has just ~~issued~~ a ruling, in relation to an Indonesian scheme which is essentially the same as the Egyptian model, that the tax payable to the Indonesian Government will not qualify for credit, ~~and will not be admissible as a deduction in computing profits because its genuineness is suspect.~~

Announced that
it intends to
issue

(An Internal
Revenue "ruling"
has no binding
legal effect but
is in practice a
powerful regulatory
device.)

6. An alternative course would be to exclude oil companies completely from the scope of the agreement. Iran has done this unilaterally in agreements, and in our negotiations with Iran (now suspended while they complete a major tax reform) we accepted the exclusion of oil companies provided it was reciprocal. This course would not therefore involve singling out Egypt for special treatment. It would mean that oil companies were deprived not only of foreign tax credit under the agreement but of all other benefits including protection against fiscal discrimination. It would also suggest that one or both Governments had some change in mind in relation to oil company taxation and wanted a free hand without the constraints an agreement would involve. It

would give the companies much less protection than an agreement with the exclusion of the credit article, and it would give a less specific hint about the Government's possible intention than an exclusion from the credit article.

7. We do not know the Egyptian attitude to oil companies. So far oil is not of major economic significance ^{to them} and the outcome of current exploration and development will not be known for some time, so that they may be willing to ensure that the agreement does not guarantee credit for foreign taxes to oil companies. If so we shall have to find out which method they prefer. Total exclusion of oil companies might be more acceptable because there is the Iranian precedent and it would probably be more straightforward to draft; on the other hand exclusion from credit only would be fairer to oil companies, even if it needed rather more elaborate drafting. For this reason we would recommend excluding oil companies from the credit article only.

8. We seek the Chief Secretary's authority to explore these possibilities with the Egyptians and to try to secure the exclusion of oil companies from the credit article only.

B. T. GLASSBURN

P — S —

1 — R —

Covering



THE BOARD ROOM
INLAND REVENUE
SOMERSET HOUSE

12 June 1975

PRIVATE SECRETARY TO THE PAYMASTER GENERAL

OIL COMPANIES: RELIEF FOR TAXES PAID TO PRODUCER COUNTRIES

1. The Paymaster General will wish to have an interim report on recent developments in the Middle East which are designed to combine participation with tax liabilities which will qualify for credit in the country of origin of the oil group concerned. We mentioned these developments some time ago as possibly calling for early action. The facts however are not yet fully known, and partly but not entirely for that reason other administrations are still reserving their positions.
2. Two factors led to the oil companies paying no United Kingdom tax on Middle East oil operations up to the time of the PAC Report in 1973. The use of posted prices as the transfer price to the United Kingdom trading company produced artificial losses which were available for relief against United Kingdom tax paid by the group, but the United Kingdom got no tax on the inflated production profit because it was wiped out by credit for the Middle East tax on that profit. The offensive feature of the situation was the loss created by artificial transfer prices; the relief for producer countries' taxes was accepted at that time as a legitimate consequence of the arrangements for allowing unilateral credit for foreign taxes.

cc Principal Private Secretary
PS/Chief Secretary
PS/Financial Secretary
PS/Minister of State
Sir Douglas Wess
Mr Airey
Sir Douglas Henley
Mr Pliatsky
Mr Harrop
Mr Mountfield
Mr Lovell
Mr Boughton
Mr Turnbull
Mr Pirie
Lord Ralder

Mr Price
Mr Dalton
Mrs Smallwood
Mr Hopkins
Mr Pollard
Mr Thomas

Africa Dept

3. The arrangements for double taxation relief were questioned last year and the Paymaster General instructed us to review them and to report by the end of the year. We were not able to complete this review last year but hoped to report in January. At that time the oil tax situation, which is crucial in the double taxation context, began to change significantly. Last year it seemed that as Middle Eastern countries moved towards 100 per cent participation the problem of how, and how far, to give relief for overseas oil taxes was disappearing. The oil states would get their take as a price paid for buying back participation oil and not as a tax (in reality, a royalty) on oil production profits. In that event it was possible that the oil industry could be excluded in considering the merits of double taxation relief.

4. The oil companies were apparently not prepared to be switched from a basis which included tax qualifying for credit to one under which they paid a similar amount to the producer Government but obtained no tax credit. In 1973 arrangements of which we have only recently learned were negotiated by a Consortium with the Government of Iran under which the company pays less than posted prices for participation oil and also pays tax on the difference between the posted price and the aggregate of its production costs and the price it pays for the oil. The tax plus the price paid give the Iranian Government the standard OPEC take of 87 per cent, and the tax will be claimed as a credit against the taxes payable to Western Governments. Another type of arrangement has recently been concluded by an international consortium with the Egyptian Government and is said to be under negotiation elsewhere. In this scheme, of which we know only the broad outline, the consortium as contractor lifts the oil on behalf of the Government. It is entitled to 40 per cent of the oil at market value, out of which it recovers its costs. It is also entitled to 20 per cent of the remaining oil free, the rest going to the State Oil Company. The company itself pays no taxes, but the State company pays on its behalf tax on the profits derived from the sale of the 40 per cent market value oil and the 12 per cent free oil. These are invoiced to associate companies possibly but not necessarily in tax havens. The companies have

asked if we will allow relief for the tax paid on their behalf by the State Company which is in form payable under the general tax law of Egypt. We are asking for further information about the scheme; and have declined to express an opinion.

5. Our first reaction was that under both the Iranian and the Egyptian scheme 'tax' was being manufactured so as to reduce the tax payable to the United Kingdom and other Western Governments. We do not yet have all the necessary information, including copies of the contracts, to enable us to say whether in law these taxes qualify for unilateral relief.

6. We have been approached by the French who were less well informed than ourselves but also concerned, and who showed interest in forming a common front with the Americans and ourselves. They and we independently consulted the United States. We have approached the Dutch who also have an interest both as producers and as consumers of oil. Since they do not have a credit system of relieving overseas tax but exempt overseas trading income they run no risk of allowing excessive credit for overseas tax, but they think that under these new arrangements they might be deprived of a fair liability on the profits of their trading companies. The Germans think from a tax point of view that relief for these taxes should be refused, but there could be other policy considerations in favour of allowing relief.

7. No country has reached a final decision. The state of play is that the Americans have not yet digested the law enacted just before Easter which incorporates proposals of a Joint Congressional Committee as well as those of the Administration, which much alters the tax position of their oil companies; and they have not decided as a matter of policy how much harder they want to press the companies. Their attitude seems to be that they do not object to tax being paid to a foreign government on the profits from the operations of an American company in its country, up to the amount of the United States tax on those profits. They do object to 'excess credits' for foreign tax, which can be set off against United States tax on other income.

(Under our rules, excess credits cannot arise.) They may also feel that enough has been done to hit the oil companies for the moment and any further action would be discriminatory. They are to let us know when they reach a decision. The French dislike the schemes from a fiscal point of view, and think that they can reduce their credit by administrative action. Their Government will not necessarily settle the question on purely fiscal grounds.

8. The Paymaster will no doubt wish to know the reaction of other Governments as soon as an indication of their views is available. Meanwhile we are studying the Egyptian arrangement and seeking clarification, some of which the companies seem reluctant to provide. We are in no hurry to express a view on the scheme. We have indicated to the companies that we are not satisfied that relief should be allowed, and we are asking for further information, partly because the facts are not clear enough and partly because we wish to make sure that the Government's freedom of action is not limited in any way by our comments. These tactics could give rise to criticism, but we assume that the Paymaster would wish us to hold the line for the present.

9. The group which is reviewing double taxation is reconsidering the situation in the light of these developments on oil taxation, which accounts for a high proportion of unilateral credit as well as some of the credit allowed under agreements (eg with Nigeria).

Conclusion

10. Until all the relevant facts are known it would not be possible to introduce amending legislation, and Ministers would no doubt wish to know the attitude of other Governments affected before arriving at a decision. We shall keep the Paymaster informed on both aspects.



THE BOARD ROOM
INLAND REVENUE
SOMERSET HOUSE

9 March 1975

PRIVATE SECRETARY TO THE PAYMASTER GENERAL

OIL COMPANIES: RELIEF FOR TAXES PAID TO PRODUCER GOVERNMENTS

1. In our note to the Paymaster of 12 June 1975 we described certain developments in the Middle East which were evidently designed to combine participation with tax liabilities which would qualify for credit in the country of residence of the oil group concerned. As we explained in that note we had expected a year ago that the moves by Middle Eastern countries towards 100 per cent participation in oil production would have eliminated the problem of how and to what extent relief for overseas oil taxes should be given. It seemed that the oil states would get their "take" as a price paid for buying back participation oil and not as a tax (in reality a royalty) on oil production profits. In those circumstances it seemed that no special recommendation might be needed in relation to the oil industry. By June however it had become clear that the oil companies were not prepared to be moved from a basis which included tax qualifying for credit to one under which they paid a similar amount to the producer Government but obtained no tax credit. We have only recently obtained the material details of the methods they have adopted to safeguard their position.

cc Principal Private Secretary
PS/Chief Secretary
PS/Financial 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
Mr Hopkins
Mr O P Davies

2. The arrangements which a consortium of oil companies had entered into with the Government of Iran were outlined in our note of 12 June (copy attached). We also referred to another type of arrangement which had recently been concluded by a company with the Egyptian Government. Since then it has been announced that BP and Gulf have agreed terms with the Kuwait Government for ceding their remaining interests in their original concession. We do not have details of these terms but it would be prudent to assume that the new arrangements will be such that the BP subsidiary will continue to be liable to Kuwait tax even though it will in effect be merely a purchaser of oil from the state.

3. Under all these arrangements the oil companies are in effect being allowed to purchase some of the oil at a discount. However instead of giving a straightforward discount of say 15 cents a barrel on some of which United Kingdom tax would be payable (as the discount would in effect represent the gross profit made by the companies), the Middle Eastern Governments give a discount of say \$1 a barrel and then charge tax on the \$1 at the rate of say 85 per cent. The company is left with the same discount of 15 cents but the United Kingdom corporation tax on the 'profit' of \$1 is more than covered by the 85 cents Middle Eastern "tax". The nominal rate of discount can obviously be varied to produce the same result with any given rate of Middle Eastern tax (provided it exceeds the United Kingdom corporation tax rate).

4. We said in June that our first reaction was that under both the Iranian and the Egyptian schemes "tax" was being manufactured so as to reduce the tax payable to the United Kingdom and other Western Governments but that we did not have sufficient information to decide whether in law these "taxes" qualified for unilateral relief. We also said that we had been in touch with the French, German and American tax authorities. None of them had reached a final decision and we were trying to obtain further clarification of their views from them.

The legal position

5. We have now been advised by our Solicitor that we have virtually no chance of successfully refusing credit under our unilateral relief rules for the taxes charged on oil companies under the Egyptian or Iranian sort of arrangements. The oil companies have no doubt been similarly advised and presumably they will try to make similar arrangements wherever possible throughout the world. A similar scheme already exists in Indonesia and we understand that one is being negotiated with the Malaysian Government.

The issues

6. The spread of these schemes would mean that United Kingdom based oil companies would be unlikely to pay any United Kingdom corporation tax on their profits or dividends from production outside the North Sea. The officials who have been reviewing our Double Taxation arrangements have now reported to the Paymaster and have not proposed any general restriction of the present scope of the arrangements for double taxation relief, but they recognise that the oil industry is in a category of its own and that it might be appropriate to treat it differently from other industries. The question is to what extent the group's general conclusions should be modified by what we now know about the Iranian and Egyptian arrangements and whether any changes should be made in our double taxation relief rules to take account of them.

7. What strikes us as objectionable about these arrangements is that they exploit the United Kingdom credit rules and the dual role of Middle Eastern Governments as vendors of the oil and as taxing authorities in order to ensure that no United Kingdom corporation tax is paid on the profits derived by the oil companies by virtue of the preferential terms which they enjoy as former concession holders. The terms on which the oil is being sold - at discounts of up to \$1 a barrel - are not ones which a vendor acting purely from commercial considerations

would ever concede, but if someone other than the Middle Eastern Government were (however incredibly) to enter into such arrangements we could not object in principle and would be content to give credit for the tax charged on the profit. The overseas Government would simply be taxing according to its law the profit made by the oil company; but in the situation we now face, the Government and the vendor of the oil are in substance the same. Similarly we would not object to giving an expenses deduction for a high purchase price eg if, instead of entering into these elaborate arrangements the overseas Government were simply to charge a price equal to the price fixed under these arrangements plus the tax, we would have no grounds for objecting: the oil companies would obtain a deduction for the cost of the oil in computing their profits for United Kingdom tax purposes but would pay tax in full on the resulting profit. To secure a high Government take on oil profits is one thing: to construct a package deal to which the United Kingdom Government is not a party and under which the net take of the oil companies is substantially augmented at the expense of the United Kingdom Revenue is quite another.

8. We are in no doubt therefore that these arrangements involve an abuse of the existing double taxation relief rules. A reasonable reaction is that, in the circumstances that oil companies are evidently determined not to pay tax in part of their profits, the Government should be equally determined that they should. On this footing, corrective legislative action would be called for as soon as possible. The range of action available is discussed in para 12. below.

9. In deciding whether to propose legislation there are a number of consultations which it appears to us that Ministers will wish to weigh;

a. The present credit system for overseas tax represents a middle course between allowing only a deduction for overseas tax and totally exempting overseas profits. The double taxation review takes the view that our credit method of relieving double taxation provides in general a

degree of fiscal encouragement which fairly corresponds to the economic policy on outward investment. If this is so then manipulations of the system like these Middle East tax routes go beyond the policy objectives and should be prevented as far as possible. If they are not we might just as well have an exemption system of double taxation relief as far as oil companies' overseas profits are concerned, in other words accept that oil companies will never pay any United Kingdom tax on overseas profits.

b. In that case, oil companies will obtain greater incentives for overseas investment than was originally thought would be provided under the credit system. It is doubtful whether any other industries are in a position to come to such arrangements with overseas countries (this depends not only on the negotiating strength of the companies but also on whether the overseas Government itself controls the supply of the raw materials concerned). Those that are will share the privileged position of the oil companies. They will have all the benefits of an exemption system of double taxation relief while the bulk of British companies will only enjoy the more limited benefits of the credit system. In such a situation the credit system is to some extent effectively discredited. It would then be much more difficult to resist the arguments that we should move over entirely to an exemption system (which United Kingdom Governments have always resisted and the double taxation review firmly opposes).

c. Although it is very difficult to estimate how much revenue might be at stake, it could clearly be significant. If arrangements of this sort become the rule, the oil companies' overseas profits for United Kingdom tax purposes would be artificially swollen by the uncommercial "discounts" given by the Middle Eastern Governments and probably rise to something in the order of £m4,000 a year. The United Kingdom corporation tax on these profits would be about £m2,000 and under the present rules wholly covered by credit for the overseas "taxes". But these profits are

just as artificial as the losses under the oil posted price system to which the Public Accounts Committee drew attention and which the transfer pricing rules in the Oil Taxation Act were aimed. If credit for these taxes were denied and a deduction given instead, the profits for United Kingdom tax purposes would be brought down into line with the real profit of, say, £m200 a year on which corporation tax of about £m100 would be payable - and the current tax loss may be approaching this figure. But tax of the order of £m100 a year on overseas production profits would not be the only benefit that would accrue to the Revenue from the withdrawal of credit. As long as the oil companies pay no tax on their overseas profits it will pay them to shift as much of their profits as possible from their United Kingdom central trading companies into their production companies (ie from refining and downstream activities into overseas production). Even with the much stronger transfer pricing rules introduced in the Oil Taxation Act, we will find it difficult to eliminate this sort of profit shifting entirely. Withdrawal of credit would therefore prevent a probable loss of tax from the central trading companies and make the work of our Oil Taxation Office much easier. Furthermore the existence of enormous "paper profits", while not as worrying as the paper losses which arose under the posted price system might emerge misleadingly in Inland Revenue (or corporate) statistics and could also give rise to problems in the future. Certainly we could only feel uneasy about a situation in which a company's profits for United Kingdom tax purposes were up to 20 times as much as its commercial profits net of overseas taxes.

10. In our view, all the above considerations point to stopping this abuse. We think that it would be right to acquiesce in it only if there were compelling reasons for believing that the interests of the country required us to give oil companies better treatment than others. This is a matter on which the

Department of Energy would wish to comment, but it is not easy to construct a convincing case for the oil companies. The strongest argument for treating them more favourably than other companies would seem to be that the oil industry is a uniquely international industry and that nothing should be done which would undermine the ability of United Kingdom oil companies to compete successfully with the oil companies of other nations, in particular the United States. This argument assumes that investment overseas by United Kingdom oil companies is more valuable to the country than investment by other companies and that making United Kingdom oil companies liable to United Kingdom tax would significantly undermine their ability to compete with foreign companies.

11. If the international competition argument is sound much will depend on the attitude taken to these new Middle Eastern taxes by other tax authorities. We know from the consultations that we have carried out that the US tax authorities in particular regard them with disfavour and may well decide to deny credit for them against US tax liabilities. If they were to do so the United Kingdom oil companies could not run the international competition argument against any move on our part to do likewise. But the US tax authorities have not yet issued a ruling and we do not know when one will emerge.

12. If Ministers decided to legislate, three courses would in principle be open:

a. . to define the arrangements concerned and exclude from credit the tax payable under them. The legislation would have to be in general enough terms to avoid both the risk of hybridity and of discrimination against the "taxes" imposed by particular countries; and care would have to be taken not to strike at legitimate arrangements. However we fear that it would be impossible to devise rules that were both watertight and acceptable, so that an attack drafted specifically in terms of these particular types of manipulation would almost certainly fail.

b. to withdraw both unilateral and double taxation agreement relief for oil companies only, or

c. to withdraw unilateral relief for oil companies only, leaving them with credit, or partial credit, where satisfactory double taxation agreements could be negotiated or re-negotiated with the countries concerned.

13. Both the latter, particularly b. would involve a measure of discrimination against oil companies. Alternative b. would provide uniform treatment of overseas taxes on oil companies' profits wherever they arose and whether or not we had a double taxation agreement with the country concerned. It would put an end, once and for all, to the problems associated with the grant of credit for overseas taxes to oil companies. Alternative c. on the other hand, would give us more flexibility: credit could be given only for taxes which we regard as legitimate and on terms which were satisfactory to us. There might be scope, for instance, for working out satisfactory tax sharing arrangements with the overseas country under which we gave credit for its taxes at one half or two thirds the United Kingdom corporation tax rate (with an option for the oil companies to have a deduction instead of partial credit). Such an approach would enable us to regulate the circumstances in which credit was given and might even strengthen our negotiating position in double taxation talks with the oil producing countries.

14. If credit were denied to the oil companies for some or all of the overseas taxes they pay they would still be allowed a deduction for them in computing their profits for United Kingdom tax purposes. We do not think that there is any case for disregarding these taxes - even the taxes payable under the Iranian or Egyptian type of arrangement - for United Kingdom tax purposes, because we do not think it can seriously be argued that they are not an expense of earning the profits. In all the discussions that are taking place on possible changes in double taxation policy it has been accepted that to deny at least a deduction for overseas tax would ignore the facts and mean treating outward investment much too unfavourably.

Conclusions

17. The development by the oil companies of these new Middle Eastern "tax routes" in our view leaves no effective alternative to enacting special treatment for them. Otherwise, the oil companies will be able to achieve a specially favourable position with regard to credit for overseas tax through their ability to negotiate special arrangements with overseas Governments. Subject to the views of Department of Energy and other interested Departments, we would advise Ministers to put an end to their privileged position in this respect. We have mentioned above the ways in which this might be done. We do not regard it as feasible to legislate solely against these arrangements, although this would involve the least apparent discrimination against oil companies. We believe therefore that the only effective remedy lies in a more sweeping approach - possibly total withdrawal of unilateral relief for oil companies and of agreement relief. This would involve renegotiation of our double taxation agreements with oil producing countries eg Nigeria, Malaysia and Indonesia.

18. The question of timing is also for consideration. We assume that Ministers would wish us to consult the Department of Energy and the Official Treasury before deciding whether and how to act. Although legislation on the lines of b. or c. above might not be particularly complicated, we could hardly complete consultations and draft legislation in time for the coming Finance Bill, and in any case we think that we should wait to see if the Americans act in the near future - the British companies would feel a strong grievance if action were taken against them but the US companies escaped. If Ministers agree, we shall therefore consult with other interested Departments and report on the outcome.

ANNE KIRKNESS
Private Secretary
Inland Revenue

UNITED KINGDOM/EGYPT - ARTICLE BY ARTICLE

Prologue

Agreed - the term Arab Republic of Egypt is correct. We also decided not to use chapters, and to insert a reference to Capital Gains.

Personal Scope

Agreed.

Taxes Covered

1. It was agreed to include as (viii), "National Security Tax", ~~made~~ as (ix), "Jehad Tax". The existing (viii) becomes (x).

2. "Arab Republic of Egypt tax" becomes "Egyptian tax".

3. Agreed to insert "substantial" before "changes" in penultimate line.

General Definitions

1. In (1)(b), we agreed to use the definition of Egypt used in the US/Egypt Agreement.

2. In (1)(h) delete "the Treasury" and insert "Finance".

3. In paragraph (2) the Egyptians wished, and we agreed, to insert a paragraph from their US agreement - "Notwithstanding Convention".

4. The rest of the Article was agreed.

Fiscal domicile

It was agreed to delete, in paragraph (1) from "the term does not include ... " to the end. Rest is agreed.

Permanent Establishment

1. In paragraph (2), "twelve months" to be replaced by "six months".

2. In the reference to mines, etc, insert or "oilfield".

3. The Egyptians wanted to cover a "permanent sales exhibition". It was agreed, therefore, to add at the end of the list of permanent establishments, a reference to "premises used as a sales outlet".

4. A reference to "a farm or plantation" was inserted.

5. The Egyptians wanted to include buyers. They eventually agreed not to.

6. The rest was agreed, and paragraph (2) was renumbered accordingly.

Limitation of Relief

It was agreed to delete this, and include it in the Miscellaneous Rules Article.

Income from Immovable Property

Agreed.

Business Profits

1. It was agreed to insert Para's (4) and (6) of the OECD model.
2. We agreed to include, as paragraph (8) the 5th paragraph of the US/Egypt convention, which defines Business Profits.

Shipping and Air Transport

1. It was agreed to use paragraph (1) of the OECD model.
2. Paragraph (2) of the Sudan Article was inserted as paragraph (3).
3. It was agreed to insert an "effective management" test.

Associated Enterprises

Egypt wanted to put in additional wording about estimates, etc, in the event of accounts not being submitted. After discussion about the relevant domestic laws, this was dropped.

Dividends

1. UK explained the system of company taxation, and ACT, in the United Kingdom.
2. Egypt did not want the United Kingdom tax credit to be paid to Egyptian investors.
3. The rates of withholding tax were fixed at 20 per cent, despite United Kingdom protestations that

(a) this would not encourage United Kingdom investment

(b) The USA had been given the same terms, but we were giving matching credit in addition.

4. Paragraph (2) of the Article is worded to ensure that companies in Egypt may deduct dividends from their profits, but only current year dividends.

5. The second paragraph of Paragraph (5) was included at Egyptian insistence. They originally wanted to quote the whole of their investment incentive legislation, but were dissuaded. The additional paragraph restates what is in the Elimination of Double Taxation Article.

? Non-Discrimination Article -
para. 4(c)

Interest

6. Egypt mentioned that they were considering abolishing the tax on dividends.

1. The United Kingdom argued for low withholding tax rates, pointing to ~~cost~~ cash flow problems, and possible non-liability to United Kingdom tax. Egypt eventually offered a 15 per cent rate on basic tax with a 20 per cent limit on general income tax.

2. United Kingdom pointed out that these terms were no better than those Egypt agreed with the USA, but Egypt was unable to offer anything better.

3. The United Kingdom asked if there could be a differential rate for long term loans, but Egypt could not agree, despite the United Kingdom ~~argument~~ ^{argument} that banks will be tempted to invest elsewhere, particularly in the Far East where the United Kingdom had agreed better terms.

4. Egypt agreed to a clause exempting ECGD - guaranteed loans.

5. Egypt said that they were unable politically to give better terms. They have never given a lower rate.

6. In paragraph (3) it was eventually agreed, at Egypt's request, to exclude interest on debts secured by mortgages on land, as in the USA/Egypt agreement. These will be taxed in the Income from Immovable Property Article.

Royalties

1. Royalties are usually an allowable deduction from profits in Egypt.

2. Where royalties flow between two companies which are connected, Egypt treats the royalty as a dividend.

3. It was eventually agreed that a 15 per cent withholding rate be applied. Egypt has never gone below this, and would not do so.

4. In paragraph (7) a provision was inserted at Egypt's request to cover the situation where shares are issued in consideration for "know-how".

Capital Gains

1. Egypt wanted to change paragraph (4) to allow the other Contracting State to tax. The United Kingdom resisted this, and the matter was dropped.

2. It was agreed that shares connected with real property could be taxed in both States.

Independent Personal Services	Egypt was unwilling just to have a "fixed base" criterion. It was eventually agreed to also include a time test, and after negotiation 120 days was agreed on
Dependent Personal Services	After the United Kingdom had pointed out that this Article was different in principle to the previous one, it was agreed that the time test would be 183 days.
Directors' Fees	This Article was agreed without demur, and it was agreed that it should be a separate Article.
Public Entertainer	<p>1. The United Kingdom suggested to Egypt that this Article, formerly Artistes and Athletes, should be renewed ^{renamed}. This was agreed.</p> <p>2. At the United Kingdom's suggestion, paragraph (3) of the United Kingdom/Korea agreement was included to cover sponsored entertainers.</p>
Pensions	Egyptian pensions paid from state funds are exempted from tax by their Social Security Laws. This created some confusion, but the Article was agreed.
Governmental Functions	Agreed, after discussion. Egypt wanted to tax recipients of Egyptian government pay whatever their nationality, but eventually dropped this.
Students	Egypt was particularly concerned that students should be able to earn sufficient for their upkeep. After being shown the United Kingdom/ Jamaica ^{Jamaica} Article, they agreed that this was what they wanted.
Teachers	It was agreed to use paragraphs (1) and (2) of the Yugoslavian agreement.
Income not expressly mentioned	It was agreed that this should be included in a "Miscellaneous Rules" Article.
Elimination of Double Taxation	<p>The United Kingdom handed over a draft Article.</p> <p>1. Egypt wanted to know why oil companies were excluded. The United Kingdom explained that oil companies had entered into many types of participation agreements, and we were still assessing the consequences. As a matter of policy, therefore, we were excluding oil companies from the benefits of the Credit Article, 'though not from the rest of the agreement. United Kingdom Law would apply,</p>

and under the United Kingdom Law the oil companies would get relief under the unilateral relief provisions on qualifying taxes, but of course the unilateral relief provisions could be withdrawn. Egypt was concerned about this, but the United Kingdom pointed out that its position was quite firm, and after much discussion Egypt accepted it.

2. United Kingdom handed over a photocopy of Schedule 9 of the Oil Taxation Act, and a photocopy of the unilateral relief provisions.

3. Matching Credit was agreed, and the appropriate incentive provisions of Egyptian law were agreed to be Articles 16 and 18 of Law 43 of 1974, a copy of which Egypt supplied.

Several provisions of Egyptian law discriminate against foreign companies. These are

(a) Law 11 and 11 "bis" of 1939 (the "bis" was explained as meaning "again". Effectively 11 "bis" is an amendment to 11) which deems that 90% of the created profits of a branch of a foreign company are distributed, and collects tax on dividends accordingly. A provision on these lines appears, Egypt said, in all their dta's.

(b) Article 5 of Law 14 of 1939, which gives privileges for Egyptian insurance companies who are obliged by the laws of other countries to keep foreign securities abroad (this particularly applies in the Lebanon, and Iran). The dividends on these securities are subject to tax in these countries, and they are exempted from Egyptian tax. This law prevents insurance companies which are not Egyptians from getting this exemption.

(c) Article 6 of Law 14 of 1939 prevents internal double taxation - eg where a subsidiary pays dividends to a parent. The profits of the subsidiary are subject to tax, and are not re-taxed in the hands of the parent. The main purpose is the protection of import industries.

It was agreed that it would be appropriate to exclude these provisions from the Non-discrimination Article.

Non-discrimination

Mutual Agreement

This was agreed as ^{per} ~~for~~ the United Kingdom draft, although Egypt wanted to exchange information on subjects not covered by the Convention and to include a sentence saying that the Competent Authorities could meet.

Exchange of
Information

Agreed

Diplomatic and
Consular Officials

This was agreed, with an additional paragraph added to deal with investment income.

Miscellaneous Rules

Agreed.

Entry into Force

As far as Egypt is concerned, it was agreed to adopt similar wording to that used in her dta with Japan.

Termination

As above.

For the United Kingdom of
Great Britain & Northern
Ireland

UK/Egypt Double taxation talks

Cairo 9th-18th May 1976

The Delegations

Egypt

Sayed Moh Habib

Under-secretary for Taxation
Affairs,

Hussein El Baroudy

Ministry of Finance
Director-General Tax Research
Division,

Said Khalil

Ministry of Finance
Deputy Director General, Taxation
Research Division,

Mikhail Al Ashkar

Ministry of Finance
Deputy Director General, Taxation
Research Division,
Ministry of Finance.

United Kingdom

B Pollard

Assistant Secretary,
International Tax, Policy Division
Board of Inland Revenue.

I P Gunn

Principal, Board of Inland Revenue

J A Pinder

Higher Executive Officer
(Administration)
Board of Inland Revenue.

1. These talks were the latest round in negotiations which had been continuing on and off for many years. The atmosphere was very friendly, and the Egyptians were obviously under instructions to obtain an agreement. Their delegation was led by a very able man, Sayed Habib, although the rest of the delegation were not of the same standard.
2. The Egyptians have only a small number of agreements, and were willing to be led by us most of the time in the drafting of the agreement. There were one or two points on which Habib obviously had instructions to be rigid, but for the most part the Egyptians were content with the OECD or near-OECD form of our drafting.
3. One of the sticking points was on dividends, when it became clear that the Egyptians were not willing to reduce their withholding taxes except for the additional general income tax charged on individuals. They have not reduced their rates on any of their other agreements, and would not reduce them for us.
4. Petroleum companies have been excluded from the credit Article, in the text which was initialled at the end of the round of talks. The Egyptians were quite aware of the implications of this, and were reluctant to accept, but did so.
5. Egypt is very badly equipped administratively and the Egyptian delegation had virtually no support staff. Our typing, and the typing of the finished text, was undertaken

by a secretary at the British Embassy. Egypt was unable to produce an Arabic text, and we agreed to obtain one.

6. Notes on details of the initialled text follow.

Our friends

16 July 1974

He talks about a double taxation convention which we had in May. You handed Mr Pollard a letter asking for assistance in getting an Arabic translation of the initialled text. He is abroad at the moment, but in his absence I am writing you that we have been able to arrange for a translation to be made. We hope to send you 10 copies of it sometime next month. We take this opportunity of thanking you for the hospitality which you showed to us in Cairo. We all enjoyed our stay much, and hope to return one day to see Luxor and other places. We did not have time to visit in May.

Yours sincerely

I P GUNN

Cost

10. At present income flows between the United Kingdom and Egypt are quite small. This flow should increase once the Convention comes into force, but as the terms of the Convention are regarded as properly balanced and fairer to both sides there is unlikely to be any significant cost to the United Kingdom.

11. We would be glad to know that Ministers approve the terms of the proposed Convention so that arrangements can proceed for signature and laying before Parliament in the normal way.

A-K-

P-S-

I-R-



THE BOARD ROOM
INLAND REVENUE
SOMERSET HOUSE
30 July 1976

PRIVATE SECRETARY TO THE MINISTER OF STATE

DOUBLE TAXATION CONVENTION BETWEEN THE UNITED KINGDOM AND EGYPT

1. In accordance with the practice recently agreed we are submitting to Ministers with this minute the text of a proposed double taxation convention with Egypt. Talks were held in Cairo from 8-18 May at the end of which the agreed text was initialled by officials.

Summary of the proposed Convention

2. The draft Convention generally follows the OECD Model.

3. Shipping and air transport profits, certain trading profits not arising through a permanent establishment, pensions (other than Government pensions) and the earnings of temporary business visitors are (subject to certain conditions) to be taxed only in the country of the taxpayer's residence. Government salaries and pensions are normally to be taxed by the paying Government only. The remuneration of visiting teachers and certain payments made to visiting students and business apprentices are to be exempt from tax in the country visited. There is also provision for income from immovable property to be taxed in the country in which the property is situated and for capital gains arising from the disposal of movable property to be taxed only in the country of the taxpayers residence unless they arise from the disposal of assets of a permanent establishment or fixed base which the taxpayer has in the other country. Capital gains arising from the disposal of immovable property and from the disposal of shares in companies whose assets consist primarily of such property, may be taxed in the country in which the property is situated.

4. Where income continues to be taxable in both countries, relief from double taxation is to be given by the country of the taxpayer's residence. The credit to be given in the United Kingdom for tax payable in Egypt is to include credit for tax spared under legislation providing special reliefs with a view to promoting development. This follows our current practice of offering "matching credit" for relief within the terms of Section 497(3) of the Taxes Act to a developing country with which we conclude a generally acceptable convention; the cost of this is unlikely to be significant.

5. The dividends article is rather unusual but it is in line with Egypt's other tax treaties and it was not possible to persuade Egypt to move more towards the OECD Model on this. There is a 20 per cent limitation on Egypt's right to charge general income tax at source on dividends paid to an individual United Kingdom investor. But it is, of course, United Kingdom Company investors who will be most affected by this Article and the benefit they will get is indirect - though substantial. Although Egypt will be able to tax dividends paid to them at domestic rates the dividend paid will count as a deduction in full in computing the taxable profits of the company paying the dividends.

The United Kingdom tax credit will not be payable to residents of Egypt.

6. The maximum rate of tax to be imposed by the country of source upon interest and royalties paid to a resident of the other country is, in general, not to exceed 15 per cent.

7. United Kingdom petroleum companies are excluded from the Elimination of Double Taxation Article. This means that tax credit relief will not be available to them under the convention for taxes paid in Egypt. The question of giving credit would therefore be considered by reference to the unilateral relief provisions of the Taxes Act. The Chief Secretary agreed on 22 April that we should proceed on the lines, which we proposed in our Minute dated 22 April 1976, ... a copy of which is attached.

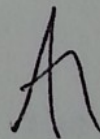
8. There are the usual provisions for safeguarding residents of one country against discriminatory taxation in the other country and for the exchange of information and consultation between the taxation authorities of the two countries.

9. The Convention would take effect in the United Kingdom for a year of assessment or financial year beginning on or after April 1977.

Cost

10. At present income flows between the United Kingdom and Egypt are quite small. This flow should increase once the Convention comes into force, but as the terms of the Convention are regarded as properly balanced and fair to both sides there is unlikely to be any significant cost to the United Kingdom.

11. We would be glad to know that Ministers approve the terms of the proposed Convention so that arrangements can proceed for signature and laying before Parliament in the normal way.



ANNE KIRKNESS
Private Secretary
Inland Revenue



Inland Revenue
POLICY DIVISION
Somerset House
London
WC2R 1LB

cc Mr Malcolm Dougal
British Embassy
Cairo

Telephone Enquiries 01-438 6622

Direct 7583

Your reference

Our reference

Date

13 September 1976

J M Myatt Esq
Department of Trade
Commercial Relations and Exports
Department
1 Victoria Street
LONDON SW1H 0ET

EGYPT : DOUBLE TAXATION AGREEMENT

Thank you for your letter dated 8 September about the discussion the other day with Messrs Carter and Large of Construction Design Services.

These two gentlemen called at Somerset House after leaving you and I gave them as much information as I could about the present state of play concerning the proposed double taxation convention with Egypt. They did not tell me that they might enlist the aid of an MP in this matter, but I hope that I was able to convince them that matters have been taken as far as possible on our side and the next moves are up to the Egyptians.

In May this year, agreement was reached at official level on the text of a comprehensive double taxation Convention between the United Kingdom and Egypt. Treasury Ministers have given their approval to the text and at this end the way is now clear for the Convention to be formally signed and laid before Parliament for approval in the usual way.

So far as we can tell, the Egyptians are as keen as we are to give effect to the proposed Convention as soon as possible; indeed, at the conclusion of the May talks they said that it would speed things up considerably on their side if we could give assistance with the translation of the text - which is lengthy and complex - into Arabic. This we were able to arrange, and a full but unofficial Arabic version of the text was sent to them recently. We hope that this will enable them to proceed to signature at an early date, but, of course, I cannot say just when they will be ready for this.

Until the text of the Convention is published after signature, its terms are confidential as between the two Governments, and cannot be disclosed to any members of the public. I can tell you in strict confidence, however, that it provides for credit to be given against United Kingdom tax not only for Egyptian tax paid, but also for tax given up under provisions of Egypt's Law No. 43 designed to promote economic development there. We are empowered by Statute to give "matching credit" for tax given up by the Egyptians in this way only under a double taxation convention; we cannot do it unilaterally

22-200000
I told Messrs Carter and Large what I could about "matching credit" in general terms, but you will appreciate that I had to be careful not to divulge confidential information. However, I think they appreciated that Law No. 43 is the sort of provision we would expect to cover in a double taxation convention.

I am afraid that there is not a great deal you can tell enquirers at this stage without breaching confidentiality, but I hope that what I have said in this letter will enable you to satisfy them. Please do not hesitate to contact me again if I can be of assistance.

Yours sincerely

I P GUNN

POLICY DIVISION

L. Gray, P

All notes just
before Xmas

It is now
3 months since we sent
an Arabic text to the
Egyptians. Under
normal circumstances I
would be inclined to
send a reminder, but
I think that Mr Pollard
might not be too keen on
this, in case they thought
we were rushing them. They
did say, however, that they
wanted it through quickly,
so it might be as well
to write. Would you
consult Mr. Pollard on
this, please.

No 5B
CR

Andrew Pinder

19/11/76

Note of Interview Tuesday 7 September 1976

Present I P Gunn	Principal
J A Pinder	HEO(A)
Mr Carter	Construction Design Services
Mr Large	Construction Design Services

Construction Design Services have been
commissioned to design a hotel in Cairo.
The developer is Egyptian, and the project
is eligible for assistance under Law 43
(Egypt's investment incentives). CDS will
open an office in Cairo, with an Egyptian
partner.

The developer wants to finance the project
from London, but is unhappy about the
absence of a tax treaty which cancels out
the effect of Law 43. The callers had
been referred to the Revenue by the
Department of Trade.

Mr Gunn explained that a treaty between the
UK and Egypt had been initialled but not
yet signed, and until it was signed the
terms of the agreement were confidential
between the two governments. He did not
anticipate undue delay in getting the treaty
signed - indeed from the UK side we were ready
to go - but we could not say when the
Egyptians would be ready to sign. He
outlined the circumstances in which we
give matching credit under a tax treaty
and assured the two callers that their
problem was something which was very much
in the minds of the negotiators when the
talks with the Egyptians took place, but he
could go no further than that.

The callers accepted the position, whilst regretting that the treaty had not been finalised earlier. They were worried that the absence of a treaty would mean them losing an order and not getting a foothold in Egypt.



BRITISH EMBASSY
CAIRO

24 December 1976

J M Myall Esq
CRE5
✓ Department of Trade
London SW1

Dear Mr. Myall,

JOINT COMMISSION: DOUBLE TAXATION AGREEMENT

1. Your letter of 3 December to Dougal about follow up to the Joint Commission asked us to keep up pressure on the Egyptians about signature of the Double Taxation Agreement. We have spoken again to Mr Sayed Mohamed Habib, the Under Secretary responsible in the Ministry of Finance, and he has promised to do what he can to hasten matters. We will continue to keep in touch with him. I fear, however, that the change of Finance Minister and the present preoccupation of the new economic and financial Ministerial team with other questions may inevitably serve to delay matters further.

Yours sincerely,

P J S Moon

Mr. Harris

*For Double Taxn. folder
& copy to Mr. Harris of
Inland Rev.*

4/11

P J S Moon

Mrs Gibson

Action pre

[Signature]

AD-15 - pl copy as requested.
then FA en TC folder.



J M Myall Esq
CRE5
Department of Trade
1 Victoria Street
LONDON SW1H 0ET

BRITISH EMBASSY
CAIRO

25 January 1977

Dear Myall,

DOUBLE TAXATION AGREEMENT

1. When he recently called on Dr Kaissouni, Deputy Prime Minister for Economic Affairs, the Ambassador took the opportunity to ask the Minister to hasten a decision on signature of the Double Taxation Agreement. The Minister promised to do this, but despite a further contact with the Under Secretary concerned since, nothing has happened. I fear that following recent events everybody on the economic and financial side is heavily taken up with other matters.

Yours sincerely

P J S Moon

P J S Moon

Mrs Humphreys

see action

Mr Wright 7/2

pl copy

Mr Guinness

NEVAD

Mr Gamm

S. Revenue

LC Folder

7/2

7/2



Inland Revenue
POLICY DIVISION
Somerset House
London
WC2R 1LB

Telephone Enquiries 01-438 7583

CONFIDENTIAL

P Torry Esq
Room W76

Your reference

Near East and North Africa Department
Foreign and Commonwealth Office
Downing Street West
LONDON SW1

Our reference
T1169/228/75

Date
4 April 1977

Mr Denton to keep

Dear Torry

SECRETARY OF STATE'S VISIT TO EGYPT:
UNITED KINGDOM/EGYPT DOUBLE TAXATION AGREEMENT

We spoke recently about the possibility of the Foreign Secretary signing the United Kingdom/Egypt Double Taxation Agreement when he visits Cairo at the end of the month. The present position is that, following the initialling of the Agreement (English version only) in May 1976 in Cairo, we agreed to help get things moving by providing the Egyptians with an Arabic translation for assistance in preparing their own official version. This was in August 1976 (copy of Gunn's letter to Habib enclosed). Since then there has been no response from the Egyptians despite a few enquiries made by the Embassy. For our part, we would like to see the Agreement signed and into force as soon as possible. Nevertheless, it would be unusual in these conventions for the other country not to wish to have an authentic text of the convention done in their own language and this would of course have to be checked - either by the Foreign Office Translation Department or the Embassy - to make sure it tallies with the English version before signature takes place. If of course the Egyptians are content for the English version to be the sole authentic text, or are quite happy to have the translation we sent them confirmed as the official version, then there seems to be no bar to preparing things for signature during the Secretary of State's visit. But I imagine there would be difficulties in signing then if the Embassy were suddenly faced with having to vet, at short notice, an Arabic text of their own.

As far as the English version of the Convention is concerned, there are no other amendments (in addition to the one proposed in Gunn's letter of 20 August) except that at the very end of the Convention, if the Egyptians do wish to have an official Arabic text, there will need to be added after "done in duplicate at etc" the words "in the English and Arabic languages, both texts being equally authoritative."

Cover

FILE NO. E12

Finally, I enclose some briefing on the Agreement itself for the Secretary of State's visit as requested in Wheeler's note of 29 March.

I am copying this to Miss Jones in Nationality and Treaty Department.

Yours sincerely

A C GRAY

Note for record.

I rang Peter Torny (233-3358) at FCO to emphasise the point made in Tony Gray's letter of 4 April that we would be quite happy for ~~the~~ signature to be concluded on the English text only; we would not insist on an Arabic text as well.

Speaker said in fact he had just received a telegram from Cairo which explained:

- (a) that the Egyptians would like to sign on 25 April;
- (b) that the Egyptians accepted the alteration we proposed to Article 29(i), line 3 (Gunn's letter of 20/8/76 refers ³/₂ - "through the diplomatic channel" substituted for "through diplomatic channels");
- (c) that ~~the~~ ^{the} Egyptians suggested that "London" be entered in the space in Article 28(i); and
- (d) that ~~the~~ only an English text ^{will} be signed (no mention ~~is~~ ^{is} made of an Arabic text).

He has contacted Nand TD regarding (c) and it has been confirmed that the Egyptian suggestion is acceptable. He is today replying to Cairo to the effect that he agreed to send over copies of the telegrams for our file.

D. Denton
13/4/77

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TO IMMEDIATE CAIRO TELNO 230 OF 13 APRIL 1977.

FROM NENAD.

YOUR TEL 382: SECRETARY OF STATE'S VISIT.

1. THE EGYPTIAN PROPOSALS ON THE DOUBLE TAXATION AGREEMENT ARE ACCEPTABLE TO US. WE AGREE WITH YOUR PARAGRAPH 3. THE SECRETARY OF STATE WILL HAVE FULL POWERS TO SIGN WHEN IN CAIRO.

2. AS TO THE CONSULAR CONVENTION, PLEASE SAY WHETHER THE DRAFT OF 12 JANUARY 1977 IS ACCEPTABLE TO THE EGYPTIANS FOR SIGNATURE.

OWEN.

FILES
NENAD
NTD
PS
MR WEIR

COPIES TO
MR D DENTON
BOARD OF INLAND REVENUE
SOMERSET HOUSE

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TO IMMEDIATE FCO TELNO 439 OF 21 APR 77.,
INFO IMMEDIATE DOT.

VISIT TO EGYPT

FOR NENAD

RECEIVED IN
REGISTRY No. 10
22 APR 1977

NFE 106/1

SINCE THE DOUBLE TAXATION AGREEMENT WILL BE SIGNED EARLY ON 25
APRIL THE PARTY MAY LIKE TO HAVE A PRESS RELEASE READY FOR
DISTRIBUTION TO FOREIGN CORRESPONDENTS (THE EGYPTIANS MAY WISH
TO ISSUE THEIR OWN TO THE EGYPTIAN PRESS). FOLLOWING IS SUGGESTED
TEXT WHICH YOU WILL WISH TO CONSIDER AND CLEAR WITH DOT.
BEGINS:-

TAXATION AGREEMENT BETWEEN EGYPT AND THE UNITED KINGDOM

ON 25 APRIL A DOUBLE TAXATION AGREEMENT WAS SIGNED IN CAIRO
BETWEEN EGYPT AND THE UNITED KINGDOM. HIS EXCELLENCY MR ISMAIL
FAHMY, DEPUTY PRIME MINISTER AND FOREIGN MINISTER, SIGNED
FOR EGYPT, AND THE RT HON DR DAVID OWEN, FOREIGN AND COMMONWEALTH
SECRETARY, FOR THE UNITED KINGDOM. THE PURPOSE OF THE AGREEMENT
IS TO ESTABLISH RULES WHICH ENSURE THAT INDIVIDUALS AND COMPANIES,
RESIDENT IN OR HAVING BUSINESS WITH BOTH SIGNATORY STATES, ARE
ONLY TAXED BY ONE STATE. BY ENSURING THAT INDIVIDUALS OR
COMPANIES ARE NOT LIABLE TO "DOUBLE TAXATION" (TAXATION BY BOTH
STATES) THE AGREEMENT WILL REMOVE A POTENTIAL DETERRENT TO THE
GROWTH OF TRADE AND INVESTMENT BETWEEN BRITAIN AND EGYPT.
THE NEW AGREEMENT WILL BECOME EFFECTIVE FOR THE TAX YEARS BEGINNING
IN 1977: IN THE CASE OF EGYPT FROM 1 JANUARY 1977 AND IN
THE CASE OF THE UK FROM 1 APRIL 1977.

MORRIS

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NENAD
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MR GRAHAM
MR WEIR

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NOTE OF INTERVIEW WITH MR ELPHICK OF RESEARCH INTERNATIONAL

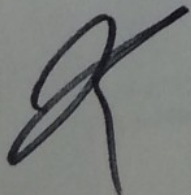
Mr Elphick is involved in some kind of agricultural turnkey project in Egypt and he wanted to know how British personnel would be taxed in Egypt and in the UK. He had seen the draft UK/Egypt DTA at DOT and wanted to know how it would affect the position.

I explained that I was unable to comment on the detail of the DTA until its publication but said that generally speaking DTAs allowed other countries to tax employment income if the employee worked in that other country for more than 6 months in a tax year. In such a case the UK would also tax that income but would give credit for the foreign tax paid. I said the UK would also allow the 25% or 100% deduction as appropriate and explained the 30 day and 365 day rules.

I said that self-employed persons tended to be treated slightly differently under DTAs, (the UK/Egypt DTA has a 120 day rule) but was unable to give details because of confidentiality. The expenses etc usually allowed in the UK would be allowed against the Egyptian income. I also said that the rules relating to the 25% and 100% deductions mentioned above did not relate to professional earnings. I thought that income from professional duties performed wholly abroad were not taxable in the UK, but was not sure of this.

I said the DTA would only affect UK residents working abroad - not Palestinians etc recruited in the Middle East for the project in Egypt who would not be taxable in the UK.

I gave Mr Elphick copies of Egyptian tax tables and said that law 32 of 1977 apparently exempted the salaries of expatriates. I had no detailed information and advised him to contact the Egyptian Embassy. I said that if Egypt exempted the salaries then they would remain taxable under UK law; the DTA would not affect this. I said the DTA would probably be published in 2-3 months and Elphick could contact me again once he receives detailed information on law 32 of 1977.



J O EDWARDES

10/1/78

opposition to the idea of taxing farm income in a predominantly agricultural country like Egypt and the introduction of a wealth tax return has resulted in the shifting of wealth from immovable property to movable and less obvious sources such as gold and foreign currency. Taxpayers' hopes that the supplementary taxes to the basic schedular taxes would even-

tually be abolished have also finally vanished with their inclusion in the basic rates. It seems unlikely that these tax changes will result in a reduction of the budget deficit since any extensions or increases in taxation or more steeply progressive rates of tax are offset by decreases in taxation or a less steep progression and increases in relief and allowances.

Besides this, the timing of the tax changes is generally felt to be unfortunate since the discussion concerning the amendment has been so prolonged that it has allowed certain taxpayers to alter their present tax position in order to obtain the most favourable results once the new amendments are enacted or to lessen the impact of these amendments on themselves.

XVIII INTER-AMERICAN CENTER OF TAX ADMINISTRATORS TECHNICAL CONFERENCE*

This Conference took place at Montevideo from March 14 to 19, 1977, and was organized by CIAT, a governmental organization formed by countries of North, South and Central America. In addition to the participants from the member countries observers attended from the Federal Republic of Germany, Spain, Italy, Korea, Ghana, Swaziland, Thailand, and ten important international organizations such as the European Economic Community, the International Monetary Fund and the IFA, which I represented.

The only topic considered was "Tax aspects of the activities of multinational companies" and many papers were presented. The conclusions of the Final Report are undoubtedly of international importance, as they represent the official pronouncement of the administrations of an important group of countries including some like Argentina and the members of the Andean Pact, which had adopted a radical position in front of the multinational companies in defense of their fiscal interests. In the scientific area there had been no agreement with this radical position, not even with the Latin American position, as shown in the Seminar of the XXVIII IFA Congress which was held at Mexico in 1974 (this Bulletin, Vol. XXIX, pp. 51, 59, 91, 99 and 179, and *Fiscal Harmonization in the Andean Countries*, International Bureau of Fiscal Documentation, Amsterdam, 1975); at the XXIX Congress at London in 1975 (this Bulletin, Vol. XXX, p. 31); and in the VII Latin American Meeting on Tax Law which took place at Caracas in 1975 (this Bulletin, Vol. XXX, p. 16).

The recommendations approved by this CIAT Conference are distinguished by their moderation and rationality and may be considered similar to the opinions expressed in the seminar mentioned above and in IFA and ILADT resolutions. These characteristics are of particular interest with respect to the tax treatment of contractual relations between a head office and its branches and subsidiaries. In contrast with the solutions of the Andean Pact Model and the Argentine legislation and jurisprudence of the 1971/76 period, the recommendations tacitly accept debits and credits related to royalties, technical assistance and interest when proposing proce-

dures for discouraging tax evasion, first with respect to the arm's length price (Rec. III, b1) and then, more specifically, for combating the remittance of profits abroad under the most favourable tax system, which generally applied to payments of those intangible goods (see last part of the Recommendation, III).

This tacit acceptance did not result in observations or reserves from the Andean Pact members or from Argentina which is no surprise since Argentina as well as Chile has reacted against the position of denying the existence of those contractual relations for tax purposes. The recent law of December 1976 has revoked the prior legislation on multinational companies and at present accepts the effectiveness of those contracts, considering them as being signed by independent enterprises when they fit usual practices of the market, with some limits tending to prevent evasion.

The recommendations of the Conference, Chile's desire to separate from the Andean Pact, and the reform of the Argentine legislation disclose an evolution that leads one to expect a normalization of the criticized prior position in a policy which contemplates both the economic reality, and therefore the rights of the taxpayers, and the legitimate fiscal interests of the countries where they act.

The other recommendations should not cause any problems, as they follow generally admitted solutions. For example, there was not very much advance with respect to the exchange of information by the fiscal administrations (Rec. V). In the fight against tax evasion by the use of tax havens, the solution adopted is the base of assumptions as in the recent French legislation (Rec. IV). Also the final Report contains definitions of some acts and situations connected with the topic discussed that may arise. For example, one observation referred to avoidance which is, in my opinion, erroneously identified with violations of the law.

* This summary was supplied by Prof. Ramón Valdés Montevideo.

MR WARNER (PARLIAMENTARY OFFICE, TREASURY)

AFFIRMATIVE RESOLUTION STATUTORY INSTRUMENTS

I wrote to you on 30 May about the double taxation orders requiring affirmative resolutions before the Summer adjournment, information has come to light which indicates that the Convention with Egypt might not perhaps be as uncontroversial as indicated in my letter.

Briefly, as agreed by the Chief Secretary on 22 April 1976, UK petroleum companies are excluded from the Elimination of double taxation Article. Consequently, tax credit relief will not be available to them under the terms of the Convention but they would, however, enjoy the benefit of the other provisions, eg protection from fiscal discrimination: The question of giving them credit for Egyptian taxes paid will be determined by reference to the unilateral relief provisions of the Taxes Act.

It is understood that UK petroleum companies are not happy with their exclusion from tax credit relief under the Convention and this point may cause difficulties during the debate. Ministers will of course be fully briefed on the issues involved when the Convention is laid before Parliament.

PRIVATE SECRETARY
INLAND REVENUE



Inland Revenue
POLICY DIVISION
Somerset House
London
WC2R 1LB

Telephone Enquiries 01-438

Near East and North Africa Department
Foreign and Commonwealth Office
LONDON SW1

Your reference
NFE 106/1

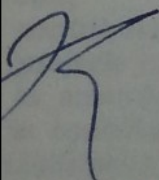
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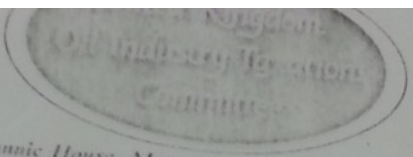
Date
26 April 1979

UNITED KINGDOM/EGYPT DOUBLE TAXATION CONVENTION

Brian Kent wrote to Peter Torry (who I understand has moved on) on 21 and 26 April 1978 asking him to arrange for two amendments to be made to the text of the Convention signed in Cairo on 25 April 1977. Nationality and Treaty Department telephoned us last November to say that the Egyptian Consul-General had called unexpectedly to amend the signed copy held in London (apparently the copy held in Cairo had been amended by the Egyptians unilaterally). I understand that N and TD have been trying to obtain a report from our Embassy in Cairo without success to date.

We are under some pressure from United Kingdom companies with interests in Egypt to push the Convention through Parliament and into force as quickly as possible and I would be grateful if you could let me know what the present position is and if something could be done to expedite the amendment of both signed copies of the Convention.


J O EDWARDES


Britannic House, Moor Lane, London, EC2Y 9BU
Tel. No: 01-920 6319

30th June, 1978

Dear Barry,

UK/EGYPTIAN DOUBLE TAX TREATY

When we met on 15th June 1978 I registered orally an objection expressed to me by many UKOITC members to Article 22 of the new UK/Egyptian Double Tax Treaty which denies tax credit relief in the UK for Egyptian tax on oil production activities.

This letter repeats that protest formally.

There are four respects in which we find the presence of Article 22 objectionable.

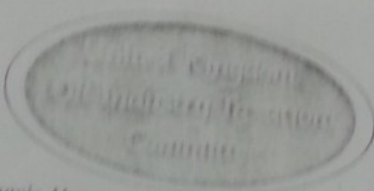
First, it singles out the oil industry for discriminatory treatment.

Second, it may place at a disadvantage those companies operating in Egypt from a UK base. Oil companies resident in other countries are free to claim credit domestically. In short it renders UK resident companies uncompetitive.

Third, the inclusion of the Article seems to have been determined by a policy expressed in Mr. Healey's announcement in March 1977 that an investigation was to be made of the possibility of restricting Unilateral Relief. If so that appears to be an anticipation and prejudgement of legislation which may never eventuate.

Fourth, whilst the Revenue is under no legal obligation to prior consultation it is regrettable that we could not at least have been warned of what was secretly being done to us. Our ignorance lasted for more than a year before April of this year. I think it fair to record that in recent years there has been full and frank discussion between the Revenue and UKOITC on many proposed changes in law and

/....


Britannic House, Moor Lane, London, EC2Y 9BU
Tel. No: 01-920 6319

30th June, 1978

Dear Barry,

UK/EGYPTIAN DOUBLE TAX TREATY

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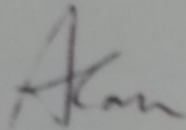
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/....

practice. We should like to feel that so far as the rules allow you to take us into your confidence you would maintain a dialogue and consult us in advance of a move of this kind in the future.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'A. E. Willingale'.

A. E. WILLINGALE

Mr. B. Pollard,
Assistant Secretary,
Board of Inland Revenue,
Policy Division,
Somerset House,
London,
WC2R 1LB.



Inland Revenue
POLICY DIVISION
Somerset House
London
WC2R 1LB

for trading purposes or industrial

Telephone Enquiries 01-438 7739

A E Willingale Esq
Chairman
United Kingdom Oil Industry
Taxation Committee
Britannic House
Moor Lane
LONDON EC2Y 9BU

Your reference

Our reference

Date

5 July 1978

Dear Alan

You wrote to me on 30 June about the exclusion of United Kingdom oil companies from the elimination of double taxation Article in the proposed Anglo-Egyptian tax treaty.

I have noted the views of the members of your Committee referred to in your letter. I do not think you would expect me to comment in detail on the various points you have made but I feel I should make it clear, in case there is any doubt about the matter in the minds of any of your members, that the proposed treaty has not yet been considered by Parliament and until it is ratified by both countries the treaty provisions cannot take effect as law. Moreover, the treaty would not in any way affect the tax credit relief available to United Kingdom resident oil companies under Section 498 of the Taxes Act. The unilateral relief rules would continue to run for them (though if they were changed any relief would of course be given in accordance with the changed rules). The effect of the exclusion of United Kingdom oil companies from the elimination of double taxation article is simply that tax credit relief could not be claimed under the treaty; but there would be no question of denying them any relief due under Section 498 on the grounds that the relief was not available under the treaty.

As regards the question of consultations about tax treaty negotiation I can confirm that we do take account of representations made to us by various representative bodies and you may find it helpful if, at future meetings with your Committee, I tell you the countries with whom negotiations are in progress. I am afraid however that we could not undertake to tell you about the negotiations themselves as these are confidential between Governments until the treaty has been signed and published before laying before the House of Commons.

Yours sincerely

B POLLARD



THE BOARD ROOM
INLAND REVENUE
SOMERSET HOUSE

23 July 1979

MINISTER OF STATE (C)

OIL COMPANIES: RELIEF FOR TAXES PAID TO PRODUCER GOVERNMENTS;
DOUBLE TAXATION AGREEMENT WITH EGYPT

1. In our note of 20 July about unilateral tax credit relief for oil companies, we mentioned that the previous government had authorised the exclusion of oil companies from relief for producing countries' taxes in UK Double Taxation Agreements with those countries. The purpose of this note is to explain the policy we have followed so far (paras 2-4 below); point out its consequences; (paras 5 and 6) and seek your instructions about what we should do in the future (para 8).

REASON FOR EXCLUDING OIL COMPANIES FROM CERTAIN PROVISIONS IN DTAs

2. As we explained in our note about unilateral relief, oil companies have entered into arrangements with oil producing countries the object of which is to "manufacture" an entitlement to relief from overseas tax. So long as we have no Double Taxation Agreement with the country concerned, the tax advantage which the oil companies obtain for themselves by entering into these arrangements could be taken away by changing our domestic rules for unilateral relief. But if there is a Double Taxation Agreement with the producing country,

cc Chancellor of the Exchequer
Chief Secretary
Financial Secretary
Minister of State (Lords)
Sir Douglas Wass
Sir Lawrence Airey
Mr F Jones
Mr Monck
Mr Wicks
Mr Slater
Mr Corlett
Miss O'Mara

Sir William Pile
Mr Dalton
Mr Adams
Mr Pollard (origin)
Mr Boyles (2)
Mr Gracey
→ Mr Whitear

relief for that country's tax is given under the agreement, not under the unilateral rules, and will consequently be secure so long as the agreement is in force.

PRESENT POLICY

3. Our policy in negotiating Double Taxation Agreements with oil producing countries has been to exclude oil companies from the benefit of the Article which gives relief for the other country's tax. The companies would still enjoy the benefit of other reliefs provided by the agreement (eg protection from fiscal discrimination) and will normally be unaffected by the exclusion so long as our unilateral rules remain as they are. However, if the other country is unwilling to entertain this approach, we carefully examine the tax code operated in that country and the oil companies' arrangements there: if there is no evidence of avoidance, we are prepared to negotiate a normal Double Taxation Agreement (with no special provisions for oil companies) but at the same time we stress that the UK will seriously consider terminating the agreement if the oil companies enter into arrangements, which we consider to be objectionable, in the future.

4. A Double Taxation Agreement including a provision for excluding oil companies from relief has so far been signed with only one country (Egypt - see para 5 below). The exclusion is potentially controversial and for that reason we are drawing it to your attention now, before the agreement is laid (likely to be November 1979). We are currently negotiating a new Agreement with Nigeria, who are not agreeable to an exclusion, but where the arrangements with the oil companies are acceptable to us. We have no agreements with the main producing countries in the Middle East and North Africa, and none is likely within the foreseeable future.

THE DOUBLE TAXATION AGREEMENT WITH EGYPT

... 5. A copy of the draft Double Taxation Agreement is attached (top copy only). The exclusion of oil companies is in Article 22 (with the relevant paragraph side-lined). Soon

after publication, UKOITC wrote to us and objected to the exclusion. They appeared to believe that if tax credit relief was denied under the Agreement then it would also not be given under the unilateral relief rules. They complained that the oil industry was being singled out for discriminatory treatment, and that the text appeared to be anticipating and prejudging domestic legislation to cut out or curtail unilateral tax credit relief which might never come into being. We made no detailed comments on the points made (UKOITC did not expect us to) and assured them that the Convention would not in any way affect the tax credit relief available to United Kingdom resident oil companies under Section 498 of the Taxes Act. The unilateral relief rules would continue to run for them (though if they were changed any relief would of course be given in accordance with the changed rules). We do not think that the companies have any real grounds for complaint on this score, especially as, at the time the agreement was being negotiated, it was known that Egypt was entering into arrangements with certain oil companies the object of which was to "manufacture" Egyptian tax: we would not have been interested in an agreement which would have obliged us to give relief for that tax.

6. But there is one respect in which the exclusion of oil companies from relief may have an unintended effect. The companies will not benefit from the "matching credit" provision in Article 22. This confers upon UK residents a foreign tax credit in the UK not only in respect of tax paid in Egypt but also in respect of tax which would have been payable there but for certain exemptions and reliefs given under Egyptian law to promote economic development. Of course, oil producing countries do not normally give "pioneer reliefs" of this sort to companies which produce oil. But the definition of a "petroleum company" in the Oil Taxation Act (which is the definition used in the Agreement) is wide and will include companies which manufacture and sell petroleum products in Egypt - and it is possible that such companies may qualify for pioneer reliefs. If this should happen, it would have to be considered whether a concession should be made (to the effect that a company which would have qualified for relief

for Egyptian tax under the agreement but for the exclusion, and which continues to qualify for relief for the same tax under the unilateral rules, should be given "matching credit" for Egypt's pioneer reliefs).

7. Full and detailed briefing will of course be provided for you when the Agreement is laid.

FUTURE APPROACH

8. It is unlikely that we will negotiate a Double Taxation Agreement in the foreseeable future with any country which has entered into objectionable arrangements with the oil companies. But we will soon be negotiating agreements with two oil producing countries - Nigeria and Tunisia - which though they have not (so far as we know) adopted such arrangements may nevertheless be tempted to do so in future - if only to encourage the oil companies to explore for oil there. For these countries we seek your approval to our continuing with our present approach (as in para 3 above) - namely, that we will accept an agreement with no special provisions for oil companies but at the same time making it clear that termination of the agreement would be seriously considered if there was a resultant loss of UK tax in the future.

Private Secretary

copy
Revenue
MISSION 5



8cc

PS/INLAND REVENUE

cc Chancellor
Chief Secretary
Minister of State (L)
Financial Secretary
Sir D Wass
Sir L Airey
Mr F Jones
Mr Monck
Mr Wicks
Mr Slater
Mr Corlett
Miss O'Mara

OIL COMPANIES: RELIEF FOR TAXES PAID TO PRODUCER GOVERNMENTS -
DOUBLE TAXATION AGREEMENT WITH EGYPT

The Minister of State has considered your note of 23 July on this subject. He agrees with the conclusion set out in paragraph 8 of your minute and he has approved the continuation of the present approach in negotiating Double Taxation Agreements with oil producing countries.

RB

R J BROADBENT
25 July, 1979

Mr Whitear —

Mr Bayle
ls.

cc Chairman

Mr Dalt

Mr Adams

Mr Pollard

Mr Bayles (2)

Mr Gancey



THE BOARD ROOM
INLAND REVENUE
SOMERSET HOUSE

5 November 1979

MINISTER OF STATE (COMMONS)

DOUBLE TAXATION CONVENTIONS WITH EGYPT AND BANGLADESH

The double taxation conventions with Egypt and Bangladesh are now ready for laying before the House of Commons. This is normally a routine procedure and we supply briefing at a later stage before the debate in Merits Committee. However, the present situation is complicated by the US double taxation agreement, which you have decided not to lay before the House of Commons until February. Our understanding is that no publicity is to be given yet to the intention to lay the US agreement at that time, but if the agreements with Egypt and Bangladesh are laid this may well provoke enquiries in Parliament or from the Press about why the US agreement has not appeared at the same time. We propose to deal with such enquiries by saying that the Government are still considering the issues involved in the ratification of the US agreement. The alternative would be to delay the laying of the other two orders until the US order is laid, but we think this should be avoided if possible because the delay would extend over at least two months, and those who have an interest in the terms of the Egypt and Bangladesh Conventions are anxious to see them brought into force as soon as possible.

cc Chancellor of the Exchequer
Chief Secretary
Financial Secretary
Minister of State (Lords)
Mr Corlett
Mr Dyer

Sir William Pile
Mr Dalton
Mr Adams
Mrs Smallwood (origin)
Mr Boyles (2)
Mr Gracey
→ Mr O'Connor

See Mr O'Connor
Mr J Hall
Mr Dwyer

cc Mrs Smallwood
Mr Bingham

We would be glad to have confirmation that we may go ahead with the laying of the Orders relating to Bangladesh and Egypt and that it will be acceptable to deal with any consequent enquiries about the US agreement in the manner suggested.

Private Secretary

Mr C Connor
a Chairman
Mr Dalton
Mr Adams
Mrs Smallwood
Mr Boyles (2)
Mr Gracey



Ycc

PS/INLAND REVENUE

cc Chancellor
Chief Secretary
Financial Secretary
Minister of State (L)
Mr Corlett
Mr Dyer

DOUBLE TAXATION CONVENTIONS

Egypt and Bangladesh

The Minister of State (C) has seen your note of 5 November. As it is now only five weeks until the Christmas Recess he would prefer to put off laying these orders until the New Year when it will probably have become apparent that the Government will be ratifying the US Double Taxation Convention. In any event, he would prefer to put aside a single evening when there are four or six, say, Double Tax Conventions to dispose of.

Netherlands

The Minister of State (C) has seen your note of 7 November. He has asked whether Article 30 is novel in form. He is also unclear as to how and when the new Convention, particularly Article 10, is to come into effect. I would be grateful for a note.

RW

R WARDEN
Private Secretary
12 November 1979