No. 24125

SWEDEN
and
JAMAICA

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Kingston on 13 March 1985

Authentic text: English.
Registered by Sweden on 30 May 1986.

SUÈDE
et
JAMAÏQUE

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu. Signée à Kingston le 13 mars 1985

Texte authentique : anglais.
Enregistrée par la Suède le 30 mai 1986.

CONVENTION[1] BETWEEN THE GOVERNMENT OF JAMAICA AND THE GOVERNMENT OF SWEDEN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of Jamaica and the Government of Sweden, desiring to conclude a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, have agreed as follows:

Article 1. PERSONAL SCOPE

This Convention shall apply to persons who are residents of one or both of the Contracting States.

Article 2. TAXES COVERED

1. The existing taxes to which this Convention shall apply are:

(*a*) In Jamaica:

(i) the income tax;

(ii) the company profits tax, the additional company profits tax; and

(iii) the transfer tax

(hereinafter referred to as "Jamaican tax").

(*b*) In Sweden:

(i) the State income tax, including the sailors' tax and the coupon tax;

(ii) the tax on the undistributed profits of companies and the tax on distribution in connection with reduction of share capital or the winding-up of a company;

(iii) the tax on public entertainers; and

(iv) the Communal income tax

(hereinafter referred to as "Swedish tax").

2. The Convention shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the above-mentioned taxes. The competent authorities of the Contracting States shall each year notify each other of any significant changes which have been made in their respective taxation laws.

Article 3. GENERAL DEFINITIONS

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

(*a*) The term "Jamaica" means the island of Jamaica, the Morant Cays, the Pedro Cays and their Dependencies and, when used in a geographical sense, includes the territorial waters of Jamaica and any area outside such territorial waters which in accordance with international law and the laws of Jamaica is an area within which the rights of Jamaica with respect to the natural resources of the sea-bed and subsoil, and any objects thereon, may be exercised.

[1] Came into force on 7 April 1986 by the exchange of the instruments of ratification, which took place at London, in accordance with article 29 (2).

(*b*) The term "Sweden" means the Kingdom of Sweden and includes any area outside the territorial sea of Sweden within which under the laws of Sweden and in accordance with international law the rights of Sweden with respect to the exploration and exploitation of the natural resources on the sea-bed or in its sub-soil, and any objects thereon, may be exercised.

(*c*) The term "person" includes an individual, a company and any other body of persons.

(*d*) The term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes.

(*e*) The terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State.

(*f*) The term "tax" means Jamaican tax or Swedish tax, as the context requires.

(*g*) The term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State.

(*h*) The term "national" means:

(i) any individual who is a citizen of a Contracting State;

(ii) any legal person, association or other entity deriving its status as such from the laws of a Contracting State.

(*i*) The term "competent authority" means:

(i) in Jamaica, the Minister responsible for finance or his authorized representative;

(ii) in Sweden, the Minister of Finance or his authorized representative.

2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of that State concerning the taxes to which the Convention applies.

Article 4. RESIDENT

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

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

(*a*) He shall be deemed to be a resident of the State in which he has a permanent home available to him. If he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests).

(*b*) If the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode.

(*c*) If he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national.

(*d*) If he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

Article 5. PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, except as otherwise specified in this Article, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

(*a*) A place of management;

(*b*) A branch;

(*c*) An office;

(*d*) A factory;

(*e*) A workshop;

(*f*) A store or premises used as a sales outlet;

(*g*) A warehouse, in relation to a person providing storage facilities for others;

(*h*) A mine, an oil or gas well, a quarry or any other place of extraction of natural resources;

(*i*) A building site or construction, assembly, installation or dredging project, or a drilling rig or ship used for the exploration or development of natural resources within a Contracting State, but only if such site, project or activity continues within that State for a period or periods aggregating more than 183 days in any twelve-month period (including the period of any supervisory activity connected therewith), provided that a permanent establishment shall not exist in any taxable year in which such site, project or activity continues within that State for a period or periods aggregating less than 30 days in that taxable year;

(*j*) The maintenance of substantial equipment or machinery within a Contracting State, but only if such equipment or machinery is maintained within that State for a period of more than 120 consecutive days, provided that a permanent establishment shall not exist in any taxable year in which such equipment or machinery is maintained within that State for a period or periods aggregating less than 30 days in that taxable year.

3. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include any one or more of the following:

(*a*) The use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise other than goods or merchandise held for sale by such enterprise in a store or premises used as a sales outlet;

(*b*) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery other than goods or merchandise held for sale by such enterprise in a store or premises used as a sales outlet;

(*c*) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(*d*) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information for the enterprise;

(*e*) The maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character.

4. Notwithstanding the provisions of paragraphs 1 and 2, where a person — other than an agent of an independent status to whom paragraph 5 applies — is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person

(*a*) Has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such a person are limited to those mentioned in paragraph 3 which, if exercised through a fixed place of business, would not make that fixed place of business a permanent establishment under the provisions of that paragraph; or

(*b*) Has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

5. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted exclusively or almost exclusively on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph but in such cases the provisions of paragraph 4 shall apply.

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

Article 6. INCOME FROM IMMOVABLE PROPERTY

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

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

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

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the peformance of independent personal services.

Article 7. BUSINESS PROFITS

1. The business profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the business profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Notwithstanding the provisions of paragraph 1 where an enterprise of a Contracting State which has a permanent establishment in the other Contracting State carries on business activities in that other State, otherwise than through the permanent establishment, of the same or similar kind as the business activities carried on by the permanent establishment, then the business profits of such activities may be attributable to the permanent establishment unless the enterprise shows that such activities could not have been reasonably undertaken by the permanent establishment.

3. Subject to the provisions of paragraph 4, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the business profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

4. In determining the business profits of a permanent establishment, there shall be allowed as deductions expenses which are reasonably allocable to the income of that permanent establishment, including executive and general administrative expenses, whether incurred in the State where the permanent establishment is situated or elsewhere.

5. No business profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. Insofar as it has been customary in a Contracting State to determine the business profits to be attributed to a permanent establishment on the basis of an apportionment of the total business profits of the enterprise to its various parts, nothing in paragraph 3 of this Article shall preclude that Contracting State from determining the business profits to be so taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.

7. For the purposes of the preceding paragraphs, the business profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

8. Where business profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall, except as otherwise specifically provided therein, not be affected by the provisions of this Article.

9. For the purposes of the Convention, "business profits" means income derived from the conduct of any trade or business including the rental of tangible personal (movable) property and the furnishing of the personal services of another person but not including income from the rental or licensing of cinematograph films or films or tapes used for radio or television broadcasting and not including income

derived by an individual from the performance of personal services either as an employee or in an independent capacity.

Article 8. SHIPPING AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. With respect to profits derived by the air transport consortium Scandinavian Airlines System (SAS) the provisions of paragraph 1 shall apply, but only to such part of the profits as corresponds to the participation held in that consortium by AB Aerotransport (ABA), the Swedish partner of Scandinavian Airlines System (SAS).

3. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9. ASSOCIATED ENTERPRISES

1. Where

(*a*) An enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

(*b*) The same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a redetermination has been made by a Contracting State to the income of an enterprise in accordance with paragraph 1, then the other Contracting State shall, if it agrees with such redetermination and if necessary to prevent double taxation, make a corresponding adjustment to the income of the enterprise of that other Contracting State. In the event the other Contracting State disagrees with such redetermination, the two Contracting States shall endeavour to reach agreement in accordance with Article 26.

Article 10. DIVIDENDS

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

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

(*a*) 10 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly or indirectly at least 25 per cent of the voting power of the company paying the dividends;

(*b*) 22.5 per cent of the gross amount of the dividends in all other cases.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

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

3. The term "dividends" as used in this Article means income from shares, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. Notwithstanding the provisions of paragraph 1, dividends paid by a company being a resident of Jamaica to a company which is a resident of Sweden shall be exempt from Swedish tax to the extent that the dividends would have been exempt under Swedish law if both companies had been Swedish companies. This exemption shall not apply unless the profits out of which the dividends are paid have been subjected in Jamaica to the normal income tax which applies at the date of signature of this Convention or an income tax comparable thereto, or the principal part of the profits of the company paying the dividends arises, directly or indirectly, from business activities other than the management of securities and other similar property and such activities are carried on within Jamaica by the company paying the dividends or by a company in which it owns at least 25 per cent of the voting power.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such a case the provisions of Article 7 or Article 15, as the case may be, shall apply.

6. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11. INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 12.5 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraphs 1 and 2, interest derived by

(*a*) A Contracting State or an instrumentality thereof (including the Bank of Jamaica, the National Development Bank, the Agricultural Development

Bank, the Jamaica Mortgage Bank, the Bank of Sweden, the Swedish National Debt Office, the Swedish Export Credit Board, the Swedish Export Credit Inc. and the Investment Bank of Sweden, and such other institutions of either Contracting State as the competent authorities may agree, pursuant to Article 25); or

(*b*) A resident of a Contracting State with respect to debt obligations guaranteed or insured by that Contracting State or an instrumentality thereof, including any institutions mentioned in sub-paragraph (*a*) above

shall be exempt from tax by the other Contracting State.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with

(*a*) Such permanent establishment or fixed base, or

(*b*) Business activities referred to in paragraph 2 of Article 7.

In such a case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12. ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 10 per cent of the gross

amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and films or tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with

(*a*) Such permanent establishment or fixed base, or

(*b*) Business activities referred to in paragraph 2 of Article 7.

In such a case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both [of] them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13. MANAGEMENT FEES

1. Management fees arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such management fees may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the management fees the tax so charged shall not exceed 10 per cent of the gross amount of the management fees. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term "management fees" as used in this Article means payments of any kind to any person, other than to an employee of the person making the payments for, or in respect of, the provision of industrial or commercial advice, or manage-

ment or technical services, or similar services or facilities, but it does not include payments for professional services mentioned in Article 15.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the management fees, being a resident of a Contracting State, carries on business in the other Contracting State in which the management fees arise, through a permanent establishment situated therein, and the obligation to pay the management fees is effectively connected with

(*a*) Such permanent establishment, or

(*b*) Business activities referred to in paragraph 2 of Article 7.

In such a case, the provisions of Article 7 shall apply.

5. Management fees shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that Contracting State. Where, however, the person paying the management fees, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the obligation to pay the management fees was incurred, and the management fees are borne by that permanent establishment, then the management fees shall be deemed to arise in the State in which the permanent establishment is situated.

6. Where by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the management fees, having regard to the advice, services or use for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a case, the excess part of the payment shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

7. If a resident of a Contracting State who is the beneficial owner of management fees which arise in the other Contracting State so elects, the tax chargeable in respect of those management fees in the Contracting State in which they arise shall be calculated as if he had a permanent establishment in that State and as if those management fees were taxable in accordance with Article 7; such election must be notified within three years of the receipt of the management fees.

Article 14. CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State, or from the alienation of shares or similar rights in a company the assets of which consist mainly of such immovable property, may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

Article 15. INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, when such income may also be taxed in the other Contracting State:

(*a*) If he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or

(*b*) If his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 90 days in the taxable year concerned; in such a case only so much of the income as is derived from his activities performed in that other State may be taxed in that other State; or

(*c*) If the remuneration for his activities in the other Contracting State is paid by a resident of that Contracting State or is borne by a permanent establishment or a fixed base situated in that Contracting State and exceeds in the taxable year an amount of 40,000 Swedish kronor or the equivalent in Jamaican currency.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 16. DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 17, 19, 20, 21 and 22 salaries, wages and other similar remuneration, but not including pensions, derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

(*a*) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period; and

(*b*) The remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and

(*c*) The remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

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

Where a resident of Sweden derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the air transport con-

sortium Scandinavian Airlines System (SAS), such remuneration shall be taxable only in Sweden.

Where a resident of Jamaica derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by Air Jamaica, such remuneration shall be taxable only in Jamaica.

Article 17. DIRECTORS' FEES

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

Article 18. ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 15 and 16, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. Where the personal activities of an entertainer or an athlete referred to in paragraph 1 are provided in a Contracting State by an enterprise of the other Contracting State then the profits derived by that enterprise for providing those activities may, notwithstanding the provisions of Article 7 or Article 15, be taxed in the Contracting State in which such activities are exercised.

4. The provisions of paragraphs 1, 2 and 3 shall not apply:

(*a*) To income derived from personal activities exercised in a Contracting State by an entertainer or an athlete if the visit to that Contracting State is substantially supported by public funds of the other Contracting State, including any political subdivision, local authority or statutory body thereof;

(*b*) To a non-profit organization, no part of the income of which was payable to, or was otherwise available for the personal benefit of any proprietor, member or shareholder thereof; or

(*c*) To an entertainer or an athlete in respect of services provided to an organization referred to in sub-paragraph (*b*).

Article 19. GOVERNMENT SERVICE

1. (*a*) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(*b*) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

2. The provisions of Articles 16 and 17 shall apply to remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20. STUDENTS

A student or business apprentice who is present in a Contracting State for the purposes of his education or training and who is, or was immediately before his stay in that State, a resident of the other Contracting State, shall be exempt from tax in the first-mentioned Contracting State on:

(i) payments made to him by persons residing outside that first-mentioned State for the purposes of his maintenance, education or training; and

(ii) remuneration for personal services performed in that first-mentioned State provided the remuneration does not exceed 12,000 Swedish kronor or its equivalent in Jamaican currency for any taxable year.

The benefits under sub-paragraph (ii) shall extend only for such period of time as may be reasonably or customarily required to complete the education or training undertaken but shall in no event exceed a period of five consecutive years.

Article 21. TEACHERS AND RESEARCHERS

1. A professor, teacher or researcher who visits a Contracting State for a period not exceeding two years for the purposes of teaching or conducting research at a university, college, school or other educational institution in that Contracting State and who is, or was immediately before such visit, a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State on any remuneration for such teaching or research in respect of which he is subject to tax in the other Contracting State.

2. This Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

Article 22. OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

3. Notwithstanding the provisions of paragraphs 1 and 2, pensions, Social Security benefits, annuities and other items of income of a resident of a Contracting State not dealt with in the foregoing Articles of the Convention and arising in the other Contracting State may be taxed in that other State.

Article 23. ELIMINATION OF DOUBLE TAXATION

1. In the case of Jamaica, double taxation shall be avoided as follows:

Subject to the provisions of the law of Jamaica regarding the allowance as a credit against Jamaican tax of tax paid in a territory outside of Jamaica (which shall not affect the general principle hereof), where a resident of Jamaica derives income which, in accordance with the provisions of this Convention may be taxed in Sweden, Jamaica shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Sweden; and where a company which is a resident of Sweden pays a dividend to a company resident in Jamaica, which controls directly or indirectly at least 25 per cent of the voting power in the first-mentioned company, the deduction shall take into account the tax payable in Sweden by that first-mentioned company in respect of the profits out of which such dividend is paid.

2. In the case of Sweden, double taxation shall be avoided as follows:

(*a*) Subject to the provisions of sub-paragraph (*b*) of this paragraph and of paragraph 4 of Article 10, where a resident of Sweden derives income which, in accordance with the provisions of the Convention may be taxed in Jamaica, Sweden shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Jamaica:

Provided that where such income is a dividend paid by a company which is a resident of Jamaica to a resident of Sweden, not being a company which is exempt from Swedish tax according to the provisions of paragraph 4 of Article 10, Swedish tax shall be charged on such a sum as would after deduction of the Jamaican tax at the appropriate rate correspond to the amount received, but that amount of the Jamaican tax appropriate to the dividend shall be allowed as a credit against any Swedish tax payable in respect of the dividend.

Such deduction in either case shall not, however, exceed that part of the income tax as computed before the deduction is given, which is appropriate to the income which may be taxed in Jamaica.

(*b*) Where a resident of Sweden derives income which, in accordance with the provisions of the Convention shall be taxable only in Jamaica, Sweden may include this income in the tax base but shall allow as a deduction from the income tax that part of the income tax which is attributable to the income derived from Jamaica.

3. For the purposes of paragraph 2 (*a*), income tax paid in Jamaica by a resident of Sweden on profits attributable to a permanent establishment or a fixed base in Jamaica or on dividends, interest or royalties received from a company which is a resident of Jamaica shall include any amount which would have been payable as Jamaican tax for any income year but for an exemption from, or a reduction of, tax granted for that year or any part thereof under:

(*a*) Any of the following provisions,

- Sections 10, 15 and 23 of the Motion Picture Industry (Encouragement) Act;
- Parts II and VI of the Industrial Incentives Act;
- Sections 10 and 11 of the Export Industry Encouragement Act;
- Sections 10 and 11 of the Petroleum Refining Industry (Encouragement) Act;
- Part V of the First Schedule of the Income Tax Act;
- Part II of the Third Schedule of the Income Tax Act;
- Sections 9 and 10 of the Hotels (Incentives) Act;

— Sections 7 and 8 of the Resort Cottages (Incentives) Act;

— Sections 7 and 8 of the Agricultural Incentives Act;

— The Industrial Incentives (Regional Harmonization) Act

so far as they were in force on, and have not been modified since the date of signature of the Convention, or have been modified only in minor respects so as not to affect their general character;

b) Any other provision granting exemption or reduction of tax which is agreed by the competent authorities of the Contracting States 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.

Article 24. NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, paragraph 6 of Article 12, or paragraph 6 of Article 13 apply, interest, royalties, management fees and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

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

5. Nothing contained in this Article shall be construed

(*a*) As obliging either Contracting State to grant to individuals not resident in that State any personal allowances, reliefs or credits for taxation purposes which are by law available only to individuals who are so resident, or

(*b*) As preventing Jamaica from charging tax under section 48 (5) of the Income Tax Act of Jamaica on a life insurance company which is a resident of Sweden.

6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 25. MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States, provided that, in the case of Jamaica, the taxpayer or the competent authority of Sweden gives notice within the time limits in the domestic law of Jamaica to the competent authority of Jamaica that there may be a claim for tax adjustment.

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

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. The competent authorities shall through consultation develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this Article.

Article 26. EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. The competent authorities shall through consultation develop appropriate conditions, methods and techniques concerning the matters in respect of which such exchanges of information shall be made, including, where appropriate, exchanges of information regarding tax avoidance.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

(*a*) To carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(*b*) To supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(*c*) To supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

Article 27. DIPLOMATIC AGENTS AND CONSULAR OFFICERS

Nothing in this Convention shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

Article 28. EXCLUDED COMPANIES

This Convention shall not apply to companies entitled to any special tax benefit under the International Finance Companies (Income Tax Relief) Act. This Convention shall also not apply to companies entitled to any special tax benefit under any substantially similar Act subsequently enacted by Jamaica in addition to, or in place of, the above-mentioned Act.

Article 29. ENTRY INTO FORCE

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Stockholm as soon as possible.

2. The Convention shall enter into force in both Contracting States upon the exchange of instruments of ratification and its provisions shall have effect:

(*a*) In respect of taxes withheld at the source on amounts paid or credited to non-residents on or after the first day of January next following the exchange of instruments of ratification;

(*b*) In respect of other taxes on income derived on or after the first day of January next following the exchange of instruments of ratification.

3. The extension to Jamaica, by notification dated 18th December, 1953 of the Convention between the Government of Sweden and the Government of the United Kingdom of Great Britain and Northern Ireland for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed at London on the 30th of March, 1949[1] shall terminate upon the entry into force of this Convention and thereupon cease to have effect in respect of income to which this Convention applies in accordance with the provisions of paragraph 2 of this Article.

Article 30. TERMINATION

This Convention shall remain in force indefinitely, but either of the Contracting States may, on or before 30th June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through diplomatic channels, written notice of termination.

In such event the Convention shall cease to have effect:

(*a*) In respect of taxes withheld at the source on amounts paid or credited to non-residents on or after the first day of January next following the notice of termination;

(*b*) In respect of other taxes on income derived on or after the first day of January next following the notice of termination.

[1] United Nations, *Treaty Series*, vol. 209, p. 129.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Convention.

DONE at Kingston this 13th day of March, 1985 in duplicate in the English language.

For the Government of Sweden:
JAN STÅHL

For the Government of Jamaica:
EDWARD SEAGA