

4. No 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. Provided that where that permanent establishment is also used as a sales outlet for the goods or merchandise so purchased the profits on such sales may be attributed to that permanent establishment.

5. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then, the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

SHIPPING AND AIR TRANSPORT

1. A resident of a Contracting State shall be exempt from tax in the other Contracting State in respect of profits or gains derived from the operations of ships or aircraft in international traffic.

2. Notwithstanding the provisions of paragraph 1 of this Article, where no enterprise of a Contracting State has, in a year, derived earnings in the other Contracting State from the operation of aircraft in international traffic, earnings derived in that year in the first-mentioned State by a resident of the other State from the operation of aircraft in international traffic may be taxed in the first-mentioned State but the tax so charged shall not exceed the lesser of:

- (a) one per cent of such earnings, and
- (b) the lowest amount of Nigerian tax that would have been imposed on such earnings if they had been derived by a resident of any third State in which no enterprise of the first-mentioned State had derived earnings from the operation of aircraft in international traffic in that year.

For the purposes of this paragraph, the term "earnings" means the amount by which the gross revenues exceed the aggregate of any refund thereof and the remuneration of personnel located in that State other than remuneration in respect of services rendered aboard an aircraft.

3. The provisions of paragraph 1 of this Article shall also apply to profits derived from participation in a pool, a joint business or an international operation 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 Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.