

This publication super-
sedes "Treaty Series
No. 95 (1967)", Cmnd.
3461, which was incorrect

SOUTH AFRICA



Treaty Series No. 25 (1968)

Protocol
amending the Convention
between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of the Republic of South Africa
for the Avoidance of Double Taxation
and the Prevention of Fiscal Evasion with
respect to Taxes on Income, signed at
Cape Town on 28 May 1962
with Exchange of Notes extending the Protocol to
South-West Africa

Cape Town, 14 June 1967

[Ratifications were exchanged on 7 September 1967 and the Protocol entered into force
on that date. The Exchange of Notes entered into force on 27 November 1967]

*Presented to Parliament by the Secretary of State for Foreign Affairs
by Command of Her Majesty
March 1968*

LONDON

HER MAJESTY'S STATIONERY OFFICE

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Cmnd. 3572

PROTOCOL
AMENDING THE CONVENTION BETWEEN THE GOVERNMENT
OF THE UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND AND THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA FOR THE AVOIDANCE OF
DOUBLE TAXATION AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES ON INCOME SIGNED
AT CAPE TOWN ON THE 28th MAY, 1962

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of South Africa,

Desiring to conclude a Protocol to amend the Convention between the Contracting Parties for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at Cape Town on the 28th May, 1962⁽¹⁾ (hereinafter referred to as "the Convention");

Have agreed as follows:

ARTICLE I

The second sentence of paragraph (1) of Article XX of the Convention (which sentence begins with the words "Where such income is an ordinary dividend" and ends with the words "the dividend exceeds that fixed rate") shall be deleted and the following substituted:

"Where such income is a dividend paid by a company which is a resident of South Africa to a company which is a resident of the United Kingdom which controls directly or indirectly not less than one-tenth of the voting power in the former company, the credit shall take into account (in addition to any South African tax payable in respect of the dividend) the South African tax payable by that former company in respect of its profits."

ARTICLE II

(1) This Protocol shall be ratified and the instruments of ratification shall be exchanged at London as soon as possible.

(2) This Protocol shall enter into force on the date on which the instruments of ratification are exchanged⁽²⁾ and shall thereupon have effect in relation only to

- (a) dividends payable after the specified date, and
- (b) dividends payable on or before the specified date which are chargeable to United Kingdom tax for a year of assessment which commences after the specified date,

(1) "Treaty Series No. 72 (1962)", Cmnd. 1879.

(2) The Protocol entered into force on 7 September, 1967.

and in relation to such dividends this Protocol shall be regarded as an integral part of the Convention. In this paragraph the term "specified date" means the date of entry into force of this Protocol.

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

Done in duplicate at Cape Town this Fourteenth day of June, One Thousand Nine Hundred and Sixty-seven, in the English and Afrikaans languages, both texts being equally authoritative.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

JOHN NICHOLLS

For the Government of the Republic of South Africa:

H. MULLER

PROTOKOL
TER WYSIGING VAN DIE KONVENSIE TUSSEN DIE REGERING
VAN DIE VERENIGDE KONINKRYK VAN GROOT-BRITTANJE
EN NOORD-IERLAND EN DIE REGERING VAN DIE REPUBLIEK
VAN SUID-AFRIKA TER VERMYDING VAN DUBBELE
BELASTING EN DIE VOORKOMING VAN FISKALE
ONTDUIKING TEN OPSIGTE VAN BELASTING OP INKOMSTE,
GETEKEN TE KAAPSTAD OP 28 MEI 1962

Die Regering van die Verenigde Koninkryk van Groot-Brittanje en Noord-Ierland en die Regering van die Republiek van Suid-Afrika het—

Uit 'n begeerte om 'n Protokol aan te gaan ter wysiging van die Konvensie tussen die kontrakterende partye ter vermyding van dubbele belasting en die voorkoming van fiskale ontduiking ten opsigte van belasting op inkomste, geteken te Kaapstad op 28 Mei 1962 (hieronder "die Konvensie" genoem)—

Soos volg ooreengekom :

ARTIKEL I

Die tweede sin van paragraaf (1) van Artikel XX van die Konvensie (naamlik die sin wat begin met die woorde "Waar sodanige inkomste 'n gewone dividend is" en eindig met die woorde "die dividend die vasgestelde skaal te bowe gaan") moet geskrap en deur die volgende vervang word :

"Waar sodanige inkomste 'n dividend is wat betaal word deur 'n maatskappy wat 'n inwoner van Suid-Afrika is aan 'n maatskappy wat 'n inwoner van die Verenigde Koninkryk is en wat regstreeks of onregstreeks beheer oor minstens een tiende van die stemkrag in eersgenoemde maatskappy uitoefen, moet die krediet (bo en behalwe enige Suid-Afrikaanse belasting ten opsigte van die dividend betaalbaar) die Suid-Afrikaanse belasting wat deur eersgenoemde maatskappy ten opsigte van sy winste betaalbaar is, in aanmerking neem."

ARTIKEL II

(1) Hierdie Protokol moet bekragtig word en die bekragtigingsdokumente moet so spoedig moontlik te Londen uitgeruil word.

(2) Hierdie Protokol tree in werking op die datum waarop die bekragtigingsdokumente uitgeruil word en is daarna van krag met betrekking tot slegs

(a) dividende betaalbaar ná die bepaalde datum, en

(b) dividende betaalbaar op of voor die bepaalde datum, wat onderworpe is aan belasting in die Verenigde Koninkryk vir 'n aanslagjaar wat ná die bepaalde datum begin

en met betrekking tot sodanige dividende moet hierdie Protokol as 'n integreerende deel van die Konvensie beskou word. In hierdie paragraaf beteken die uitdrukking "bepaalde datum" die datum van inwerkingtreding van hierdie Protokol.

TEN BEWYSE WAARVAN die ondergetekendes, behoorlik daartoe gemagtig, hierdie Protokol geteken het.

Gedoen in duplo te Kaapstad op hede die Veertiende dag van Junie Eenduisend Negehonderd Sewe-en-sestig in die Engelse en Afrikaanse tale, waarvan beide tekste ewe regsgeldig is.

Namens die Regering van die Verenigde Koninkryk van Groot-Brittanje en Noord-Ierland:

JOHN NICHOLLS

Namens die Regering van die Republiek van Suid-Afrika:

H. MULLER

*Her Majesty's Ambassador at Cape Town to the South African
Minister for Foreign Affairs*

No. 1

*Cape Town,
14 June, 1967.*

Monsieur le Ministre,

I have the honour to refer to the Exchange of Notes of the 8th of August 1962,⁽³⁾ between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of South Africa extending to the territory of South West Africa the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at Cape Town on the 28th of May 1962.

On signing this day the Protocol amending Article XX of the Convention, I have the honour to propose on behalf of the Government of the United Kingdom that the provisions of the Protocol shall also apply to the extension to South West Africa of the Convention as if,

- (i) in the Protocol any reference to "South Africa" were a reference to "the territory of South West Africa", and
- (ii) in the Protocol any reference to "South African tax" were a reference to the taxes which are levied in the territory of South West Africa and to which the extension of the Convention applies.

If the foregoing proposal is acceptable to the Government of the Republic of South Africa, I have the honour to suggest that the present Note and Your Excellency's reply to that effect shall be regarded as constituting an agreement between the two Governments which shall enter into force when each of the Governments shall have notified in writing to the other Government that the necessary measures have been taken on its side to give the extension hereby effected the force of law, and, if such notifications are not given on the same date, on the date of the later notification.⁽⁴⁾

I have the honour to be,

with the highest consideration,

Monsieur le Ministre,

Your Excellency's obedient Servant,

JOHN NICHOLLS.

⁽³⁾ "Treaty Series No. 4 (1964)", Cmnd. 2249.

⁽⁴⁾ The Agreement entered into force on 27 November, 1967.

*The South African Minister for Foreign Affairs to Her Majesty's
Ambassador at Cape Town*

No. 2

*Cape Town,
14th June, 1967.*

Your Excellency,

I have the honour to acknowledge receipt of your Note of today's date which reads as follows:

[As in No. 1]

I have the honour to confirm that your Note and this Note be regarded as an Exchange of Notes (as provided for in Article XXIV(1) of the Convention between the Government of the Republic of South Africa 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 Cape Town on the 28th May, 1962) placing on record the agreement between our two Governments that the aforesaid Convention be extended to the territory of South West Africa in the manner specified in your Note.

Please accept, Your Excellency, the renewed assurance of my highest consideration.

H. MULLER.

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