No. 9709

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
and
GAMBIA

Agreement amending the Arrangement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with Arrangement of 19 December 1947). Signed at Bathurst on 1 April 1968

Authentic text: English.

Registered by the United Kingdom of Great Britain and Northern Ireland on 8 July 1969.

ROYAUME-UNI DE GRANDE-BRETAGNE ET D'IRLANDE DU NORD
et
GAMBIE

Accord modifiant l'Arrangement tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec Arrangement du 19 décembre 1947). Signé à Bathurst le 1er avril 1968

Texte authentique: anglais.

Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 8 juillet 1969.

AGREEMENT[1] AMENDING THE ARRANGEMENT[2] BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE GAMBIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of The Gambia,

Desiring to amend the Arrangement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income[2] in force between Her Majesty's Government and the Government of The Gambia immediately before 18th February, 1965, when The Gambia attained fully responsible status and continued in force since that date between the Government of the United Kingdom and the Government of The Gambia (hereinafter referred to as " the Arrangement "),

Have agreed as follows :

Article 1

The Arrangement shall be amended :

(*a*) by the deletion of paragraph 2 (1) (*b*);

(*b*) by the substitution for the references therein to " the Colony ", " Colonial enterprise " and " Colonial tax " of references to " The Gambia ", " Gambian enterprise " and " Gambian tax " respectively;

(*c*) by the addition at the end of paragraph 6 of the following new sub-paragraph—

" (3) If the recipient of a dividend is a company which owns 10 per cent. or more of the class of shares in respect of which the dividend is paid then sub-paragraph (1) shall not apply to the dividend to the extent that it can have been paid only out of the profits which the company paying the dividend earned or other income which it received in a period ending twelve months or more before the relevant date. For the purposes of this sub-paragraph, the term " relevant date " means the date on which the beneficial

[1] Came into force on 12 July 1968, the date when the last of all such things had been done in the United Kingdom of Great Britain and Northern Ireland and the Gambia as were necessary to give the Agreement the force of law in each of the two countries, in accordance with article 2 (1).

[2] See p. 356 of this volume, where that Agreement is published for information.

owner of the dividend became the owner of 10 per cent. or more of the class of shares in question.

" Provided that this sub-paragraph shall not apply if the beneficial owner of the dividend shows that the shares were acquired for *bona fide* commercial reasons and not primarily for the purpose of securing the benefit of this paragraph. "; and

(*d*) by the substitution for sub-paragraphs (1) and (2) of paragraph 13 of the following new sub-paragraphs—

" (1) Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom (which shall not affect the general principle hereof)—

(*a*) Gambian tax payable under the laws of The Gambia and in accordance with this Arrangement, whether directly or by deduction, on profits or income from sources within The Gambia shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits or income by reference to which the Gambian tax is computed.

Provided that in the case of a dividend the credit shall only take into account such tax in respect thereof as is additional to any tax payable by the company on the profits out of which the dividend is paid and is ultimately borne by the recipient without reference to any tax so payable;

(*b*) where a company which is a resident of The Gambia pays a dividend to a company resident in the United Kingdom which controls directly or indirectly at least 10 per cent. of the voting power in the first-mentioned company, the credit shall take into account (in addition to any Gambian tax for which credit may be allowed under (*a*) of this sub-paragraph) the Gambian tax payable by that first-mentioned company in respect of the profits out of which such dividend is paid.

" (2) Subject to the provisions of the law of The Gambia regarding the allowance as a credit against Gambian tax of tax payable in a territory outside The Gambia (which shall not affect the general principle hereof)—

(*a*) United Kingdom tax payable under the laws of the United Kingdom and in accordance with this Arrangement, whether directly or by deduction, on profits or income from sources within the United Kingdom, shall be allowed as a credit against any Gambian tax computed by reference to the same profits or income by reference to which the United Kingdom tax is computed.

Provided that in the case of a dividend the credit shall only take into account such tax in respect thereof as is additional to any tax payable by the company on the profits out of which the dividend is paid and is ultimately borne by the recipient without reference to any tax so payable;

(*b*) where a company which is a resident of the United Kingdom pays a dividend to a company resident in The Gambia which controls directly or indirectly at least 10 per cent. of the voting power in the first-mentioned company, the credit shall take into account (in addition to any United Kingdom tax for which credit may be allowed under (*a*) of this sub-paragraph) the United Kingdom tax payable by that first-mentioned company in respect of the profits out of which such dividend is paid. "

Article 2

(1) This Agreement shall enter into force when the last of all such things shall have been done in the United Kingdom and The Gambia as are necessary to give the Agreement the force of law in the United Kingdom and The Gambia respectively.

(2) Upon the entry into force of this Agreement in accordance with paragraph (1) the new sub-paragraph (3) of paragraph 6 of the Arrangement shall have effect immediately and the new sub-paragraphs (1) and (2) of paragraph 13 of the Arrangement shall have effect—

(*a*) in the United Kingdom:

(i) as respects income tax (including surtax) for any year of assessment beginning on or after 6 April, 1968; and

(ii) as respects corporation tax, for any financial year beginning on or after 1 April, 1968;

(*b*) in The Gambia:

as respects income tax, for any year of assessment beginning on or after 1 January, 1968.

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

DONE in duplicate at Bathurst this first day of April, 1968.

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

Granville RAMAGE

For the Government of The Gambia:

S. M. DIBBA

ARRANGEMENT BETWEEN HIS MAJESTY'S GOVERNMENT AND THE GOVERNMENT OF THE GAMBIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

1. (1) The taxes which are the subject of this Arrangement are—

(*a*) In the United Kingdom :

The income tax (including sur-tax) and the profits tax (hereinafter referred to as " United Kingdom tax ").

(*b*) In the Gambia :

The income tax (hereinafter referred to as " Colonial tax ").

(2) This Arrangement shall also apply to any other taxes of a substantially similar character imposed in the United Kingdom or the Gambia after this Arrangement has come into force.

2. (1) In this Arrangement, unless the context otherwise requires—

(*a*) The term " United Kingdom " means Great Britain and Northern Ireland, excluding the Channel Islands and the Isle of Man.

(*b*) The term " the Colony " means the Gambia.

(*c*) The terms " one of the territories " and " the other territory " mean the United Kingdom or the Colony, as the context requires.

(*d*) The term " tax " means United Kingdom tax or Colonial tax, as the context requires.

(*e*) The term " person " includes any body of persons, corporate or not corporate.

(*f*) The term " company " includes any body corporate.

(*g*) The terms " resident of the United Kingdom " and " resident of the Colony " mean respectively any person who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident in the Colony for the purposes of Colonial tax and any person who is resident in the Colony for the purposes of Colonial tax and not resident in the United Kingdom for the purposes of United Kingdom tax; and a company shall be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom and as resident in the Colony if its business is managed and controlled in the Colony.

(*h*) The terms " resident of one of the territories " and " resident of the other territory " mean a person who is a resident of the United Kingdom or a person who is a resident of the Colony, as the context requires.

(*i*) The terms " United Kingdom enterprise " and " Colonial enterprise " mean respectively an industrial or commerical enterprise or undertaking carried on by a resident of the United Kingdom and an industrial or commercial enterprise or undertaking carried on by a resident of the Colony; and the terms " enterprise of one of the territories " and " enterprise of the other territory " mean a United Kingdom enterprise or a Colonial enterprise, as the context requires.

(*j*) The term " industrial or commercial profits " includes rentals in respect of cinematograph films.