No. 9783

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
and
LESOTHO

Agreement amending the Arrangement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Lesotho for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Maseru on 3 July 1968

Authentic text: English.

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

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

Accord modifiant l'Arrangement entre le Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord et le Gouvernement du Royaume du Lesotho tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu. Signé à Maseru le 3 juillet 1968

Texte authentique : anglais.

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

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

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

Desiring to amend the Arrangement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income in force between Her Majesty's Government and the Government of Basutoland immediately before 4 October 1966,[2] when Basutoland was established as an independent kingdom under the name of Lesotho, and continued in force since that date between the Government of the United Kingdom and the Government of the Kingdom of Lesotho (hereinafter referred to as "the Arrangement").

Have agreed as follows:

Article 1

The Arrangement shall be amended—

(*a*) by the substitution for the references therein to "Basutoland", "Basutoland enterprise" and "Basutoland tax" of references to "Lesotho", "Lesotho enterprise" and "Lesotho tax" respectively;

(*b*) 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

[1] Came into force on 28 March 1969, the date when the last of all such things were done in the United Kingdom of Great Britain and Northern Ireland and of Lesotho as were necessary to give the Agreement the force of law in each of the two countries, in accordance with article 2, paragraph 1.

[2] See p. 188 of this volume where the said Arrangement is published for information.

paid then sub-paragraph (1) shall not apply to the dividend to the extent that it can have been paid only out of 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 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

(*c*) by the substitution for sub-paragraphs (1) and (2) of paragraph 14 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*) Lesotho tax payable under the laws of Lesotho and in accordance with this Arrangement, whether directly or by deduction, on profits or income from sources within Lesotho 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 Lesotho 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 Lesotho 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 Lesotho tax for which credit may be allowed under (*a*) of this sub-paragraph) the Lesotho tax payable by that first-mentioned company in respect of the profits out of which such dividend is paid.

"(2) If Lesotho tax is payable, whether directly or by deduction, in respect of income derived from sources within the United Kingdom, then, subject to the provisions of the law ofLesotho regarding the allowance as a credit against Lesotho tax of tax payable in a territory outside Lesotho (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 Lesotho 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 which is resident in Lesotho 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 Lesotho as are necessary to give the Agreement the force of law in the United Kingdom and Lesotho 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 and the new sub-paragraphs (1) and (2) of paragraph 14 thereof shall have effect immediately.

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

DONE in duplicate at Maseru this third day of July 1968.

For the Government of the United Kingdom of Great Britain and Northern Ireland:
M. F. CHAPMAN

For the Government of the Kingdom of Lesotho:
P. N. PEETE

ARRANGEMENT BETWEEN HIS MAJESTY'S GOVERNMENT AND THE GOVERNMENT OF BASUTOLAND 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 Basutoland:

The normal tax and the super tax (hereinafter referred to as "Basutoland tax").

(2) This Arrangement shall also apply to any other taxes of a substantially similar character imposed in the United Kingdom or Basutoland 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 terms "one of the territories" and "the other territory" mean the United Kingdom or Basutoland, as the context requires.

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

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

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

(*f*) The terms "resident of the United Kingdom" and "resident of Basutoland" mean respectively any person who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident in Basutoland for the purposes of Basutoland tax and any person who is resident in Basutoland for the purposes of Basutoland 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