

No. 10023

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**UNITED KINGDOM OF GREAT BRITAIN  
AND NORTHERN IRELAND  
and  
SOUTH AFRICA**

**Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains. Signed at London on 21 November 1968**

*Authentic texts: English and Afrikaans.*

*Registered by the United Kingdom of Great Britain and Northern Ireland on 11 November 1969.*

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**ROYAUME-UNI DE GRANDE-BRETAGNE  
ET D'IRLANDE DU NORD  
et  
AFRIQUE DU SUD**

**Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et d'impôts sur les gains de capital. Signée à Londres le 21 novembre 1968**

*Textes authentiques: anglais et afrikaans.*

*Enregistrée par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 11 novembre 1969.*

CONVENTION<sup>1</sup> 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 AND CAPITAL GAINS

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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 Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains;

Have agreed as follows :

*Article I*

(1) The taxes which are the subject of this Convention are :

(a) in South Africa :

- (i) the normal tax;
- (ii) the non-resident shareholders' tax;
- (iii) the undistributed profits tax;
- (iv) the non-residents tax on interest; and
- (v) the provincial income and personal taxes (hereinafter referred to as " South African tax ");

(b) in the United Kingdom of Great Britain and Northern Ireland :

- (i) the income tax (including surtax);
- (ii) the corporation tax; and
- (iii) the capital gains tax (hereinafter referred to as " United Kingdom tax ").

(2) This Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes.

*Article 2*

(1) In this Convention, unless the context otherwise requires :

(a) the term " United Kingdom " means Great Britain and Northern Ireland;

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<sup>1</sup> Came into force on 29 June 1969, after the expiration of thirty days following the date (29 May 1969) on which the instruments of ratification were exchanged, in accordance with article 27 (2).

- (b) the term “ South Africa ” means the Republic of South Africa;
- (c) the terms “ a Contracting State ” and “ the other Contracting State ” mean the United Kingdom or South Africa, as the context requires;
- (d) the term “ taxation authorities ” means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative; in the case of South Africa, the Secretary for Inland Revenue or his authorised representative; and in the case of any territory to which this Convention is extended under Article 26, the competent authority for the administration in such territory of the taxes to which this Convention applies;
- (e) the term “ tax ” means United Kingdom tax or South African tax, as the context requires;
- (f) the term “ person ” includes any body of persons, corporate or not corporate;
- (g) the term “ company ” means any body corporate;
- (h) the terms “ United Kingdom enterprise ” and “ South African enterprise ” mean respectively an industrial or commercial 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 South Africa, and the terms “ enterprise of a Contracting State ” and “ enterprise of the other Contracting State ” mean a United Kingdom enterprise or a South African enterprise, as the context requires;
- (i) the term “ international traffic ” includes traffic between places in one country in the course of a voyage which extends over more than one country.

(2) Where under this Convention any income is exempt from tax, or is to be granted relief from tax, in a Contracting State if (with or without other conditions) it is subject to tax in the other Contracting State and that income is subject to tax in that other Contracting State by reference to the amount thereof which is remitted to or received in that other Contracting State, the exemption or relief to be allowed under this Convention in the first-mentioned Contracting State shall apply only to the amount so remitted or received.

(3) In the application of the provisions of this Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws in force in the territory of that Contracting State relating to the taxes which are the subject of this Convention.

*Article 3*

(1) For the purposes of this Convention the term “ resident of a Contracting State ” means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. The terms “ resident of the United Kingdom ” and “ resident of South Africa ” shall be construed accordingly.

(2) Where by reason of the provisions of paragraph (1) of this Article an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules :

- (a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (hereinafter referred to as “ his centre of vital interests ”).
- (b) If the Contracting 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode.
- (c) If he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national.
- (d) If he is a national of both Contracting States or of neither of them, the taxation authorities of the Contracting States shall determine the question by mutual agreement.

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

*Article 4*

(1) For the purposes of this Convention, the term “ permanent establishment ” means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

(2) The term “ permanent establishment ” shall include especially :

- (a) a place of management;
- (b) a branch;
- (c) an office;

- (d) a factory;
- (e) a workshop;
- (f) a mine, quarry or other place of extraction of natural resources;
- (g) a building site or construction or assembly project which exists for more than twelve months.

(3) The term “ permanent establishment ” shall not be deemed to include :

- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (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 for collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

(4) An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on the activity of providing the services of public entertainers or of athletes referred to in Article 15, in that other Contracting State.

(5) A person acting in a Contracting State on behalf of an enterprise of the other Contracting State—other than an agent of an independent status to whom paragraph (6) of this Article applies—shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

(6) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of independent status, where such persons are acting in the ordinary course of their business.

(7) 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 5*

(1) Income from immovable property may be taxed in the Contracting State in which such property is situated.

(2) (a) The term “immovable property” shall, subject to sub-paragraph (b) below, be defined in accordance with the law of the Contracting State in which the property in question is situated.

(b) The term “immovable property” 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) of this Article 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) of this Article shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

#### *Article 6*

(1) The industrial or commercial profits of a United Kingdom enterprise shall not be subject to South African tax unless the enterprise carries on a trade or business in South Africa through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by South Africa, but only on so much of them as is attributable to that permanent establishment.

(2) The industrial or commercial profits of a South African enterprise shall not be subject to United Kingdom tax unless the enterprise carries on a trade or business in the United Kingdom through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by the United Kingdom, but only on so much of them as is attributable to that permanent establishment.

(3) Where an enterprise of a Contracting State carries on a trade or business in the other Contracting State through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial

or commercial profits which it might be expected to derive in that other Contracting State if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

(4) In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses of the enterprise (other than expenses which would not be deductible if the permanent establishment were a separate enterprise) which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere.

(5) 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.

(6) The term "industrial or commercial profits" means income derived by an enterprise from the conduct of a trade or business, including income derived by an enterprise from the furnishing of services of employees or other personnel, but it does not include dividends, interest, royalties (as defined in Articles 9, 10 and 11) or rents other than dividends, interest, royalties or rents effectively connected with a trade or business carried on through a permanent establishment which an enterprise of one of the Contracting States has in the other Contracting State; nor does the term include remuneration for personal (including professional) services.

(7) Nothing in the foregoing provisions of this Article shall affect any of the provisions of the law of the United Kingdom relating to the liability to tax of a life assurance company not having its head office in the United Kingdom in respect of income from the investments of its life assurance fund, being provisions which (except in so far as they were rendered ineffective by virtue of Article III of the Convention between the Government of the United Kingdom and the Government 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 28th May, 1962)<sup>1</sup> were in force on the date of signature of this Convention, or which, if they have been modified since that date, have been modified only in minor respects so as not to affect their general character.

#### *Article 7*

A resident of a Contracting State shall be exempt from tax in the other Contracting State on profits from the operation of ships or aircraft other than

<sup>1</sup> United Nations, *Treaty Series*, vol. 443, p. 79.

profits from voyages of ships or aircraft confined solely to places in the other Contracting State.

#### *Article 8*

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.

#### *Article 9*

(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 Contracting State.

(2) However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that Contracting State, but the tax so charged shall not exceed :

- (a) 5 per cent of the gross amount of the dividends if those dividends are beneficially owned by a company which is a resident of the other Contracting State and which controls directly or indirectly at least 25 per cent of the voting power of the company paying the dividends;
- (b) in other cases 15 per cent of the gross amount of the dividends if those dividends are either
  - (i) beneficially owned by a company which is a resident of the other Contracting State, or
  - (ii) paid to a resident of the other Contracting State who is subject to tax there in respect thereof.

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 or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the Contracting State of which the company making the distribution is a resident and also includes any other item of income (other than royalties exempt from tax under Article 11 of this Convention) which, under the law of the Contracting State of which the company paying the dividends is a resident, is treated as a dividend or distribution of a company.

(4) If the beneficial owner of dividends being a resident of a Contracting State owns 10 per cent or more of the class of shares in respect of which the dividends are paid and does not suffer tax thereon in that State then paragraph (2) of this Article shall not apply to the dividends to the extent that they can have been paid only out of profits which the company paying the dividends earned or other income which it received in a period ending twelve months or more before the relevant date. For the purposes of this paragraph the term “relevant date” means the date on which the beneficial owner of the dividends became the owner of 10 per cent or more of the class of shares in question. Provided that this paragraph shall apply only if the shares were acquired primarily for the purpose of securing the benefit of this Article and not for bona fide commercial reasons.

(5) The provisions of paragraphs (1) and (2) of this Article shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment and the holding by virtue of which the dividends are paid is effectively connected with the business carried on through such permanent establishment.

(6) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other Contracting State may not impose any tax on the dividends paid by the company to persons who are not residents of that other Contracting State, or subject the company's undistributed profits to a tax on 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 10*

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

(2) However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that Contracting State, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest if the recipient is subject to tax thereon in the other Contracting State.

(3) The term “ interest ” as used in this Article means income from Government securities, from bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and from other debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the Contracting State in which the income arises.

(4) The provisions of paragraph (2) of this Article shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State a permanent establishment and the debt-claim giving rise to the interest is effectively connected with a trade or business carried on through such permanent establishment.

(5) Any provision in the law of a Contracting State which relates only to interest paid to a non-resident company with or without any further requirement, or which relates only to interest payments between interconnected companies, with or without any further requirement, shall not operate so as to require such interest paid to a company which is a resident of the other Contracting State to be left out of account as a deduction in computing the taxable profits of the company paying the interest as being a dividend or distribution. The preceding sentence shall not apply to interest paid to a company which is a resident of a Contracting State in which more than 50 per cent of the voting power is controlled directly or indirectly by a person or persons resident in the other Contracting State.

(6) Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

(7) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount.

*Article 11*

(1) Royalties arising in a Contracting State and paid to a resident of the other Contracting State who is subject to tax there in respect thereof shall be exempt from tax in the first-mentioned Contracting State.

(2) The term " royalties " as used in this Article :

- (a) 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, but
- (b) does not include any amount paid in respect of the operation of a mine, oil well or quarry or of any other extraction of natural resources.

(3) The provisions of paragraph (1) of this Article shall not apply if the recipient of the royalties, being a resident of a Contracting State has in the other Contracting State a permanent establishment and the right or property giving rise to the royalties is effectively connected with a trade or business carried on through such permanent establishment.

(4) (a) Any provision of the law of a Contracting State which requires royalties paid by a company to be left out of account as a deduction in computing the company's taxable profits as being a distribution shall not operate in relation to royalties paid to a resident of the other Contracting State.

(b) The provisions of sub-paragraph (a) of this paragraph shall not apply to royalties paid to a company which is a resident of that other Contracting State where :

- (i) the same persons participate directly or indirectly in the management or control of the company paying the royalties and the company deriving the royalties, and
- (ii) more than 50 per cent of the voting power in the company deriving the royalties is controlled directly or indirectly by a person or persons resident in the Contracting State in which the company paying the royalties is resident.

(5) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount.

#### *Article 12*

(1) Capital gains from the alienation of any 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 any property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other Contracting State.

(2) Notwithstanding paragraph (1) of this Article, capital gains derived by a resident of a Contracting State from the alienation of ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft shall be taxable only in that Contracting State.

(3) Capital gains from the alienation of any property other than those mentioned in paragraph (1) of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

(4) The provisions of paragraph (3) of this Article shall not affect the right of a Contracting State to levy according to its own law a tax on capital gains from the alienation of any property derived by an individual who is a resident of the other Contracting State and has been a resident of the first-mentioned Contracting State at any time during the five years immediately preceding the alienation of the property.

#### *Article 13*

Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be subjected to tax only in that Contracting State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, such part of that income as is attributable to that base may be taxed in the other Contracting State.

#### *Article 14*

(1) Subject to the provisions of Articles 16, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting State

in respect of an employment shall be subjected to tax 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) of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be subjected to tax 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 the fiscal year concerned, 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 deducted from the profits of a permanent establishment or a fixed base which the employer has in the other State.

(3) In relation to remuneration of a director of a company derived from the company the preceding provisions of this Article shall apply as if the remuneration were remuneration of an employee in respect of an employment, and as if references to employers were references to the company.

(4) Notwithstanding the preceding provisions of this Article, remuneration for personal services performed aboard a ship or aircraft in international traffic may be taxed in the Contracting State of which the person deriving the profits from the operation of the ship or aircraft is a resident.

#### *Article 15*

Notwithstanding anything contained in this Convention, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

#### *Article 16*

(1) Any pension (other than a pension of the kind referred to in paragraph (2) of Article 17) and any annuity, derived from sources within South Africa by an individual who is a resident of the United Kingdom and subject to United Kingdom tax in respect thereof, shall be exempt from South African tax.

(2) Any pension (other than a pension of the kind referred to in paragraph (2) of Article 17) and any annuity, derived from sources within the United Kingdom by an individual who is a resident of South Africa and subject to South African tax in respect thereof, shall be exempt from United Kingdom tax.

(3) The term “annuity” means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money’s worth.

#### *Article 17*

(1) Remuneration (other than pensions) paid by a Contracting State to any individual for services rendered to that Contracting State in the discharge of governmental functions shall be exempt from tax in the other Contracting State if the individual is not ordinarily resident in that State or is ordinarily resident in that State solely for the purpose of rendering those services.

(2) Any pension paid by a Contracting State to any individual for services rendered to that Contracting State in the discharge of governmental functions shall be exempt from tax in the other Contracting State, in so far as the remuneration for those services was exempt from tax in that State under paragraph (1) of this Article or would have been so exempt if this Convention had been in force at the time when the remuneration was paid.

(3) The provisions of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the Contracting States for purposes of profit.

(4) For the purposes of this Article, the term “Contracting State”, in the case of South Africa, includes the Administrations of the Provinces of South Africa.

#### *Article 18*

A professor or teacher who visits one of the Contracting States for a period not exceeding two years for the purpose of teaching at a university, college, school or other educational institution in that Contracting State and who is, or was immediately before that 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 in respect of which he is subject to tax in the other Contracting State.

#### *Article 19*

Payments which a student or business apprentice from a Contracting State who is present in the other Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or

training, shall not be taxed in that other State, provided that such payments are made to him from sources outside that other State.

#### *Article 20*

Any income not dealt with in the foregoing provisions of this Convention derived by a resident of a Contracting State who is subject to tax there in respect thereof shall be subjected to tax only in that State.

#### *Article 21*

(1) Subject to the provisions of paragraph (3) of this Article, individuals who are residents of South Africa shall be entitled to the same personal allowances, reliefs and reductions for the purposes of United Kingdom taxation as British subjects not resident in the United Kingdom.

(2) Subject to the provisions of paragraph (3) of this Article, individuals who are residents of the United Kingdom shall be entitled to the same personal allowances, reliefs and reductions for the purposes of South African tax as South African citizens not resident in South Africa.

(3) Nothing in this Convention shall entitle an individual who is a resident of a Contracting State and whose income from the other Contracting State consists solely of dividends, interest or royalties (or solely of any combination thereof) to the personal allowances, reliefs and reductions of the kind referred to in this Article for the purposes of taxation in that other State.

#### *Article 22*

(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) South African tax payable under the laws of South Africa and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within South Africa (excluding in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits, income or chargeable gains by reference to which the South African tax is computed;

(b) in the case of a dividend paid by a company which is a resident of South Africa to a company which is resident in the United Kingdom and which controls directly at least 10 per cent of the voting power in the South African company, the credit shall take into account (in addition to any South African tax creditable under sub-paragraph (a) above) the South African tax payable by the company in respect of the profits out of which such dividend is paid.

(2) Where United Kingdom tax is payable under the laws of the United Kingdom and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains derived from sources within the United Kingdom by a resident of South Africa, and that tax is borne by him, South Africa shall either impose no tax on such profits, income or chargeable gains or shall, subject to such provisions (which shall not affect the general principle hereof) as may be enacted in South Africa, allow as a credit against any South African tax payable in respect of such profits, income or chargeable gains so much of the United Kingdom tax as does not exceed the South African tax. In the case of a dividend paid by a company which is a resident of the United Kingdom to a company which is resident in South Africa and which controls directly or indirectly at least 10 per cent of the voting power in the United Kingdom company, any such credit shall take into account (in addition to any United Kingdom tax creditable under the preceding provisions of this paragraph) the United Kingdom tax payable by the company in respect of the profits out of which such dividend is paid.

(3) Paragraphs (1) and (2) of this Article shall have no application in relation to any tax which is repayable.

(4) For the purposes of this Article, remuneration for personal (including professional) services performed in a Contracting State shall be deemed to be income from sources within that State, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated in international traffic by a resident of a Contracting State shall be deemed to be performed in that State.

(5) Where profits on which an enterprise of a Contracting State has been charged to tax in that State are also included in the profits of an enterprise of the other State and the profits so included are profits which would have accrued to that enterprise of the other State if conditions operative between each of the enterprises had been those which might be expected to operate between independent enterprises dealing at arm's length, the amount of such profits included in the profits of both enterprises shall be treated for the purposes



of this Article as income from a source in the other State of the enterprise of the first-mentioned State and relief shall be given accordingly under paragraph (1) or paragraph (2) of this Article.

### *Article 23*

(1) The nationals of a Contracting State shall not be subjected in the territory of 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 the nationals of the other State in the same circumstances are or may be subjected.

(2) In this Article the term "nationals" means :

(a) in relation to South Africa :

all South African citizens and all legal persons, partnerships and associations deriving their status as such from the law in force in South Africa.

(b) in relation to the United Kingdom :

all British subjects and British protected persons

(i) residing in the United Kingdom or any territory to which this Convention is extended under Article 26, or

(ii) deriving their status as such from connection with the United Kingdom or any territory to which this Convention is extended under Article 26,

and all legal persons, partnerships and associations deriving their status as such from the law in force in the United Kingdom or in any territory to which the Convention is extended under Article 26.

(3) 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.

(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 Contracting 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 that first-mentioned State are or may be subjected.

(5) Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the

personal allowances and reliefs for tax purposes which are granted to individuals so resident, nor as conferring any exemption from tax in a State in respect of dividends paid to a company which is a resident of the other State.

(6) In determining for the purpose of United Kingdom tax whether a company is a close company, the term "recognised stock exchange" shall include the Johannesburg Stock Exchange.

(7) In this Article the term "taxation" means the taxes which are the subject of this Convention.

#### *Article 24*

The taxation authorities of the Contracting States may communicate with each other directly for the purpose of giving effect to the provisions of this Convention and for resolving any difficulty or doubt as to the application or interpretation of this Convention.

#### *Article 25*

The taxation authorities of the Contracting States shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of this Convention or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Convention. Any information so exchanged shall be treated as secret but may be disclosed to persons (including a court or administrative body) concerned with assessment, collection, enforcement or prosecution in respect of taxes which are the subject of this Convention. No information shall be exchanged which would disclose any trade, business, industrial or professional secret or any trade process.

#### *Article 26*

(1) This Convention may be extended either in its entirety or with modifications, by agreement between the Contracting States, to all or any of the territories for whose international relations either Contracting State is responsible and which impose taxes substantially similar in character to those which are the subject of this Convention, and any such extension shall take effect from such date and subject to such modification and conditions (including conditions as to termination) as may be specified and agreed between the Contracting States in Notes to be exchanged for this purpose.

(2) The termination in respect of the United Kingdom or South Africa of this Convention shall, unless otherwise expressly agreed by both Contracting States, terminate the application of this Convention to any territory to which the Convention has been extended under this Article.

*Article 27*

(1) This Convention shall be ratified and the instruments of ratification shall be exchanged in South Africa as soon as possible.

(2) This Convention shall enter into force after the expiration of thirty days following the date on which the instruments of ratification are exchanged and shall thereupon have effect :

(a) in the United Kingdom :

- (i) as respects income tax (including surtax) and capital gains tax, for any year of assessment beginning on or after 6th April, 1968; and
- (ii) as respects corporation tax, for any financial year beginning on or after 1st April, 1968;

(b) in South Africa :

- (i) as respects taxes on income, for any year of assessment beginning on or after 1st March, 1968;
- (ii) as respects non-resident shareholders' tax, on dividends declared on or after 1st March, 1968; and
- (iii) as respects non-residents tax on interest, on interest payable on or after 1st March, 1968.

(3) Subject to paragraph (4) of this Article the Convention between the Government of the United Kingdom and the Government 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 28th May, 1962, together with the Protocol amending that Convention signed at Cape Town on 14th June, 1967,<sup>1</sup> shall terminate and cease to be effective as respects taxes to which this Convention in accordance with paragraph (2) of this Article applies.

(4) Where any greater relief from tax in a Contracting State would have been afforded by any provision of the Convention signed at Cape Town on 28th May, 1962, as amended by the Protocol signed at Cape Town on 14th June, 1967, than is due under this Convention, any such provision as aforesaid shall continue to have effect in that State :

(a) in the case of the United Kingdom :

for any year of assessment or financial year beginning before the entry into force of this Convention;

<sup>1</sup> United Nations, *Treaty Series*, vol. 645, p. 362.

(b) in the case of South Africa :

- (i) as respects taxes on income, for any year of assessment beginning before the entry into force of this Convention;
- (ii) as respects non-resident shareholders' tax, on dividends declared before the entry into force of this Convention; and
- (iii) as respects non-residents tax on interest, on interest payable before the entry into force of this Convention.

(5) This Convention shall not affect any agreement in force which, in accordance with Article XXIV of the Convention signed at Cape Town on 28th May, 1962, extends that Convention to any territory.

#### *Article 28*

This Convention shall continue in effect indefinitely but either of the Contracting States may, on or before the thirtieth day of June in any calendar year after the year 1972 give, through diplomatic channels, notice of termination to the other Contracting State and, in such event, this Convention shall cease to have effect :

(a) in the United Kingdom :

- (i) as respects income tax (including surtax) and capital gains tax, for any year of assessment beginning on or after 6th April in the calendar year next following that in which the notice is given;
- (ii) as respects corporation tax, for any financial year beginning on or after 1st April in the calendar year next following that in which the notice is given;

(b) in South Africa :

- (i) as respects taxes on income, for any year of assessment beginning on or after 1st March in the calendar year next following that in which the notice is given;
- (ii) as respects non-resident shareholders' tax, on dividends declared on or after 1st March in the calendar year next following that in which the notice is given; and
- (iii) as respects non-residents tax on interest, on interest payable on or after 1st March in the calendar year next following that in which the notice is given.

IN WITNESS WHEREOF the undersigned, duly authorised thereto by their respective Governments, have signed this Convention.

DONE in duplicate at London this 21st day of November, 1968, in the English and Afrikaans languages, both texts being equally authoritative.

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

Maurice FOLEY

For the Government of the Republic of South Africa :

H. G. LUTTIG

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