

UNITED KINGDOM

CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT
BRITAIN AND NAMIBIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE
PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON
INCOME AND CAPITAL GAINS

Date of Conclusion:

28 May 1962: Extension to Namibia: 14 June 1967.

Entry into Force:

This Convention was signed on 28 May 1962 by the U.K. and the Republic of South Africa. In accordance with Art. 24, it has been extended to Namibia (formerly South West Africa), with minor modifications, by the Exchange of Notes of 8 August 1962, and amended by the Protocol and Exchange of Notes of 14 June 1967. The amendments are included in the text of the Convention. The extension took effect, in general, from the year 1962/3.

ARTICLE 1

1. The taxes which are the subject of the present Convention are:
 - (a) In South West Africa: the normal tax, the super tax, the non-resident shareholders' tax, the undistributed profits tax and the diamond profits tax; (hereinafter referred to as "South West African tax").
 - (b) In the United Kingdom of Great Britain and Northern Ireland:
 - (i) the income tax (including surtax); and
 - (ii) the profits 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 the present Convention, unless the context otherwise requires:
 - (a) the term "United Kingdom" means Great Britain and Northern Ireland;
 - (b) the term "South West Africa" means the territory of South West Africa;
 - (c) the terms "one of the territories" and "the other territory" mean the United Kingdom or South West Africa, as the context requires;
 - (d) the term "taxation authorities" means, in the case of South West Africa, the Commissioner for Inland Revenue or his authorised representative; in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative; and, in the case of any territory to which this Convention is extended under Article 24, 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 West 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) (i) the terms "resident of the United Kingdom" and "resident of South West Africa" means respectively any person who is resident in the United Kingdom for the purposes of United Kingdom tax and any person who is resident in South West Africa for the purposes of South West African tax; but

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- (ii) where by reason of the provisions of sub-paragraph (i) an individual is a resident of both territories, then this case shall be solved in accordance with the following rules:
 - (aa) he shall be deemed to be a resident of the territory in which he has a permanent home available to him; if he has a permanent home available to him in both territories, he shall be deemed to be a resident of the territory with which his personal and economic relations are closest (hereinafter referred to as "his centre of vital interests");
 - (bb) if the territory 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 territory, he shall be deemed to be a resident of the territory in which he has an habitual abode;
 - (cc) if he has an habitual abode in both territories or in neither of them, he shall be deemed to be a resident of the territory of which he is a national;
 - (dd) if he is a national of both territories or of neither of them, the taxation authorities of the territories shall determine the question by mutual agreement;
- (iii) where by reason of the provisions of sub-paragraph (i) a legal person is a resident of both territories, then it shall be deemed to be a resident of the territory in which its place of effective management is situated; the same provisions shall apply to partnerships and associations which under the national laws by which they are governed are not legal persons;
- (i) 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 South West Africa, as the context requires;
- (j) the terms "United Kingdom enterprise" and "South West 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 West Africa, and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a United Kingdom enterprise or a South West African enterprise, as the context requires;
- (k)
 - (i) the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on;
 - (ii) a permanent establishment shall include especially:
 - (aa) a place of management;
 - (bb) a branch;
 - (cc) an office;
 - (dd) a factory;
 - (ee) a workshop;
 - (ff) a mine, quarry or other place of extraction of natural resources;
 - (gg) a building site or construction or assembly project which exists for more than twelve months;
 - (iii) the term "permanent establishment" shall not be deemed to include:
 - (aa) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
 - (bb) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - (cc) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

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- (dd) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
 - (ee) 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;
 - (iv) an enterprise of one of the territories shall be deemed to have a permanent establishment in the other territory if it carries on the activity of providing the services of public entertainers or of athletes referred to in Article 15, in that other territory;
 - (v) a person acting in one of the territories on behalf of an enterprise of the other territory – other than an agent of an independent status to whom sub-paragraph (vi) applies – shall be deemed to be a permanent establishment in the first-mentioned territory if he has, and habitually exercises in that territory, 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;
 - (vi) an enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business in that other territory through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business;
 - (vii) the fact that a company which is a resident of one of the territories controls or is controlled by a company which is a resident of the other territory, or which carries on business in that other territory (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other;
- (l) 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 one of the territories if (with or without other conditions) it is subject to tax in the other territory and that income is subject to tax in that other territory by reference to the amount thereof which is remitted to or received in that other territory, the exemption or relief to be allowed under this Convention in the first-mentioned territory shall apply only to the amount so remitted or received.

3. In the application of the provisions of this Convention by one of the Contracting Parties 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 Party relating to the taxes which are the subject of this Convention.

ARTICLE 3

1. The industrial or commercial profits of a United Kingdom enterprise shall not be subject to South West African tax unless the enterprise carries on a trade or business in South West 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 West Africa, but only on so much of them as is attributable to that permanent establishment.

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2. The industrial or commercial profits of a South West 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 one of the territories carries on a trade or business in the other territory 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 territory 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 determining the industrial or commercial profits of a permanent establishment, there shall be allowed as deductions all expenses which would be deductible if the permanent establishment were an independent enterprise in so far as they are reasonably allocable to the permanent establishment, including executive and general administrative expenses so deductible and allocable, whether incurred in the territory 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.

ARTICLE 4

Where—

- (a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory; or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory.

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 5

Notwithstanding the provisions of Articles 3 and 4, income from the operation of a ship or aircraft in international traffic shall be taxable only in the territory in which the place of effective management of the enterprise is situated.

ARTICLE 6

1. Where dividends are paid by a company which is a resident of South West Africa to a resident of the United Kingdom, South West African tax may be charged in respect of such dividends, but the rate of South West African tax so charged (whether in the form of non-resident shareholders' tax or any other tax on dividends) shall not exceed:

- (a) 5% of the gross amount of the dividends if the recipient is a company which controls, directly or indirectly, more than 50% of the entire voting power in the company paying the dividend;
- (b) in any other case, 15% of the gross amount of the dividends.

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2. Dividends paid by a company which is a resident of the United Kingdom to a resident of South West Africa, who is subject to tax in South West Africa in respect thereof, shall be exempt from United Kingdom surtax.

3. The provisions of paragraphs 1 and 2 of this Article shall not apply if the recipient of the dividends being a resident of one of the territories has in the other territory of which the company paying the dividends is a resident a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected.

4—

- (a) Dividends paid by a company which is a resident of the United Kingdom shall be exempt from South West African non-resident shareholders' tax and from any other tax in South West Africa on dividends paid by such a company to persons not resident in South West Africa.
- (b) Dividends paid by a company which is a resident of South West Africa shall be exempt from any tax in the United Kingdom on dividends paid by such a company to persons not resident in the United Kingdom.

ARTICLE 7

1. A company which is a resident of the United Kingdom shall be exempt from undistributed profits tax in South West Africa for any year of assessment:

- (a) if on the last day of that year of assessment residents of the United Kingdom control, directly or indirectly, more than 50% of the entire voting power of the company; or
- (b) if the company is not during that year of assessment a private company registered or carrying on business in South West Africa; or
- (c) if the company can show that not more than 50% of its total net profits for that year of assessment was derived from sources within South West Africa.

2. Where a company which is a resident of the United Kingdom is not exempt from undistributed profits tax in South West Africa for any year of assessment, the amount of that tax chargeable for that year of assessment shall be reduced by an amount which bears to the tax that would, but for the provisions of this Article, be payable for that year the same ratio as that portion of the distributable income for that year which the company shows to the satisfaction of the South West African taxation authorities would not, if the distributable income were in fact distributed, accrue directly or indirectly to residents of South West Africa bears to the full amount of such distributable income.

ARTICLE 8

1. The rate of tax imposed by South West Africa on interest derived from sources within South West Africa by a resident of the United Kingdom who is subject to tax in the United Kingdom in respect thereof shall not exceed 20%.

2. The provisions of paragraph 1 of this Article shall not apply if the recipient of the interest being a resident of the United Kingdom has in South West Africa a permanent establishment with which the indebtedness in respect of which the interest arises is effectively connected.

3. 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 indebtedness in respect of 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 on to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of South West Africa, due regard being had to the other provisions of the present Convention.

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4. In this Article, the term "interest" means income from Government securities, from bonds or debentures, whether or not secured by mortgage, or from any other form of indebtedness, as well as all other income assimilated to income from money lent by the taxation law of South West Africa.

ARTICLE 9

1. Any royalty which is payable as consideration for the use of, or for the privilege of using, any copyright in any literary, dramatic, musical or artistic work (but not including a rent or royalty in respect of cinematography or television films) and which is derived from sources within one of the territories by a resident of the other territory who is subject to tax in that other territory in respect thereof (or would be so subject to tax if exempt in the first-mentioned territory) shall be exempt from tax in that first-mentioned territory.

2. Any royalty other than a royalty to which paragraph 1 of this Article applies, derived from sources within one of the territories by a resident of the other territory who is subject to tax in that other territory in respect thereof, may be subjected to tax in the first-mentioned territory, but such tax shall not exceed:

- (a) one half of the tax which would be imposed in that territory but for the provisions of this Article; or
- (b) 5% of the royalty,

whichever is the less.

3. The provisions of paragraphs 1 and 2 of this Article shall not apply if the recipient of the royalty being a resident of one of the territories has in the other territory in which the royalty arises a permanent establishment with which the right or property giving rise to the royalty is effectively connected.

4. Where, owing to a special relationship between the payer and recipient of a royalty, the amount of the royalty, having regard to the use, right or property 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. In that case, the excess part of the payments shall remain taxable according to the Contracting Parties' own laws, due regard being had to the other provisions of the present Convention.

5. In this Article, the term "royalty" means a payment of any kind received as consideration for the use of, or the right to use, any copyright, patent, trade mark, design or model, plan, secret formula or process, for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience, and includes any rental or like payment in respect of cinematograph or television films, but 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.

ARTICLE 10

1. Income from immovable property may be taxed in the territory in which such property is situated.

2. The term "immovable property" shall be construed in accordance with the laws of the territory in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment of agricultural and forestry enterprises, 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 mineral deposits, sources and other natural resources: ships, boats and aircraft shall not be regarded as immovable property.

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3. The provisions of paragraphs 1 and 2 of this Article shall apply to income derived from the direct use or from the letting of immovable property or the use in any other form of such property, including income from agricultural or forestry enterprises. They shall likewise apply to profits from the alienation of immovable property.

4. The provisions of paragraphs 1 to 3 of this Article shall also apply to the income from immovable property of any enterprises other than agricultural or forestry enterprises and to income from immovable property used for the performance of professional services.

ARTICLE 11

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

2. Any pension paid by one of the Contracting Parties to any individual for services rendered to that Contracting Party in the discharge of governmental functions shall be exempt from tax in the territory of the other Contracting Party, in so far as the remuneration for those services was exempt from tax in that territory under paragraph 1 of this Article or would have been so exempt if the present 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 Parties or purposes of profit.

ARTICLE 12

1. Any pension (other than a pension of the kind referred to in paragraph 2 of Article 11) and any annuity, derived from sources within South West 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 West African tax.

2. Any pension (other than a pension of the kind referred to in paragraph 2 of Article 11) and any annuity, derived from sources within the United Kingdom by an individual who is a resident of South West Africa and subject to South West 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 13

Income derived by a resident of one of the territories in respect of professional services or other independent activities of a similar character shall be subjected to tax only in that territory unless he has a fixed base regularly available to him in the other territory 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 that other territory.

ARTICLE 14

1. Subject to the provisions of Articles 11, 12 and 16, salaries, wages and other similar remuneration derived by a resident of one of the territories in respect of an employment shall be subjected to tax only in that territory unless the employment is exercised in the other territory. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other territory.

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2. Notwithstanding the provisions of paragraph 1 of this Article, remuneration derived by a resident of one of the territories in respect of an employment exercised in the other territory shall be subjected to tax only in the first-mentioned territory if:

- (a) the recipient is present in the other territory 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 territory, 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 territory.

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 territory in which the place of effective management of the enterprise is situated

ARTICLE 15

Notwithstanding anything contained in the present 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 territory in which these activities are exercised.

ARTICLE 16

A professor or teacher from one of the territories, who receives remuneration for teaching during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

ARTICLE 17

Payments which a student or business apprentice from one of the territories who is present in the other territory 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 territory, provided that such payments are made to him from sources outside that other territory.

ARTICLE 18

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

ARTICLE 19

1. Individuals who are residents of South West Africa shall be entitled to the same personal allowances, reliefs and reductions for the purposes of United Kingdom tax as British subjects not resident in the United Kingdom.

2. Individuals who are residents of the United Kingdom shall be entitled to the same personal allowances, reliefs and reductions for the purposes of South West African tax as those to which South West African citizens not resident in South West Africa may be entitled.

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ARTICLE 20

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, South West African tax payable, whether directly or by deduction, in respect of income from sources within South West Africa shall be allowed as a credit against any United Kingdom tax payable in respect of that income. Where such income is a dividend paid by a company which is a resident of South West 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 West African tax payable in respect of the dividend) the South West African tax payable by that former company in respect of its profits.

2. Where United Kingdom income tax is payable, whether directly or by deduction, in respect of income derived from sources within the United Kingdom by a resident of South West Africa, and that tax is borne by him, South West Africa shall either impose no tax on that income or, subject to such provisions (which shall not affect the general principle hereof) as may be enacted in South West Africa, shall allow the United Kingdom tax as a credit against any South West African tax payable in respect of that income; provided that, where the income is a dividend received from a company which is a resident of the United Kingdom, nothing in this paragraph shall require credit to be allowed at a rate in excess of the net United Kingdom rate borne by the company.

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

ARTICLE 21

The taxation authorities of the Contracting Parties 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 the present 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 and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of this Convention. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

ARTICLE 22

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

ARTICLE 23

1. The nationals of one of the Contracting Parties shall not be subjected in the territory of the other Contracting Party 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 latter Party in the same circumstances are or may be subjected.

2. In this Article the term "nationals" means:

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- (a) in relation to South West Africa:
all South West African citizens and all legal persons, partnerships and associations deriving their status as such from the law in force in South West 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 the present Convention is extended under Article 24; or
 - (ii) deriving their status as such from connection with the United Kingdom or any territory to which this Convention is extended under Article 24.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 24.

3. The taxation on a permanent establishment which an enterprise of one of the territories has in the other territory shall not be less favourably levied in that other territory than the taxation levied on enterprises of that other territory carrying on the same activities.

This provision shall not be construed as obliging one of the Contracting Parties to grant to residents of the other Contracting Party any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

4. Enterprises of one of the territories, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other territory, shall not be subjected in the first-mentioned territory to any taxation or any requirements connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned territory are or may be subjected.

5. In this Article the term "taxation" means the taxes which are the subject of this Convention.

ARTICLE 24

1. The present Convention may be extended either in its entirety or with modifications, by agreement between the Contracting Parties, to all or any of the territories for whose international relations either Contracting Party 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 Parties in Notes to be exchanged for this purpose.

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

ARTICLE 25

1. The present Convention shall be ratified by the Contracting Parties in accordance with their respective constitutional and legal requirements.

2. The instruments of ratification shall be exchanged at London as soon as possible.

3. Upon exchange of the instruments of ratification this Convention shall enter into force and its provisions shall have effect:

- (a) in South West Africa:
 - (i) as respects taxes on income, for any year of assessment ending after 30th June, 1962;
and
 - (ii) as respects non-resident shareholders' tax, on dividends declared after 30th June, 1962;

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- (b) in the United Kingdom:
- (i) as respects income tax, for any year of assessment beginning on or after 6th April, 1962;
 - (ii) as respects surtax, for any year of assessment beginning on or after 6th April, 1961; and
 - (iii) as respects profits tax, for any chargeable accounting period beginning on or after 1st January, 1962, and for the unexpired portion of any chargeable accounting period current at that date.

4. The Agreement between South Africa and the United Kingdom of Great Britain and Northern Ireland, signed at London on 14th October, 1946 together with the Supplementary Protocol amending that Agreement signed at Pretoria on 5th November, 1954, shall terminate and cease to be effective as respects taxes to which this Convention in accordance with paragraph 3 above applies; provided that the said Agreement and Supplementary Protocol shall still apply as between South Africa and those territories to which that Agreement and Supplementary Protocol have been extended under Article XI of the Agreement.

ARTICLE 26

1. The present Convention shall continue in force indefinitely, but either of the Contracting Parties may, on or before 30th June in any calendar year not earlier than the year 1966, give to the other Contracting Party, through diplomatic channels, written notice of termination and, in such event, this Convention shall cease to be effective.

- (a) In South West Africa:
- (i) as respects taxes on income, for any year of assessment ending after 30th June in the calendar year next following that in which the notice is given; and
 - (ii) as respects non resident shareholders' tax, on dividends declared after 30th June in the calendar year next following that in which the notice is given;
- (b) in the United Kingdom:
- (i) as respects income 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 surtax, for any year of assessment beginning on or after 6th April in the calendar year in which the notice is given; and
 - (iii) as respects profits tax, for any chargeable accounting period beginning on or after 1st January in the calendar year next following that in which the notice is given and for the unexpired portion of any chargeable accounting period current at that date.

2. The termination of this Convention shall not have the effect of reviving any agreement or arrangement abrogated by the present Convention or by agreement previously concluded between the Contracting Parties.

EXTENSION TO NAMIBIA (FORMERLY SOUTH WEST AFRICA)

1. The provisions 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 on the Twenty-eighth day of May, One thousand nine hundred and sixty-two, at Cape Town shall apply:

- (a) as if the Contracting parties were the Government of the United Kingdom and the Administration of the territory of South West Africa;
- (b) as if a reference to South Africa were a reference to the territory of South West Africa, unless the context otherwise requires;
- (c)-(e) *(Amend the Convention of 28 May 1962 by the substitution of Art. 1 para. (1)(a) by the modification of Art. 6 and by the deletion of Art. 11 para. (4).)*

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2. The present extension shall come into force when the last of those measures shall have been taken in the United Kingdom and the territory of South West Africa necessary to give the extension the force of law in those countries and shall thereupon have effect:

- (a) in the United Kingdom:
 - (i) as respects income tax, for any year of assessment beginning on or after 6th April, 1962;
 - (ii) as respects surtax, for any year of assessment beginning on or after 6th April, 1961; and
 - (iii) as respects profits tax, for any chargeable accounting period beginning on or after 1st January 1962, and for the unexpired portion of any chargeable accounting period current at that date;
- (b) in the territory of South West Africa:
 - (i) as respects normal tax, super tax and undistributed profits tax, for any year of assessment ending after 30th June, 1962;
 - (ii) as respects non-resident shareholders' tax, on dividends declared after 30th June, 1962, where the tax is payable on dividends, and for any year of assessment ending after that date, where the tax is payable on apportioned income; and
 - (iii) as respects diamond profits tax, for any year of assessment ending on or after 31st December, 1962.

3. The present extension shall remain in force indefinitely and shall continue to remain in force notwithstanding that the Convention may have been terminated by either the Government of the Republic of South Africa or the Government of the United Kingdom of Great Britain and Northern Ireland in accordance with Article 24 thereof. Either the Government of the Republic of South Africa or the Government of the United Kingdom of Great Britain and Northern Ireland may, however, on or before 30th June in any calendar year not earlier than the year 1966, give to the other through the diplomatic channel written notice of termination of the present extension, and in such event it shall cease to have effect:

- (a) in the United Kingdom:
 - (i) as respects income 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 surtax, for any year of assessment beginning on or after 6th April in the calendar year in which the notice is given; and
 - (iii) as respects profits tax, for any chargeable accounting period beginning on or after 1st January in the calendar year next following that in which the notice is given and for the unexpired portion of any chargeable accounting period current at that date;
- (b) in the territory of South West Africa:
 - (i) as respects normal tax, super tax and undistributed profits tax, for any year of assessment ending after 30th June in the calendar year next following that in which the notice is given;
 - (ii) as respects non-resident shareholders' tax, on dividends declared after 30th June in the calendar year next following that in which the notice is given, where the tax is payable on dividends, and for any year of assessment ending after that date, where the tax is payable on apportioned income; and
 - (iii) as respects diamond profits tax, for any year of assessment ending on or after 31st December in the calendar year next following that in which the notice is given.