

The United Kingdom of Great Britain and Northern Ireland and Swiss Confederation

Income

Convention Signatories: Great Britain and Northern Ireland and Swiss Confederation (now applicable to Zambia and Switzerland)

Citations:

Signed: 30th September 1954

In Force (i.e. extended to the former Federation of Rhodesia and Nyasaland): 30th May 1961. See the Schedule immediately after Article XXIV

Effective: In Switzerland, from 1st January 1959. In the Federation of Rhodesia and Nyasaland, from 1st April 1959. See ANNEX Part 1, Clause (2)

Status: In Force

Tax Analysts classification: Income

CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION -
SWITZERLAND

GOVERNMENT
NOTICE
462 OF 1964

Order by the President

An arrangement has been made with the Government of the United Kingdom of Great Britain and Northern Ireland whereby the Convention between that Government and the Swiss Federal Council for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes of Income has been extended to the former Protectorate by and incorporating the terms of the Despatch and reply thereto set out in the Schedule.

SCHEDULE

BRITISH EMBASSY
BERNE
13th December, 1963

1170/63

Monsieur le Conseiller Federal,

I have the honour, upon instructions from Her Majesty's Principal Secretary of State for Foreign Affairs, to refer the Exchange of Notes between the Government of the United Kingdom of Great Britain and Northern Ireland and the Swiss Federal Council dated the 30th May 1961, extending to the Federation of Rhodesia and Nyasaland on the basis therein specified, the provisions of the Convention between the United Kingdom and Switzerland for the Avoidance of Double Taxation with respect to Taxes on Income, signed at London on the 30th September 1954.

I have the honour to inform you that on dissolution of the Federation of Rhodesia and Nyasaland the extension provided for in the above-mentioned exchange of notes will continue in force in relation to Southern Rhodesia, Northern Rhodesia and Nyasaland individually, and that references therein to the Federation should be construed accordingly, since the three territories will individually assume the responsibilities under the agreement which are now held by the Federation.

I avail myself of this opportunity to renew to you, Monsieur le Conseiller Federal, the assurances of my highest consideration.

PAUL GREY.

MONSIEUR LE CONSEILLER FEDERAL
FRIEDRICH WAHLEN,
FEDERAL POLITICAL DEPARTMENT,
BERNE.

ANNEXURE

CONVENTION BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND SWISS CONFEDERATION FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME

The Government of the United Kingdom of Great Britain and Northern Ireland and the Swiss Federal Council,

Desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income,

Have appointed for that purposes as their respective plenipotentiaries:
The Government of the United Kingdom of Great Britain and Northern Ireland:

Alfred Douglas Dodds-Parker, Esquire, Parliamentary Under-Secretary of State for Foreign Affairs;

The Swiss Federal Council:

Monsieur Erwin Bemath, Swiss ChargeC'Affaires *ad interium* in London;

Who, having communicated to one another their full powers, found in good and due form, have agreed as follows:

ARTICLE I

1. The Taxes which are the subject of the present Convention are:
 - (a) In the United Kingdom:
The income tax (including surtax) the profits tax and excess profits levy (hereinafter referred to as United Kingdom tax")
 - (b) In Switzerland:
The federal, cantonal and communal taxes on income (total income, earned income, income from capital, industrial and commercial profits, etc.) but not including, the Federal coupon tax except where expressly mentioned (hereinafter referred to as "Swiss tax")
2. The present Convention shall also apply to any other taxes of a substantially similar character imposed in the United Kingdom or Switzerland subsequently to the date of signature of the present Convention.

ARTICLE II

1. In the present Convention, unless the context otherwise requires -
 - (a) The term "United Kingdom" means Great Britain and Northern Ireland, excluding the Channel Islands and the Isle of Man;
 - (b) The term "Switzerland" means the Swiss Confederation;
 - (c) The terms "one of the territories" and the "other territory" mean the United Kingdom or Switzerland, as the context requires;
 - (d) The term "tax" means United Kingdom tax or Swiss tax, as the context requires;

- (e) The term “person” includes any individual, company, unincorporated body of persons, and any other entity with or without juridical personality;
- (f) The term “Company” means in relation to the United Kingdom any body corporate, and in relation to Switzerland any entity with juridical personality;
- (g) The term “resident of the United Kingdom” means:
 - (i) any company or partnership whose business is managed and controlled in the United Kingdom.
 - (ii) any other person who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident (by reason of domicile or sojourn) in Switzerland for the purposes of Swiss tax;
- (h) The term “resident of Switzerland” means:
 - (i) any company or partnership (“societe simple”, “societe en nom collectif” or “societe en commandite”) created or organized under Swiss law, if its business is not managed and controlled in the United Kingdom;
 - (ii) any other person who is resident (by reason of domicile or sojourn) in Switzerland for the purposes of Swiss tax and not resident in the United Kingdom for the purposes of United Kingdom tax;
- (i) The term “resident of one of the territories” and “resident of the other territory” mean a resident of the United Kingdom or a resident of Switzerland, as the context requires;
- (j) The term “United Kingdom enterprise” and “Swiss 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 Switzerland and the terms “enterprise of one of the territories” and “enterprise of the other territory” means a United Kingdom enterprise or a Swiss enterprise, as the context requires;
- (k) The term “Permanent establishment” means a branch, management, office, factory, workshop or other fixed place of business, and a farm, mine quarry or other place of natural resources subject to exploitation. It also includes a place where building construction is carried on by contract for a period of at least one year, but does not include an agency unless the agent has and habitually exercises a general authority to negotiate and conclude contracts on behalf of an enterprise of one of the territories in this connection -
 - (i) 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 dealings in that other territory through a *bona fide* broker, general commission agent or other independent agent acting in the ordinary course of his business as such;
 - (ii) The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise.
 - (iii) The fact that an enterprise of one of the territories has a subsidiary company which is a resident of the other territory or which is engaged in trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of the enterprise of the former territory;
- (l) The term “industrial or commercial profits” includes manufacturing, mercantile, mining, farming, financial and insurance profits and rents and royalties in respect of cinematograph films but does not include income in the form of dividends interest or royalties other than cinematograph royalties except any such income which the laws of

one of the territories and in accordance with Article III of the present convention is attributable to a permanent establishment situated therein;

(m) The term “competent authority” means, in the case of the United Kingdom, the Commissioner-Generals of Ireland Revenue or their authorized representative; in the case of Switzerland, the Director of the Federal Tax Administration or his authorized representative; and in the case of any territory to which the present Convention is extended under Article XXI, the competent authority for the administration in such territory of the taxes to which the Convention applies.

2. Where the present Convention provides that Income from a source within Switzerland shall be exempt from, or entitled to a reduced rate of, tax in Switzerland if (with or without other conditions) it is subject to tax in the United Kingdom, and under the law in force in the United Kingdom the said income is subject to tax by reference to the amount thereof which is remitted to or received in the United Kingdom and not by reference to the full amount thereof, then the exemption or reduction in rate to be allowed under the Convention in Switzerland shall apply only to so much of the income as is remitted to or received in the United Kingdom.
3. Where under any provision of the present Convention a partnership is entitled to exemption from United Kingdom tax as a resident of Switzerland on any income, such a provision shall not be construed as restricting the right of the United Kingdom to charge any member of the partnership, being a person who to resident in the United Kingdom for the purposes of United Kingdom tax (whether or not he is resident in Switzerland for the purposes of Swiss tax), to tax on his share of the income of the partnership; but any such income shall be deemed for the purposes of Article XV to be income from sources within Switzerland.
4. Where under any provision of the present Convention an estate of a deceased person is entitled to exemption from United Kingdom tax as a resident of Switzerland on any income, such a provision shall not be construed as requiring the United Kingdom to grant exemption from United Kingdom tax in respect of such part of such income as goes to any heir of such estate who is not resident in Switzerland for the purposes of Swiss tax and whose share of such income is not subject to Swiss tax either in his hands or in the hands of the estate.
5. In the application of the provisions of the present Convention by either Contracting Party 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 the Convention.

ARTICLE III

1. The individual or commercial profit of a United Kingdom enterprise shall not be subject to Swiss tax unless the enterprise is engaged in trade or business in Switzerland through a permanent establishment situated therein. If it is so engaged, tax may be imposed on these profits by Switzerland, but only on so much of them as is attributable to that permanent establishment.
2. The individual or commercial profits of a Swiss enterprise shall not be subject to United Kingdom tax unless the enterprise is engaged in trade or business in the United Kingdom through a permanent establishment situated therein. If it is so engaged, 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 is engaged in 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 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. Where an enterprise of one of the territories, from sales of goods or merchandise stocked in a warehouse in the other territory, those profits shall not be attributed to a permanent establishment of the enterprise in that other territory, notwithstanding that the offers of purchase have been obtained by an agent in that other territory and transmitted by him to the enterprise for acceptance.
5. No portion of any profits arising to an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of goods or merchandise within the other territory by the enterprise.
6. In the determination of the industrial or commercial profits of a permanent establishment there shall be allowed as deductions all expenses which are reasonably applicable to the permanent establishment, including executive and general administrative expenses so applicable, whether incurred in the territory in which the permanent establishment is situated or elsewhere.

ARTICLE IV

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 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 accepted 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 V

Notwithstanding the provision of Articles III and IV, profits which a resident of one of the territories derives from operating ships or aircraft, including profits of that resident from the sale of tickets for passages by such ships or aircraft, shall be exempt from tax in the other territory.

ARTICLE VI

1. Dividends (other than dividends which, under the laws of the United Kingdom and in accordance with Article III of this Convention, are attributed to a permanent establishment situated in the United Kingdom) paid by a company which is a resident of the United Kingdom to a resident of Switzerland who is subject to Swiss tax in respect thereof shall be exempt from United Kingdom surtax.
2. The industrial and commercial profits of a Swiss enterprise engaged in trade or business through a permanent establishment in the United Kingdom shall, so long as undistributed profits of United Kingdom enterprises are effectively charged to United Kingdom profits tax at a lower rate than distributed profits of such enterprises, be charged to United Kingdom profits tax only at that lower rate.
3. Where not less than 50 per centum of the entire voting power of a company which is a resident of the United Kingdom is controlled, directly or indirectly, by a company which is a resident of Switzerland, the distributions by the former company to the latter company, and to any other company which is a resident of Switzerland and which beneficially owns not less than 10 per centum of the entire share capital of the company paying the dividends, shall be left out of account in computing United Kingdom profits tax effectively chargeable on that company at the rate appropriate to distributed profits.

4. (a) The Swiss anticipatory tax may be charged in respect of dividends paid by any company created under Swiss law to a resident of the United Kingdom, but, in the case of any such resident who is subject to United Kingdom tax in respect thereof, the rate of anticipatory tax shall be reduced in accordance with the following provisions of this paragraph (unless the dividends are, under the laws of Switzerland and in accordance with Article III of this Convention, attributable to a permanent establishment situated in Switzerland).
 - (b) If that resident is an individual whose effective rate of United Kingdom tax does not exceed 5 per centum the anticipatory tax shall not be charged.
 - (c) If that resident is an individual whose effective rate of United Kingdom tax exceeds 5 per centum, of the anticipatory tax shall be charged only at the rate which, when added to the rate of Federal coupons tax, equals that effective rate.
 - (d) If that resident is a company which controls, directly or indirectly, not less than 95 per centum of the entire voting power of the company paying the dividends, the anticipatory tax shall be reduced by an amount equal to 20 per centum of the dividend.
 - (e) If that resident is a company which controls directly or indirectly less than 95 per centum but not less than 50 per centum of the entire voting power of the company paying the dividends, the anticipatory tax shall be reduced by an amount equal to 10 per centum of the dividend.
 - (f) If that resident is a company which beneficially owns not less than 10 per centum of the entire share capital of the company paying the dividends, and the provisions of either sub-paragraph (d) or sub-paragraph (c) of this paragraph apply to some part of the dividends paid by the latter company, the anticipatory tax shall be reduced by an amount equal to 10 per centum of the dividend.
5. If at any time distributed profits of companies become chargeable to United Kingdom profits tax at a rate other than 20 per centum above the rate at which undistributed profits are effectively chargeable to that tax, the competent authorities of the two Contracting Parties may consult together in order to determine whether it is necessary for this reason to amend sub-paragraph (d), (e) and (f) of the preceding paragraph. After such consultation has taken place either of the Contracting Parties may give to the other Contracting Party through the diplomatic channel written notice of termination of the provisions of paragraph 3 and of sub-paragraphs (d), (e) and (f) of paragraph 4 of this Article, and, in such event, those provisions shall cease to be effective from the date on which the relevant change in the rates of United Kingdom profits tax took effect.
6. Subject to the provisions of sub-paragraph (a) of paragraph 4 of this Article, where a company which is resident of one of the territories derives profits or income from sources within the other territory, there shall not be imposed in that other territory any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of an undistributed profits tax, on undistributed profits of the company, whether or not these dividends or undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

ARTICLE VII

1. Any interest or royalty 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, shall be exempt from tax in that first territory.
2. In this Article: -
 - (a) The term "interest" means interest on bonds, securities, notes, debentures or on any other form of indebtedness (including mortgages or bonds accrued on real property):

- (b) The term “royalty” means any royalty or other amount paid as consideration for the right to use any copyright artistic or scientific work patent, model, design, secret process or formula, trade mark or other like property or right (including rental and hire payments for the use of industrial or commercial machinery or plant or scientific apparatus but does not include any royalty or other amount paid in respect of the operation on mines, quarries or other natural resources.
3. Any capital sum derived from sources within one of the territories from the sale of property or rights mentioned in sub-paragraph (b) of paragraph 2 of this Article by a resident of the other territory shall be exempt from tax in the first territory.
 4. Where there is a special relationship between debtor and creditor or both debtor and creditor have a special relationship with a third person or persons, and in consequence the amount paid is greater than would have been agreed upon if debtor and creditor had been at arm’s length, the exemption provided by this Article shall not apply to the excess.
 5. Any interest or royalty exempted from United Kingdom tax by this Article shall be allowed as a deduction for profits tax and excess profits levy purposes from the profits or income of the person paying the interest or royalty, whatever the relationship between that person and the person receiving the interest or royalty may be.
 6. The exemptions from tax in one of the territories provided for in this Article shall not apply to interest, royalties or capital sums which, under the laws of that territory and in accordance with Article III of this Convention, are attributed to a permanent establishment situated therein.

ARTICLE VIII

1. A resident of one of the territories shall be exempt in the other territory from any tax on gains from the sale, transfer or exchange of capital assets (other than gains which, under the laws of that other territory and in accordance with Article III of this Convention, are attributable to a permanent establishment situated therein).
2. In this Article the term “capital assets” means any movable property, whether corporeal or incorporeal.

ARTICLE IX

1. Income derived from real property situated in one of the territories by a resident of the other territory shall be subject to tax in accordance with the laws of the first-mentioned territory. Where the income is also subject to tax in the other territory, relief from double taxation shall be given in accordance with the provisions of Article XV.
2. In this Article, the term “income from real property” means income of whatever nature derived from real property, including gains derived from the sale or exchange of such property, and it also includes royalties in respect of the operation of mines, quarries or other natural resources. It does not however include interest from mortgages or bonds secured on such property.

ARTICLE X

1. Remuneration including pensions, paid by, or out of funds created by, the Government of the United Kingdom to an individual in respect of services rendered to that Government in the discharge of governmental functions shall be exempt from Swiss tax: provided that the exemption shall apply to remuneration, other than a pension, paid to a Swiss citizen who is not also a British subject.

2. Remuneration, including pensions, paid by, or out of funds created by, the Swiss Confederation or by any Swiss canton to an individual in respect of services rendered to Switzerland in the discharge of governmental functions shall be exempt from United Kingdom tax: provided that the exemption shall not apply to remuneration, other than a pension, paid to a British subject who is not also a Swiss citizen.
3. The provisions of paragraphs 1 and 2 of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either Contracting Party or by any Swiss canton for purposes of profit.
4. The provisions of this Convention shall not be construed as denying or affecting in any manner the right of diplomatic and consular officers to other or additional exemptions now enjoyed or which may hereafter be granted to them.

ARTICLE XI

1. An individual who is a resident of the United Kingdom shall be exempt from Swiss tax on profits or remuneration in respect of personal (including professional) services performed within Switzerland in any year of assessment if -
 - (a) he is present within Switzerland for a period or periods not exceeding in the aggregate 183 days during that year, and
 - (b) (i) in the case of a directorship or employment, the services are performed for or on behalf of a resident of the United Kingdom,
(ii) in other cases, he has no office or other fixed place of business in Switzerland, and
 - (c) the profits or remuneration are subject to United Kingdom tax.
2. An individual who is a resident of Switzerland shall be exempt from United Kingdom tax on profits or remuneration in respect of personal (including professional) services performed within the United Kingdom in any year of assessment if -
 - (a) he is present within the United Kingdom for a period or periods not exceeding in the aggregate 183 days during that year, and
 - (b) (i) in the case of a directorship or employment, the services are performed for or on behalf of a resident of Switzerland,
(ii) in other cases, he has no office or other fixed place of business in the United Kingdom, and
 - (c) the profits or remuneration are subject to Swiss tax
3. The provisions of this Article shall not apply to the profits or remuneration of public entertainers such as stage, motion picture, radio or television artists, musicians and athletes.

ARTICLE XII

1. Any pension (other than a pension of the kind referred to in Article X) and any annuity derived from sources within one of the territories by an individual who is a resident of the other territory and subject to tax in that other territory in respect thereof, shall be exempt from tax in the first territory.
2. In this Article:-
 - (a) The term "pension" means periodic payments made in consideration of past services or by way of compensation for injuries received.

- (b) 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 XIII

1. 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.
2. A student or business apprentice from one of the territories, who is receiving full-time education or training in the other territory, shall be exempt from tax in that other territory on payments made to him by persons outside that other territory for the purposes of his maintenance, education or training.

ARTICLE XIV

1. Individuals who are residents of Switzerland 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 Swiss tax as Swiss nationals resident in the United Kingdom.

ARTICLE XV

1. The laws of the Contracting Parties shall continue to govern the taxation of income arising in either of the territories, except where express provision to the contrary is made in the present Convention. Where income is subject to tax in both territories, relief from double taxation shall be given in accordance with the following paragraphs of this Article.
2. Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax payable in a territory outside the United Kingdom, Swiss tax payable whether directly or by deduction, in respect of income from sources within Switzerland shall be allowed as a credit against the United Kingdom tax payable in respect of that income. Where such income is a dividend paid by a company which is a resident of Switzerland to a company which controls, direct or indirectly, not less than 50 per centum of the entire voting power of the former company, the credit shall take into account (in addition to any Swiss tax appropriate to the dividend) the Swiss tax payable by the former company in respect of the profits. For the purpose of this paragraph, the term “Swiss tax” shall include the federal coupon tax, but shall not include the communal taxes.
3. Income (other than dividends) from sources within the United Kingdom which under the laws of the United Kingdom and in accordance with this Convention is subject to tax in the United Kingdom either direct or by deduction shall be exempt from Swiss tax.
4. In the case of a person (other than a company or partnership) who is resident in the United Kingdom for the purposes of United Kingdom tax and is also resident (by reason of domicile or sojourn) in Switzerland for the purposes of Swiss tax, the provisions of paragraph 2 of this Article shall apply in relation to income which that person derives from sources within Switzerland, and the provisions of paragraph 3 of this Article shall apply in relation to income which that person derives from sources within the United Kingdom. If such person derives income from sources outside both the United Kingdom and Switzerland, tax may be imposed on that income in both the territories (subject to the laws in force in the territories and to any Convention which may exist between either of the

Contracting Parties and the territory from which the income is derived) but the Swiss tax on so much of that income as is subject to tax in both the territories shall be limited to one-half of the tax on such of the tax on such income, and the United Kingdom tax on that income shall be reduced by a credit in accordance with paragraph 2 of this Article, for the Swiss tax so computed.

5. For the purposes of this Article, profits or remuneration for personal (including professional) services performed in one of the territories be deemed to be income from sources within that territory, except that the remuneration of a director of a company shall be deemed to be income from sources within the territory in which the company is resident, 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 XVI

1. Where it is provided in this Convention that relief from tax in respect of any kind of income shall be allowed in the territory from which such income is derived, that provision shall not be construed as requiring that income to be paid without deduction of tax at source at the full rate. Where tax has been deducted at source from such income the taxation authorities of the territory in which relief from tax is required to be given shall, when the tax-payer in receipt of the income shows to their satisfaction and within the time limits prescribed in that territory that he is entitled to the relief, arrange for the appropriate repayment of tax.
2. Where any income is exempted from tax by any provision of this Convention, it may nevertheless be taken into account in computing the tax on other income or in determining the rate of such tax.
3. For the purpose of calculating the reliefs due under Articles VI and XIV, the income of a partnership shall be regarded as that of its individual members.

ARTICLE XVII

1. The provisions of the present Convention shall not be construed as restricting in any manner any exemption, deduction, credit or other allowance now or hereafter accorded by the laws in force in the territory of one of the Contracting Parties in the determination of the tax imposed in such territory.
2. The provisions of the present convention shall not be construed as derogating from any right or privilege conferred upon taxpayers by the Agreement of the 17th October, 1931, between the Government of the United Kingdom and the Swiss Federal Council for reciprocal exemption from taxation on profits or gains through an agency.

ARTICLE XVIII

1. The nationals of one Contracting Party shall not be subjected in the territory of the other Contracting Party to any taxation or any requirement connected therewith which is other, higher or more burdensome than the taxation and connected requirements to which the nationals of the latter Party are or may be subject in similar circumstances.
2. The enterprises of one of the territories, whether carried on by a company, a body of persons or by individuals alone or in partnership, shall not be subjected in the other territory, in respect of income, profits, or capital attributable to their permanent establishments in that other territory to any taxation which is other, higher or more burdensome than the taxation to which the enterprises of that other territory, similarly carried on are or may be subjected in respect of the like income, profits or capital.
3. The income, profits and capital of an enterprise of one of the territories, the capital of which is wholly or partly owned by or controlled directly or indirectly by a resident or residents of the other territory, shall not be subjected in the first territory to any taxation which is other, higher or more burdensome

than the taxation in which other like enterprises of that first territory are or may be subjected in similar circumstances in respect of the like income, profits and capital.

4. Nothing in paragraph 1 or paragraph 2 of this Article shall be construed as obliging one Contracting Party to grant to nationals of the other Contracting Party who are not resident in the territory of the former Party the same personal allowances, reliefs and reductions for tax purposes as are granted to its own nationals.
5. In this Article the term “nationals” means:-
 - (a) in relation to Switzerland, all Swiss citizens wherever residing and all entities with or without juridical personality created under Swiss law;
 - (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 XXI, or
 - (ii) deriving their status as such from connection with the United Kingdom or any territory to which the present Convention is extended under Article XXI, and all legal persons, partnerships, associations and other entities deriving their status as such from the law in force in the United Kingdom or any territory to which the convention is extended under Article XXI.
6. In this Article the term “taxation” means taxes of every kind and description levied on behalf of any authority whatsoever.

ARTICLE XIX

1. Where a taxpayer shows to the satisfaction of the competent authority of the Contracting Party of which he is a national or in whose territory he is a resident that he has not received the treatment in the other territory to which he is entitled under any provision of this Convention, that competent authority shall consult with the competent authority of the other Party with a view to the avoidance of the double taxation in question.
2. The competent authorities of the two Contracting Parties may communicate with each other directly for the purpose of giving effect to the provisions of this Convention (and in particular the provisions of Articles III and IV) and for resolving any difficulty or doubt as to the application or interpretation of the Convention.

ARTICLE XX

1. The competent 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 in relation to the taxes which are the subject of the 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 the Convention. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

2. In no case shall the provisions of this Article be construed as imposing upon either of the Contracting Parties the obligation to carry out administrative measures at variance with the regulations and practice of either Contracting Party or which would be contrary to its sovereignty, security or public policy or to supply particulars which are not procurable under its own legislation or that of the Party making application.

ARTICLE XXI

1. The present Convention may be extended, either in its entirety or with modifications, to any territory for whose international relations the United Kingdom is responsible and which imposes taxes substantially similar in character to those which are the subject of the Convention, and any such extension shall take effect from such date and subject to such modifications 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 the United Kingdom or Switzerland of the present Convention under Article XXIV shall, unless otherwise expressly agreed by the Contracting Parties, terminate the application of the Convention to any territory to which it has been extended under this Article.

ARTICLE XXII

1. The present Convention shall be ratified and the instruments of ratification shall be exchanged at Berne as soon as possible.
2. The present Convention shall enter into force upon the exchange of ratifications.

ARTICLE XXIII

1. Upon the entry into force of the present Convention in accordance with Article XXII, the provisions of the Convention shall have effect:-
 - (a) In the United Kingdom:
 - as respects income tax (including surtax) for any year of assessment beginning on or after the 6th April, 1953;
 - as respects profits tax and excess profits levy in respect of the following parties:-
 - (i) profits by reference to which income tax is, or but for the present Convention would be, chargeable for any year of assessment beginning on or after 6th April, 1953;
 - (ii) other profits being profits by reference to which income tax is not chargeable, but which arise in any chargeable accounting period beginning on or after 1st April, 1953, or are attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date.
 - (b) In Switzerland:
 - for any taxable year beginning on or after 1st January, 1953.
2. The exemption from tax provided in Article V shall have effect for any year of assessment beginning on or after the 6th April, 1946.

ARTICLE XXIV

The present Convention shall continue in effect indefinitely but either Contracting Party may, on or before the 30th June in any calendar year not earlier than the year 1957, give to the other Contracting Party, through the diplomatic channel, written notice of termination and, in such event, the Convention shall cease to be effective -

(a) In the United Kingdom:

as respects income tax (including surtax) for any year of assessment beginning on or after the 6th April in the calendar year next following that in which the notice was given.

as respects profits tax in respect of the following profits -

- (i) profits by reference to which income tax is chargeable for any year of assessment beginning on or after the 6th April in the calendar year next following that in which the notice is given;
- (ii) other profits being profits by reference to which income tax is not chargeable, but which arise in any chargeable accounting period beginning on or after the 1st April in the calendar year next following that in which the notice is given or are attributable to so much of any chargeable accounting period falling partly before and partly after the date as falls after that date:

(b) in Switzerland:

for any taxable year beginning on or after the 1st January of the calendar year next following that in which the notice is given.

In witness whereof the above-mentioned Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done in duplicate at London, the thirteenth day of September, one thousand nine hundred and fifty four in the English and French languages, both texts being equally authoritative.

(L.S.)
(L.S.)

DOUGLAS DODDS-PARKER
E. BERNATH.

SCHEDULE

EXCHANGE OF NOTES BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE SWISS FEDERAL COUNCIL EXTENDING THE CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME OF 30TH SEPTEMBER 1954 TO THE FEDERATION OF RHODESIA AND NYASALND.

Berne, 30th May, 1961

No. 1

Her Britannic Majesty's Embassy's Note with Annex to the Swiss Federal Political
Department

BRITISH EMBASSY,
BERNE

Your Excellency,

I am instructed by Her Majesty's Principal Secretary of State for Foreign Affairs to refer to the convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Swiss Federal Council for the Avoidance of Double Taxation with respect to Taxes on Income signed at London on the 30th September, 1954.

I have the honour to propose on behalf of the Government of the United Kingdom that, in accordance with the provisions of Article XXI, the above-mentioned Convention should be extended to the Federation of Rhodesia and Nyasaland in the manner, subject to the modifications, and with effect from the dates specified in the Annex to the present Note.

If the foregoing proposal is acceptable to the Swiss Government, I have the honour to suggest that the present Note with its Annex and Your Excellency's reply to that effect should be regarded as constituting the Agreement reached between the two Governments in this matter.

I have the honour to be,
With the highest consideration,
Your Excellency's obedient servant,
PAUL GREY.

SON EXCELLENCE MONSIEUR LE CONSEILLER FEDERAL
MAX EDOUARD PETITPIERRE,
DEPARTMENT POLITIQUE FEDERAL,
BERNE

ANNEX

PART 1

APPLICATION

- (1) The said Convention as modified by the present Annex shall apply -
 - (a) as if the Contracting Parties were the Swiss Federal Council and the Government of the Federation of Rhodesia and Nyasaland;
 - (b) as if the taxes concerned in the Federal Rhodesia and Nyasaland were the income tax, supertax and undistributed profits tax; and
 - (c) as if references to "the date of signature of the present Convention" were references to the date of the Exchange of Notes to which the present Annex is appended.

- (2) When the last of those measures shall have been taken in Switzerland and in the Federation of Rhodesia and Nyasaland necessary to give the present extension the force of law in Switzerland and in the Federation respectively, the present extension shall have effect:-
 - (a) in Switzerland: for any taxable year beginning on or after the first day of January, 1959, and
 - (b) in the Federation of Rhodesia and Nyasaland: as respects taxes charged for the year of assessment beginning on the first day of April, 1959, and for subsequent years of assessment.

- (3) The Swiss Federal Council shall inform the Government of the United Kingdom in writing through the diplomatic channel when the last of the measures necessary, as indicated in paragraph (2), have been taken in Switzerland. The Government of the United Kingdom shall inform the Swiss Federal Council in writing through the diplomatic channel when the last of the measures necessary, as indicated in paragraph (2), have been taken in the Federation of Rhodesia and Nyasaland.
- (4) The present extension shall continue in effect indefinitely but either the Government of the United Kingdom or the Swiss Federal Council may, on or before the thirtieth day of June in any calendar year not earlier than the year 1962, give to the other through the diplomatic channel written notice of termination and in such event the present extension shall cease to have effect -
- (a) in Switzerland: for any taxable year beginning on or after the first day of January of the calendar year next following that in which the notice is given; and
 - (b) in the Federation of Rhodesia and Nyasaland: as respects taxes charged for any year of assessment beginning on or after the first day of April in the calendar year next following that in which the notice is given.

PART II

MODIFICATIONS

The said Convention shall, for the purposes of the extension to the Federation of Rhodesia and Nyasaland, apply with the following modifications:

- (a) Article VI shall be replaced by the following provision:

Where a company which is a resident of one the territories derives profits or income from sources within the other territory, there shall not be imposed in that other territory any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived: provided, however, that the Swiss coupon tax and the Swiss anticipatory tax may be charged in respect of dividends paid by any company created under Swiss law.

- (b) Article X shall apply to remuneration including pensions paid by , or out of funds created by, the Government of each of the Territories constituting the Federation of Rhodesia and Nyasaland to any individual in respect of services rendered to that Government in the discharge of governmental functions as it applies to similar payments by, or out of funds created by, the Government of the Federation.
- (c) References to the laws of the United Kingdom shall be understood to mean "the laws of the Federation of Rhodesia and Nyasaland".

No.2

The President of the Swiss Confederation to Her Britannic Majesty's Ambassador
in Berne.

Berne,
30th May, 1961.

Monsieur l' Ambassadeur,

I have had the honour to receive your Note of today's date by which your Excellency made known to me the following:

"I am instructed by Her Majesty's Principal Secretary of State for Foreign Affairs to refer to the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Swiss Federal Council for the Avoidance of Double Taxation with respect to Taxes on Income, signed at London on the 30th September, 1954.

I have the honour to propose on behalf of the Government of the United Kingdom that, in accordance with the provisions of Article XXI, the above-mentioned Convention should be extended to the Federation of Rhodesia and Nyasaland in the manner, subject to the modifications, and with effect from the dates specified in the Annex to the present Note.

If the foregoing proposal is acceptable to the Swiss Government, I have the honour to suggest that the present Note with its Annex and Your Excellency's reply to that effect should be regarded as constituting the Agreement reached between the two Governments in this matter".

I confirm to your Excellency, that with reference to Article XXI of the preceding Convention, the Swiss Federal Council has approved the contents of your Note. In consequence, your Note and the present reply together with their annexes constitute an Agreement in this matter between our two Governments.

I take this opportunity to renew to you, Monsieur l' Ambassadeur, the assurance of my highest consideration.

MAX PETITPIERRE.

SON EXCELLENCE MONSIEUR PAUL FRANCIS GREY,
AMBASSANDEUR EXTRAORDINAIRE ET PLENIPOTENTLAIRE DE SA MAJESTE
BRITANNIQUE,
BERNE.

