



Treaty Series No. 98 (1969)

Agreement

amending the Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of Jamaica

for the Avoidance of Double Taxation
and the Prevention of Fiscal Evasion
with respect to Taxes on Income,
signed at London on 2 April 1965

Kingston, 9 May 1969

[The Agreement entered into force on 31 July 1969]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
September 1969*

LONDON

HER MAJESTY'S STATIONERY OFFICE

9d. net

AGREEMENT
AMENDING THE AGREEMENT BETWEEN THE GOVERNMENT
OF THE UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND AND THE GOVERNMENT OF JAMAICA
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE
PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES
ON INCOME, SIGNED AT LONDON, ON 2 APRIL, 1965

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

Desiring to amend the Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed at London on 2nd April, 1965 (hereinafter referred to as "the 1965 Agreement"),⁽¹⁾

Have agreed as follows:

ARTICLE I

The 1965 Agreement shall be amended:

(a) by the addition at the end of Article VI of the following new paragraph:

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

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

(b) by the substitution for paragraphs (1) and (3) of Article XVIII of the following new paragraphs:

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

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

⁽¹⁾ "Treaty Series No. 90 (1965)", Cmnd. 2821.

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

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

(3) Subject to the provisions of the law of Jamaica regarding the allowance as a credit against Jamaican tax of tax payable in a territory outside Jamaica (which shall not affect the general principle hereof):

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

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

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

and

- (c) by the addition after Article XVIII of the following new Article:

“ Article XVIII A

This Agreement shall not apply to companies entitled to any special tax benefit under the Jamaica International Business Companies (Exemption from Income Tax) Law, 1956 (as in effect on 23rd August, 1956) as supplemented by the Jamaica International Business Companies (Exemption from Income Tax) Regulations, 1964 (as in effect on 14th March, 1964) or any substantially similar law subsequently enacted by Jamaica.”

ARTICLE 2

This Agreement shall enter into force⁽²⁾ when the last of all such things shall have been done in the United Kingdom and Jamaica as are necessary to give the Agreement the force of law in the United Kingdom and Jamaica respectively, and shall thereupon have effect immediately, provided that the new paragraphs (1) and (3) of Article XVIII shall have effect in relation to dividends only in respect of dividends paid on or after 1st January, 1970.

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

DONE in duplicate at Kingston this Ninth day of May, 1969.

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

For the Government of Jamaica:

J. D. MURRAY

E. SEAGA

(²) The Agreement entered into force on 31 July 1969.