

N° 3292.

**UNION SUD-AFRICAINE
ET RHODÉSIE DU SUD**

Echange de notes comportant un accord en vue d'éviter la double imposition en matière de taxes successorales. Le Cap, le 8 avril 1932, et Salisbury, le 21 avril 1932.

**UNION OF SOUTH AFRICA
AND SOUTHERN RHODESIA**

Exchange of Notes constituting an Agreement in regard to the Avoidance of Double Death Duties. Capetown, April 8, 1932, and Salisbury, April 21, 1932.

No. 3292. — EXCHANGE OF NOTES¹ BETWEEN HIS MAJESTY'S GOVERNMENT IN THE UNION OF SOUTH AFRICA AND THE GOVERNMENT OF THE COLONY OF SOUTHERN RHODESIA, CONSTITUTING AN AGREEMENT IN REGARD TO THE AVOIDANCE OF DOUBLE DEATH DUTIES. CAPETOWN, APRIL 8, 1932, AND SALISBURY, APRIL 21, 1932.

*Texte officiel anglais communiqué par le ministre des Affaires étrangères de l'Union Sud-Africaine.
L'enregistrement de cet échange de notes a eu lieu le 8 novembre 1933.*

I.

GENERAL HERTZOG TO MR. MOFFAT.

CAPETOWN, April 8, 1932.

SIR,

I have the honour to refer to the correspondence which has passed between ourselves in regard to the desirability of an agreement being arrived at between His Majesty's Government in the Union of South Africa and the Government of the Colony of Southern Rhodesia with a view to the prevention of double taxation in the matter of death duties, and to confirm and place on record the agreement which has been arrived at between our respective Governments, and which is, word for word, as follows :

(1) His Majesty's Government in the Union of South Africa agrees to introduce into the Parliament of the Union legislation so to modify the Death Duties Act, No. 29, of 1922, as amended by Acts 31, of 1925, and 34, of 1930, as to remove from the scope of the charges of Estate and Succession Duties imposed by those Acts movable property physically situated in Southern Rhodesia which passed on the death of a person ordinarily resident in the Union, or, for the purposes of those Acts, was deemed so to pass.

(2) His Majesty's Government in the Union of South Africa and the Government of the Colony of Southern Rhodesia agree to introduce into the Parliaments of the Union and Southern Rhodesia, respectively, legislation providing that as between the territories of the Union and Southern Rhodesia :

(a) Debts secured upon immovable property by bonds registered in both territories shall be apportioned, each territory taking the proportion of the total debt which the value of the property bonded in that territory bears to the value of the total property so bonded in both territories, the value of the properties to be the value at the date of the death of the decedent, as expressed in a common standard of currency ;

¹ Entré en vigueur le 1^{er} octobre 1933.

¹ TRADUCTION. — TRANSLATION.

N^o 3292. — ÉCHANGE DE NOTES² ENTRE LE GOUVERNEMENT DE SA MAJESTÉ DANS L'UNION SUD-AFRICAINNE ET LE GOUVERNEMENT DE LA COLONIE DE LA RHODÉSIE DU SUD COMPORTANT UN ACCORD EN VUE D'ÉVITER LA DOUBLE IMPOSITION EN MATIÈRE DE TAXES SUCCESSORALES. LE CAP, LE 8 AVRIL 1932, ET SALISBURY, LE 21 AVRIL 1932.

*English official text communicated by the Minister for External Affairs of the Union of South Africa.
The registration of this Exchange of Notes took place November 8, 1933.*

I.

LE GÉNÉRAL HERTZOG A M. MOFFAT.

LE CAP, le 8 avril 1932.

MONSIEUR LE PREMIER MINISTRE,

J'ai l'honneur de me référer à la correspondance qui a été échangée entre nous au sujet de l'opportunité qu'il y aurait à conclure un accord entre le Gouvernement de Sa Majesté dans l'Union Sud-Africaine et le Gouvernement de la colonie de la Rhodésie du Sud, afin d'éviter la double imposition en matière de droits de succession et de confirmer et constater l'accord intervenu entre nos gouvernements respectifs et, textuellement, ainsi conçu :

1^o Le Gouvernement de Sa Majesté dans l'Union Sud-Africaine convient de déposer au Parlement de l'Union un projet de loi destiné à modifier la loi N^o 29 de 1922 sur les droits de succession, amendée par les lois N^o 31 de 1925 et N^o 34 de 1930 et ayant pour objet d'exempter des droits de succession imposés par lesdites lois, les effets mobiliers situés dans la Rhodésie du Sud et transmis, ou étant réputés l'être aux fins desdites lois, lors du décès d'une personne ayant sa résidence habituelle dans l'Union.

2^o Le Gouvernement de Sa Majesté dans l'Union Sud-Africaine et le Gouvernement de la colonie de la Rhodésie du Sud conviennent de déposer aux Parlements de l'Union et de la Rhodésie du Sud respectivement, des projets de loi stipulant ce qui suit entre les territoires de l'Union et de la Rhodésie du Sud.

a) Les dettes hypothécaires constatées par des titres enregistrés dans les deux territoires seront réparties ; chaque territoire prendra la proportion de la dette totale que représente la valeur des biens hypothéqués dans ledit territoire par rapport au total des biens ainsi hypothéqués dans les deux territoires. La valeur des biens sera réputée être la valeur à la date du décès du *de cuius*, calculée en une unité monétaire commune.

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

¹ Translated by the Secretariat of the League of Nations, for information.

² Came into force October 1, 1933.

(b) Debts recoverable and rights of action enforceable in the courts of both territories shall be deemed to be wholly an asset of the estate taxable in the territory where the decedent ordinarily resided at the date of his death ;

(c) Policies of insurance which can be enforced in the courts of both territories shall be deemed to be assets of the estate taxable in that territory in which the decedent ordinarily resided at the date of his death.

(3) His Majesty's Government in the Union of South Africa further agrees to introduce legislation into the Parliament of the Union providing that shares in companies which are required to be registered in Southern Rhodesia shall be excluded from the estate taxable in the Union of any decedent who, at the date of his death, was ordinarily resident in the Union.

(4) The Government of the Colony of Southern Rhodesia further agrees to introduce legislation into the Parliament of Southern Rhodesia providing that shares in companies which are required to be registered in the Union shall be excluded from the estate taxable in Southern Rhodesia of any decedent who, at the date of his death, was ordinarily resident in Southern Rhodesia.

(5) His Majesty's Government in the Union of South Africa and the Government of the Colony of Southern Rhodesia are agreed that for the purposes of this agreement " registration " means in relation to shares in companies registration in the main register of a company and are further agreed that branch registers, wheresoever maintained, are to be regarded as constituting part of the main register and are to be deemed to be situate where the main register is required by law to be kept.

(6) Any legislation introduced by His Majesty's Government in the Union of South Africa shall provide that it shall come into force if and when His Excellency the Governor-General of the Union is satisfied that the legislation hereunder contemplated by the Government of Southern Rhodesia has received His Majesty's assent.

(7) Any legislation introduced by the Government of Southern Rhodesia shall provide that it shall come into force if and when His Excellency the Governor of Southern Rhodesia is satisfied that the legislation hereunder contemplated by His Majesty's Government in the Union of South Africa has received His Majesty's assent.

I shall be pleased to receive your confirmation of the foregoing agreement in due course.

I have, etc.

J. B. M. HERTZOG,
Minister of External Affairs.

II.

MR. MOFFAT TO GENERAL HERTZOG.

SOUTHERN RHODESIA,
PREMIER'S OFFICE,

SALISBURY, *April 21st, 1932.*

SIR,

With reference to your letter No. L. N. 6/10 of April 8th, I have the honour to confirm and place on record the agreement which has been arrived at between our respective Governments with a view to the prevention of double taxation in the matter of death duties, and which is, word for word, as follows :

(1) His Majesty's Government in the Union of South Africa agrees to introduce into the Parliament of the Union legislation so to modify the Death Duties Act, No. 29, of

1922, as amended by Acts 31, of 1925, and 34, of 1930, as to remove from the scope of the charges of Estate and Succession Duties imposed by those Acts movable property physically situated in Southern Rhodesia which passed on the death of a person ordinarily resident in the Union, or, for the purposes of those Acts, was deemed so to pass.

(2) His Majesty's Government in the Union of South Africa and the Government of the Colony of Southern Rhodesia agree to introduce into the Parliaments of the Union and Southern Rhodesia, respectively, legislation providing that as between the territories of the Union and Southern Rhodesia :

(a) Debts secured upon immovable property by bonds registered in both territories shall be apportioned, each territory taking the proportion of the total debt which the value of the property bonded in that territory bears to the value of the total property so bonded in both territories, the value of the properties to be the value at the date of the death of the decedent, as expressed in a common standard of currency ;

(b) Debts recoverable and rights of action enforceable in the courts of both territories shall be deemed to be wholly an asset of the estate taxable in the territory where the decedent ordinarily resided at the date of his death ;

(c) Policies of insurance which can be enforced in the courts of both territories shall be deemed to be assets of the estate taxable in that territory in which the decedent ordinarily resided at the date of his death.

(3) His Majesty's Government in the Union of South Africa further agrees to introduce legislation into the Parliament of the Union providing that shares in companies which are required to be registered in Southern Rhodesia shall be excluded from the estate taxable in the Union of any decedent who, at the date of his death, was ordinarily resident in the Union.

(4) The Government of the Colony of Southern Rhodesia further agrees to introduce legislation into the Parliament of Southern Rhodesia providing that shares in companies which are required to be registered in the Union shall be excluded from the estate taxable in Southern Rhodesia of any decedent who, at the date of his death, was ordinarily resident in Southern Rhodesia.

(5) His Majesty's Government in the Union of South Africa and the Government of the Colony of Southern Rhodesia are agreed that for the purposes of this agreement " registration " means in relation to shares in companies registration in the main register of a company and are further agreed that branch registers, wheresoever maintained, are to be regarded as constituting part of the main register and are to be deemed to be situate where the main register is required by law to be kept.

(6) Any legislation introduced by His Majesty's Government in the Union of South Africa shall provide that it shall come into force if and when His Excellency the Governor-General of the Union is satisfied that the legislation hereunder contemplated by the Government of Southern Rhodesia has received His Majesty's assent.

(7) Any legislation introduced by the Government of Southern Rhodesia shall provide that it shall come into force if and when His Excellency the Governor of Southern Rhodesia is satisfied that the legislation hereunder contemplated by His Majesty's Government in the Union of South Africa has received His Majesty's assent.

I have, etc.

Certified a true copy :

H. D. J. Bodenstein,

Secretary for External Affairs.

Pretoria, 13th July, 1932.

H. U. MOFFAT,
Premier.