

CHAPTER 208.

DIAMOND SUPPLEMENTARY AGREEMENT (1951)
RATIFICATION.

14 of 1952.

An Ordinance to Ratify and Confirm an Agreement supplementary to certain Agreements made for and on behalf of the Government of Sierra Leone of the one Part and by the Sierra Leone Selection Trust, Limited of the other Part.

[20TH MARCH, 1952.]

WHEREAS a Deed was made on the twentieth day of October, 1934, between Thomas Nelson Goddard, then Acting Governor of the Colony and Protectorate of Sierra Leone acting for and on behalf of the Government of Sierra Leone (hereinafter referred to as "the Government") of the one part and the Sierra Leone Selection Trust, Limited (hereinafter referred to as "the Company") of the other part, whereby the Governor granted to the company for the term of ninety-nine years from the first day of July, 1933 (determinable as therein provided) a sole and exclusive licence to explore for, exploit, produce, take, dispose of and market diamond throughout Sierra Leone except as therein mentioned (which Deed is hereinafter referred to as "the Licence"):

AND WHEREAS an Agreement (hereinafter referred to as "the Supplementary Agreement") was made on the fifteenth day of April, 1935, between the Crown Agents for the Colonies (hereinafter referred to as "the Crown Agents") for and on behalf of the Government of the first part, Consolidated African Selection Trust, Limited of the second part, and the Company of the third part, which Agreement was supplemental to the Licence:

Cap. 207.

AND WHEREAS both the Licence and the Supplementary Agreement were ratified by an Ordinance shortly entitled The Diamond Agreements and Licence (Ratification) Ordinance:

AND WHEREAS by Clause 4 of the Licence (as amended) the Government agreed with the Company that the Company should at all times during the continuance of the Licence be exempt in respect of their operations in connection with the production and disposal of diamond from (*inter alia*) all taxes in respect of profits which might otherwise be imposed upon or become payable by the Company other than such tax as the Government might impose on profits of the diamond industry not

exceeding twenty-seven-and-a-half *per centum* of the net profit of the Company ascertained as therein mentioned:

AND WHEREAS by virtue of an arrangement made between the Government and His Majesty's Government in the United Kingdom under the Income Tax Ordinance, as amended (in particular) by the Income Tax (Amendment) Ordinance, 1947, relief from double taxation was afforded in respect of income tax in Sierra Leone and income tax in the United Kingdom, so that, if certain further amendments were made to the Licence (as amended), the Company could be made liable to income tax in Sierra Leone without increasing its total liability to taxation both in Sierra Leone and the United Kingdom:

Now
Cap. 273.

AND WHEREAS the Company agreed to the variation of the Licence (as amended) so as to become liable to pay income tax in Sierra Leone, subject to certain conditions:

AND WHEREAS the variation and conditions aforesaid are contained in an Agreement made on the eighteenth day of October, 1951 between the Crown Agents for and on behalf of the Government of the one part and the Company of the other part, which Agreement is set out in the Schedule hereto;

NOW, THEREFORE, BE IT ENACTED by the Governor of Sierra Leone, with the advice and consent of the Legislative Council thereof, as follows—

Enactment.

1. This Ordinance may be cited as the Diamond Supplementary Agreement (1951) Ratification Ordinance, 1952, and shall apply to the Colony and Protectorate.

Short title,
application
and com-
mencement.

2. The Agreement set out in the Schedule hereto in so far as it varies or otherwise affects the Licence as amended by the Supplementary Agreement is hereby ratified and confirmed and all rights and obligations purported to be conferred or imposed thereby are hereby declared valid any law to the contrary notwithstanding, and, notwithstanding anything in any law contained, the Governor or the Crown Agents shall have power to do on behalf of the Crown any act which the Agreement may require or allow in the name of the Government.

Confirmation
of Supple-
mentary
Agreement.

THE SCHEDULE.

AN AGREEMENT made the 18th day of October 1951 BETWEEN THE CROWN AGENTS FOR THE COLONIES whose office is at No. 4 Millbank in the City of Westminster for and on behalf of the Government of the Colony and Protectorate of Sierra Leone (hereinafter called "the Government") of the one part and SIERRA LEONE SELECTION TRUST LIMITED whose Registered Office is situate at Selection Trust Building, Mason's Avenue, Coleman Street in the City of London (hereinafter called "the Company") of the other part.

WHEREAS:

(1) This Agreement is supplemental to—

(i) A deed dated the 20th day of October, 1934 (hereinafter called "the Licence") made between Thomas Nelson Goddard, M.B.E., the then Acting Governor of the Colony and Protectorate of Sierra Leone aforesaid, acting on behalf of the Government, of the one part and the Company of the other part, whereby the Governor granted to the Company for the term of ninety-nine years from the 1st July, 1933 (determinable as therein provided) a sole and exclusive Licence to explore for, exploit, produce, take, dispose of and market diamond throughout the Colony of Sierra Leone (hereinafter called "the Colony") except as therein mentioned and

(ii) An Agreement dated the 15th day of April, 1935 (hereinafter called "the Supplemental Agreement") and made between the said Crown Agents for the Colonies acting for and on behalf of Henry Monck-Mason Moore, C.M.G., the then Governor of the Colony of the first part, Consolidated African Selection Trust Limited of the second part and the Company of the third part, modifying (*inter alia*) the provisions of the Licence to the extent therein mentioned but which modifications are not material for the purposes of this Agreement.

(2) It was provided by Clause 4 of the Licence that except and subject as provided by Clause 3 thereof the Company should at all times during the continuance of the Licence be exempt in respect of their operations in connection with the production and disposal of diamond from all rents, taxes, royalties, export duties, charges or impositions whatsoever in respect of minerals or profits which might otherwise be imposed upon or become payable by the Company with the following exceptions—

(i) Such tax as the Government might impose on profits of the diamond industry not exceeding $27\frac{1}{2}$ per cent of the net profit of the Company ascertained as therein mentioned, and

(ii) Surface rents and compensation payable to tribal authorities and other persons under the Minerals Ordinance, 1927, and any amendments thereto for the time being in force.

(3) *By the Income Tax Ordinance, 1943, and subsequent amendments thereto* the Government has imposed income tax upon the income of persons accruing in or derived from or received in the Colony in respect of profits or gains and other matters therein referred to but by virtue of the provisions of the Licence and section 9 (1) (p) of the said Income Tax Ordinance, the Company is exempt from the said income tax in respect of income derived by it from operations under the Licence.

(4) *In order to assist the Government the Company has offered to become liable for the payment of income tax to the extent and upon and subject to the terms and conditions hereinafter contained and upon the understanding that such offer and the Government's acceptance of it will not in any way directly or indirectly result in the Company becoming liable to pay more in the aggregate by way of taxation in Sierra Leone and the United Kingdom respectively than the Company would have been liable to pay if such offer had not been accepted and the Government had accepted the Company's said offer.*

NOW THIS DEED WITNESSETH as follows—

1. NOTWITHSTANDING anything contained in the Licence and in section 9 (1) (p) of the Income Tax Ordinance, the Government shall, subject to the provisions of this Agreement, have power to impose income tax on the Company under the *Income Tax Ordinance, 1943, as amended as aforesaid* for the year of assessment 1949/50 and as from time to time amended for any subsequent year of assessment in respect of the Company's income from its operations under the Licence.

2. THE imposition of the income tax on the Company shall be subject to the following conditions—

(i) The Sierra Leone income tax payable by the Company, computed by reference to the income of any period, shall be subject to the deduction of the amount of Diamond Industry Profit Tax payable by the Company in respect of the income of that period;

(ii) The Government shall grant to the Company relief from the amount of Sierra Leone income tax payable by the Company to the extent (if any) by which the aggregate amount of Sierra Leone income tax and Diamond Industry Profit Tax payable by the Company exceeds the amount of credit given to the Company in respect of such aggregate amount against the amount of United Kingdom tax payable by the Company, or if no credit in respect of such aggregate amount is given against United Kingdom tax or if there shall be no liability on the Company to pay United Kingdom tax the relief shall extend to the whole amount of the Sierra Leone income tax payable by the Company. The said relief shall not, in any event, extend to the Diamond Industry Profit Tax.

(iii) The Company shall not as a result of this Agreement become directly or indirectly liable to pay more in the aggregate by way of taxation in Sierra Leone and the United Kingdom than it would have been liable to pay had this Agreement not been made, and accordingly if at any time the aggregate amount of all taxes and duties (charged on or calculated by reference to the Company's income or profits or any part thereof) payable by the Company in Sierra Leone and the United Kingdom exceeds the aggregate amount of such taxes which would have been payable by the Company if no tax or duty were payable by it in Sierra Leone except as provided for in Clause 4 of the Licence and the Ordinance giving effect to it then the Government shall grant to the Company relief from the aggregate amount of all Sierra Leone taxes payable by the Company to the extent of the amount of such excess.

(iv) For the purpose of computing the liability of the Company to the payment of Sierra Leone income tax, the income of the Company for each year of assessment shall be computed for the purpose of assessment in an amount equal to—

(a) The income derived by the Company from operations under the Licence as assessed to income tax in the United Kingdom; and

(b) the deduction, if any, made in computing such income in respect of any National Defence Contribution or Profits Tax or Excess Profits Tax imposed in the United Kingdom but after deducting

(c) the amount of any loss incurred in any other trade or business carried on by the Company in Sierra Leone which the Company may be entitled to deduct or set off in computing its profits for purpose of income tax in the United Kingdom or in computing its total income from all sources under Section 20 of the Income Tax Ordinance, 1943, or any section amending or replacing the same. Provided that the aggregate amount of such deductions for losses under this sub-clause shall not exceed the amount of such losses.

3. EXCEPT as varied by the Supplemental Agreement and by these presents the Licence shall remain in full force and effect and shall be read in conjunction with and as modified by the Supplemental Agreement and these presents and shall be construed accordingly.

4. THE Crown Agents for the Colonies enter into this Agreement in their official capacity and as Agents for the purpose of binding the Government of the Colony and Protectorate of Sierra Leone, and no person on behalf of the Crown Agents for the Colonies nor any officer or member of the Sierra Leone Government shall personally be in any way liable for or in respect of any matter or thing hereby made obligatory on the Crown Agents for the Colonies or the Sierra Leone Government.

IN WITNESS whereof Sir John Alexander Calder, K.C.M.G., one of the Crown Agents for the Colonies, has hereunto set his hand and seal and the Sierra Leone Selection Trust Limited have caused their common Seal to be hereunto affixed the day and year first above written.

Signed, sealed and delivered by SIR }
JOHN ALEXANDER CALDER, K.C.M.G., } J. A. CALDER.
one of the Crown Agents for the Colonies in }
the presence of—

H. R. TWYMAN,
Civil Servant, of
4, Millbank, Westminster,
S.W.1.

THE Common Seal of the Sierra Leone Selection Trust Limited was hereunto affixed in the presence of—

LEONARD H. LEACH, *Director*.
C. S. JOHNSTONE, *Secretary*.