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No. 7854

BELGIUM and LUXEMBOURG

Exchange of letters constituting an agreement to amend the Convention, signed at Brussels on 9 March 1931, for the prevention of double taxation as regards direct taxes and to guarantee reciprocal co-operation between the two countries in the collection of such taxes. Brussels, 9 and 11 March 1965

Official texts: French and Dutch.

Registered by Belgium on 8 July 1965.

BELGIQUE et LUXEMBOURG

Échange de lettres constituant un accord portant modification de la Convention, signée à Bruxelles le 9 mars 1931, ayant pour but d'éviter la double imposition en matière d'impôts directs et de garantir l'assistance réciproque des deux pays pour le recouvrement de ces impôts. Bruxelles, 9 et 11 mars 1965

Textes officiels français et néerlandais.

Enregistré par la Belgique le 8 juillet 1965.

[TRANSLATION — TRADUCTION]

No. 7854. EXCHANGE OF LETTERS CONSTITUTING AN AGREEMENT [1] BETWEEN BELGIUM AND THE GRAND DUCHY OF LUXEMBOURG TO AMEND THE CONVENTION, SIGNED AT BRUSSELS ON 9 MARCH 1931, [2] FOR THE PREVENTION OF DOUBLE TAXATION AS REGARDS DIRECT TAXES AND TO GUARANTEE RECIPROCAL CO-OPERATION BETWEEN THE TWO COUNTRIES IN THE COLLECTION OF SUCH TAXES. BRUSSELS, 9 AND 11 MARCH 1965

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MINISTRY OF FOREIGN AFFAIRS AND FOREIGN TRADE

Brussels, 9 March 1965

Sir,

Belgium and the Grand Duchy of Luxembourg concluded on 9 March 1931 [2] a Convention for the prevention of double taxation as regards direct taxes and to guarantee reciprocal co-operation between the two countries in the collection of such taxes.

This Convention was drawn up in the light of the fiscal systems in force in the two countries at the time. However, article 12 of the Convention provides as follows :

§ 1. Should either of the High Contracting Parties be called upon to deal with a case not expressly provided for in the foregoing provisions or to introduce amendments in its fiscal laws, the new situation shall be examined and any readjustments necessitated in the text of the present Convention shall be effected by agreement between the competent authorities of the two countries in the spirit of the foregoing articles.

§ 2. Any such amending or supplementary agreements shall be dealt with in notes exchanged through the diplomatic channel.

Among other measures adopted on the basis of this provision, an Additional Protocol was signed at Brussels on 7 February 1952 [3] in order to clarify the application of articles 5 and 11 of the aforementioned Convention.

Under the Belgian Income Tax Reform Act of 20 November 1962, substantial changes have been made in the Belgian fiscal system ; the three

[1] Came into force on 11 March 1965 by the exchange of the said letters.
[2] League of Nations, *Treaty Series*, Vol. CXXXVII, p. 267.
[3] United Nations, *Treaty Series*, Vol. 147, p. 3.

schedular taxes, the supplementary personal tax and the national emergency contribution have been replaced by the following taxes :

1. *The tax on individuals*, payable on the total income of inhabitants of the Kingdom ;

2. *The company tax*, payable on the total profits of companies resident in Belgium and of other legal persons resident in Belgium that engage in gainful activity ;

3. *The tax on legal persons*, payable on income from the immovable and movable property of legal persons resident in Belgium that do not engage in gainful activity ;

4. *The non-residents' tax*, payable on income accruing in Belgium to, or received there by, non-inhabitants of the Kingdom or other non-residents (companies, associations, establishments or organizations of whatsoever nature).

These taxes are levied by deduction at source where they apply to certain types of income derived from immovable property, movable property, the exercise of an occupation or various other sources.

Furthermore, the system of direct taxes now in force in the Grand Duchy of Luxembourg includes, *inter alia*, a tax on the income of individuals and a tax on the income of bodies corporate.

Hence the two countries now have a fiscal system consisting essentially of a specific tax on companies and a single tax levied on the total income of individuals.

In view of this situation it seems essential that a new Convention should be concluded as soon as possible to supersede the Convention of 9 March 1931. The new Convention can also serve to prevent the double taxation of income from floating capital and movable property, which was not covered by the Agreement of 9 March 1931.

It is obvious, however, in view of the periods required for its signature and ratification, that some time will elapse before the entry into force of the new Convention which is to be negotiated.

The Belgian Government therefore considers that, pending the preparation and entry into force of the new Convention, all possible steps should be taken now, pursuant to and in the spirit of the Convention of 9 March 1931, to prevent double taxation with respect to the taxes at present levied in the two countries, and that this should be done by applying to these taxes the principles laid down in the 1931 Convention with regard to the earlier taxes. This adjustment can be made on a basis of complete reciprocity, since the fiscal systems now in force in the two countries are identical in structure.

Following the technical discussions held at Brussels on 30 September 1964 between representatives of the fiscal authorities of the two States and