No. 955

NETHERLANDS
and
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at London, on 15 October 1948

Official texts: English and Dutch.
Registered by the Netherlands on 23 October 1950.

PAYS-BAS
et
ROYAUME-UNI DE GRANDE-BRETAGNE ET D'IRLANDE DU NORD

Convention destinée à éviter les doubles impositions et à prévenir l'évasion fiscale en matière d'impôts sur le revenu. Signée à Londres, le 15 octobre 1948

Textes officiels anglais et néerlandais.
Enregistrée par les Pays-Bas le 23 octobre 1950.

No. 955. CONVENTION[1] BETWEEN THE NETHERLANDS AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME. SIGNED AT LONDON, ON 15 OCTOBER 1948

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas and Her Majesty the Queen of the Netherlands,

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

Have appointed for that purpose as their Plenipotentiaries:—

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas:

For the United Kingdom of Great Britain and Northern Ireland:

The Right Honourable Ernest Bevin, M. P., His Principal Secretary of State for Foreign Affairs;

Her Majesty the Queen of the Netherlands:

For the Kingdom of the Netherlands:

His Excellency Jonkheer E. Michiels van Verduynen, Her Ambassador Extraordinary and Plenipotentiary in London;

Who, having exhibited their respective 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 Netherlands:—

The income tax, the wages tax, the company tax, the dividends tax and the tax on fees of directors and managers of companies (hereinafter referred to as "Netherlands tax");

(*b*) In the United Kingdom of Great Britain and Northern Ireland:—

The income tax (including sur-tax) and the profits tax (hereinafter referred to as "United Kingdom tax").

[1]Came into force on 18 July 1950, by the exchange of the instruments of ratification at London, in accordance with article XX.

(2) The present Convention shall also apply to any other taxes of a substantially similar character imposed in the Netherlands or the United Kingdom 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 "Netherlands" means the Kingdom of the Netherlands in Europe;

(*c*) The terms "one of the territories" and "the other territory" mean the United Kingdom or the Netherlands, as the context requires;

(*d*) The term "tax" means United Kingdom tax or Netherlands tax, as the context requires;

(*e*) The term "person" includes any body of persons, corporate or not corporate;

(*f*) The term "company" means any body corporate, and any partnership the capital of which is wholly or partly represented by shares;

(*g*) The terms "resident of the United Kingdom" and "resident of the Netherlands" mean respectively any person who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident in the Netherlands for the purposes of Netherlands tax, and any person who is resident in the Netherlands for the purposes of Netherlands tax and not resident in the United Kingdom for the purposes of United Kingdom tax; a company shall be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom and as resident in the Netherlands if its business is managed and controlled in the Netherlands;

(*h*) The terms "resident of one of the territories" and "resident of the other territory" mean a person who is a resident of the United Kingdom or a person who is a resident of the Netherlands, as the context requires;

(*i*) The terms "United Kingdom enterprise" and "Netherlands enterprise" mean respectively an industrial or commercial enterprise carried on by a resident of the United Kingdom and an industrial or commercial enterprise carried on by a resident of the Netherlands, and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a United Kingdom enterprise or a Netherlands enterprise, as the context requires;

(*j*) The term "industrial or commercial profits" includes rents or royalties in respect of cinematograph films;

(*k*) The term "permanent establishment" when used with respect to an enterprise of one of the territories, means a branch, management, factory, or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. In this connexion:—

(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 or general commission 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 a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which carries on a 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 its parent company.

(2) In the application of the provisions of the present Convention by one of the High Contracting Parties 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 present Convention.

Article III

(1) The industrial or commercial profits of a United Kingdom enterprise shall not be subject to Netherlands tax unless the enterprise carries on a trade or business in the Netherlands through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by the Netherlands, but only on so much of them as is attributable to that permanent establishment.

(2) The industrial or commercial profits of a Netherlands enterprise shall not be subject to United Kingdom tax unless the enterprise carries on a trade or business in the United Kingdom through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, 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 carries on a trade or business in the other territory through a permanent establisment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive in that other territory 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 derives profits, under contracts concluded in that territory, from sales of goods or merchandise stocked in a warehouse in the other territory for convenience of delivery and not for purposes of display, 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 that other territory by the enterprise.

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 of 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 accrued 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 provisions of Articles III and IV, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

Article VI

(1) Dividends paid by a company resident in one of the territories to a resident of the other territory, who is subject to tax in that other territory in respect thereof