

No. 48985

**Netherlands (in respect of Aruba)
and
Norway**

Agreement to promote economic relations between the Kingdom of the Netherlands, in respect of Aruba, and the Kingdom of Norway. Paris, 10 September 2009

Entry into force: *1 July 2011 by notification, in accordance with article 6*

Authentic text: *English*

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**Pays-Bas (à l'égard d'Aruba)
et
Norvège**

Accord visant à promouvoir les relations économiques entre le Royaume des Pays-Bas à l'égard d'Aruba et le Royaume de Norvège. Paris, 10 septembre 2009

Entrée en vigueur : *1^{er} juillet 2011 par notification, conformément à l'article 6*

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[ENGLISH TEXT – TEXTE ANGLAIS]

Agreement to promote economic relations between the Kingdom of the Netherlands, in respect of Aruba, and the Kingdom of Norway

The Kingdom of the Netherlands, in respect of Aruba,
and
the Kingdom of Norway,

Whereas the Kingdom of the Netherlands, in respect of Aruba, and the Kingdom of Norway (“the Parties”) have today signed an Agreement for the Exchange of Information with Respect to Taxes;

Whereas both the Kingdom of the Netherlands, in respect of Aruba, and the Kingdom of Norway are committed to work towards an international financial system that is free of distortions created through lack of transparency and lack of effective exchange on information in tax matters;

Whereas the Kingdom of Norway wishes to assist the Kingdom of the Netherlands, in respect of Aruba, in diversifying its economy;

Now, therefore, the Parties have agreed as follows:

Article 1

1. For the purpose of this Agreement unless the context otherwise requires:

a) the term "Norway" means the Kingdom of Norway, and includes the land territory and internal waters; the term does not comprise Svalbard, Jan Mayen and the Norwegian dependencies ("biland");

b) the term "Aruba" means that part of the Kingdom of the Netherlands that is situated in the Caribbean area and consisting of the Island of Aruba;

c) the term "competent authority" means

(i) In the case of Norway, the Minister of Finance or the Minister's authorized representative;

(ii) In the case of Aruba, the Minister of Finance and Economic Affairs or his authorised representative;

d) the term "company resident in Norway" means any company which under the laws of Norway is liable to tax therein by reason of its domicile, residence, place of management or any other similar criterion. The term does not, however, include any company which is liable to tax in Norway in respect only of income from sources in Norway;

e) the term "person" includes an individual, a company or any other body of persons;

f) the term "permanent establishment" means:

(i) a fixed place of business through which the business of a company resident in Norway is wholly or partly carried on;

(ii) the term "permanent establishment" includes especially:

a) a place of management;

b) a branch;

c) an office;

d) a factory;

e) a workshop; and

f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;

(iii) the term "permanent establishment" also encompasses a building site, a construction, assembly or installation project, but only if such site or project lasts for a period of more than 6 months;

(iv) notwithstanding the preceding provisions of this paragraph, the term "permanent establishment" shall be deemed not to include:

a) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the company;

b) the maintenance of a stock of goods or merchandise belonging to the company solely for the purpose of storage or display;

c) the maintenance of a stock of goods or merchandise belonging to the company solely for the purpose of processing by another enterprise;

d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the company;

e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the company, any other activity of a preparatory or auxiliary character;

f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character;

(v) notwithstanding the provisions of paragraphs i) and ii), where a person

– other than an agent of an independent status to whom sub-paragraph f) vi) applies - is acting on behalf of a company resident in Norway and has, and habitually exercises, in Aruba an authority to conclude contracts in the name of the company, that company shall be deemed to have a permanent establishment in Aruba in respect of any activities as mentioned in Article 3 which that person undertakes for the company, unless the activities of such person are limited to those mentioned in paragraph iv) which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph;

(vi) a company resident in Norway shall not be deemed to have a permanent establishment in Aruba merely because it carries on business in Aruba through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

2. As regards the application of this Agreement at any time by a Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Party, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

Article 2

When a company resident in Norway has a permanent establishment in Aruba, Norway shall exempt profits, which are attributable to that permanent establishment from tax, provided that the greater part of the profits is derived from activities as mentioned in Article 3.

Article 3

1. Article 1 applies only to profits which to the greater part are derived from the following activities to the extent that such activities are carried on in Aruba:

- a) industrial and manufacturing activities, including assembly activities;
- b) tourism (including hotels);
- c) a building site or a construction, assembly or installation project;
- d) aquaculture and agriculture;
- e) medical services;
- f) repair, maintenance, certification of ship and aircraft; and
- g) oil and gas activities and energy production.

2. The right of any company resident in Norway to engage in Aruba in the activities listed in the preceding paragraph remains subject to the domestic legislation in force in Aruba.

Article 4

1. Where a company resident in Norway considers that the actions of one of the Parties result or will result for it in taxation not in accordance with the provisions of this Agreement, it may, irrespective of the remedies provided by the domestic law of the party, present its case to the competent authority of Norway. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of Aruba, with a view to the avoidance of taxation which is not in accordance with this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Parties.

3. The competent authorities of the Parties shall endeavour to resolve by mutual agreement any difficulties arising as to the interpretation or application of this Agreement.

4. The competent authorities of the Parties may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraph.