

No. 49451

**Netherlands (in respect of the Caribbean part of the Netherlands,
Curaçao and Sint Maarten)
and
Iceland**

Agreement to promote economic relations between the Kingdom of the Netherlands, in respect of the Netherlands Antilles, and the Government of Iceland. Paris, 10 September 2009

Entry into force: *1 January 2012, in accordance with article 8*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *Netherlands, 5 March 2012*

**Pays-Bas (à l'égard de la partie caribéenne des Pays-Bas,
Curaçao et Saint-Martin)
et
Islande**

Accord visant à promouvoir les relations économiques entre le Royaume des Pays-Bas, à l'égard des Antilles néerlandaises, et le Gouvernement de l'Islande. Paris, 10 septembre 2009

Entrée en vigueur : *1^{er} janvier 2012, conformément à l'article 8*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat des Nations Unies : *Pays-Bas, 5 mars 2012*

[ENGLISH TEXT – TEXTE ANGLAIS]

Agreement to promote economic relations between the Kingdom of the Netherlands, in respect of the Netherlands Antilles, and the Government of Iceland

The Kingdom of the Netherlands, in respect of the Netherlands Antilles,

and

the Government of Iceland,

Whereas the Kingdom of the Netherlands, in respect of the Netherlands Antilles, and the Government of Iceland (“the Parties”) have signed an Agreement for the Exchange of Information with respect to Taxes;

Whereas both the Kingdom of the Netherlands, in respect of the Netherlands Antilles, and the Government of Iceland 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 Government of Iceland wishes to assist the Kingdom of the Netherlands, in respect of the Netherlands Antilles, in diversifying its economy;

Now, therefore, the Parties have agreed as follows:

Article 1

Definitions

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

a) the term “Iceland” means Iceland and, when used in a geographical sense, means the territory of Iceland, including its territorial sea, and any area beyond the territorial sea within which Iceland, in accordance with international law, exercises jurisdiction or sovereign rights with respect to the sea bed, its subsoil and its superjacent waters, and their natural resources;

b) the term “the Netherlands Antilles” means that part of the Kingdom of the Netherlands that is situated in the Caribbean Sea and consisting of the Island Territories of Bonaire, Curaçao, Saba, St. Eustatius and St. Maarten (Dutch part) including the territorial waters thereof and the part of the seabed and its subsoil under the Caribbean Sea over which the Kingdom of the Netherlands has sovereign rights in accordance with international law but excluding the part thereof relating to Aruba;

c) the term “competent authority” means:

(i) in the case of Iceland, the Minister of Finance or his authorised representative;

(ii) in the case of the Netherlands Antilles, the Minister of Finance or his authorised representative;

d) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes.

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

Residence

1. For the purposes of this Agreement, the terms “company resident in Iceland” and “company resident in the Netherlands Antilles” mean any company which under the laws of a Party, is liable to tax therein by reason of its domicile, residence, place of management or any other criterion of a similar nature. The terms “company resident in Iceland” and “company resident in the Netherlands Antilles” do not include any company which is liable to tax in a Party in respect of only income from sources in that Party.

2. Where by reason of the provisions of paragraph 1 a company is resident of both Parties, the competent authorities of the Parties shall endeavour to settle the question by mutual agreement.

Article 3

Permanent establishment income

When a company resident in Iceland has a permanent establishment in the Netherlands Antilles, Iceland shall exempt from tax profits, which are attributable to that establishment, provided that the profits are derived from activities listed in Article 5.

Article 4

Dividends

When a company resident in Iceland directly holds shares representing 100 per cent of the voting power in a company resident in the Netherlands Antilles, Iceland shall exempt from tax dividends distributed from the last-mentioned company, provided that the profits of the last mentioned company are derived from activities listed in Article 5.

Article 5

Activities covered

1. Articles 3 and 4 apply to the following activities (excluding financial activities other than those in line with the ordinary course of business) carried out in the Netherlands Antilles:

- a) industrial and manufacturing activities;
- b) tourism (including restaurants and hotels);
- c) a building site or a construction, assembly or installation project;
- d) agriculture;
- e) mining;
- f) oil and gas activities and energy production; and
- g) installation, operation or maintenance of fixed or mobile telecommunication systems.

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

Article 6

Mutual agreement procedure

1. Where a company considers that the actions of one [or both] 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 [those Parties], present its case to the competent authority of the Party of which it is a resident. 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 the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Party, with a view to the avoidance of taxation which is not in accordance with the 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 the 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[s].

Article 7

Duration

This Agreement shall apply for a period of ten years from the date when this Agreement becomes applicable. This period may be extended by mutual agreement between the competent authorities of the Parties.

Article 8

Entry into force

This Agreement shall enter into force on the first day of the second month after each Party has notified the other in writing, through diplomatic channels, that the internal procedures required by that Party for the entry into force of the Agreement have been complied with. The Agree-