

No. 300

BELGIUM
and
LUXEMBOURG

**Exchange of Notes constituting an arrangement concerning
the status and double taxation of frontier workers.
Luxembourg, 25 March 1948**

*French official text communicated by the Minister of Foreign Affairs of Belgium.
The registration took place on 28 October 1948.*

BELGIQUE
et
LUXEMBOURG

**Echange de notes constituant un arrangement concernant le
statut et la double imposition des travailleurs frontaliers.
Luxembourg, 25 mars 1948**

*Texte officiel français communiqué par le Ministre des affaires étrangères de
Belgique. L'enregistrement a eu lieu le 28 octobre 1948.*

TRANSLATION — TRADUCTION

No. 300. EXCHANGE OF NOTES¹ CONSTITUTING AN AGREEMENT BETWEEN BELGIUM AND THE GRAND DUCHY OF LUXEMBOURG CONCERNING THE STATUS AND DOUBLE TAXATION OF FRONTIER WORKERS. LUXEMBOURG, 25 MARCH 1948

I

Luxembourg, 25 March 1948

His Excellency M. Joseph Bech, Minister of Foreign Affairs of the Grand Duchy of Luxembourg, Luxembourg

Sir,

In order to enable effect to be given to article 8, paragraph 2, of the convention concluded on 9 March 1931² between Belgium and the Grand Duchy of Luxembourg for the purpose of preventing double taxation as regards direct State taxes and of regulating certain other fiscal questions, an arrangement establishing the conditions required for the determination of the status of frontier worker and stating the nature of the special document certifying to the possession of such status, was concluded on 22 July 1938³ between the Belgian Government and the Luxembourg Government.

On the same date an arrangement was concluded between the two Governments for the purpose, on the one hand, of ensuring on certain conditions the retroactive application of article 8, paragraph 2, aforesaid, particularly in regard to frontier workers liable to double direct State taxation on their salaries, wages or other remunerations after 1 January 1934 and, on the other hand, of giving effect to the agreement of the High Contracting Parties, expressed in the Protocol of closure of the said Convention, "to conclude at the earliest possible date a supplementary agreement regarding the application of communal taxation payable in either of the two contracting States by persons in receipt of salaries and wages who carry on their activity in that State but reside in the territory of the other State".

¹ Came into force on 25 March 1948, with retroactive effect as from 1 January 1947, by the exchange of the said notes, in accordance with paragraph IV thereof.

² League of Nations, *Treaty Series*, Volume CXXXVII, page 267.

³ League of Nations, *Treaty Series*, Volume CXCI, page 113.

This last-named arrangement, which was to have come into force eight days after the exchange of ratification instruments, was not ratified because of the war circumstances and hence has not come into force. Consequently article 8, paragraph 2, of the Convention has not been applied with respect to the fiscal years 1938 to 1940, except as regards a small number of frontier workers liable to double State taxation who had submitted claims against the taxing State. The application of article 8, paragraph 2, was suspended *de facto* for the fiscal years 1941-1944, by virtue of the German ordinances reserving to the German fiscal administration in the Grand Duchy the exclusive right to tax remunerations received in that country by frontier workers residing in Belgium. Furthermore, this provision of the Convention was not applied in the fiscal years 1945, 1946 and 1947 owing to the non-ratification of the connected arrangement concerning, *inter alia*, communal taxation.

Moreover, owing to the long period that has elapsed since the conclusion of the arrangement of 22 July 1938, the events of the war period and the radical way in which the Luxembourg legislation has been changed in regard to direct taxation and, particularly, the replacement of communal taxation (variable supplements to the main State income tax) by similarly variable refunds granted to the communes out of the yield of State income tax, it has now become impossible to contemplate bringing into operation arrangements drawn up to meet conditions as they then existed.

With the aim of putting a speedy end to this situation in which the frontier workers of both States are liable to a double taxation now particularly onerous in view of the increase in fiscal charges in both countries, and with a view to regulating the ways and means of applying article 8, paragraph 2, of the Convention between Belgium and Luxembourg dated 9 March 1931 in the spirit of the arrangements of 22 July 1938, it has been agreed, as the result of negotiations conducted between the competent authorities of the two countries in pursuance of article 12 of the Convention of 9 March 1931, that the fiscal system applicable to frontier workers of Belgian or Luxembourg nationality should be regulated as follows:

I. The non-ratified arrangement of 22 July 1938, which was calculated, on the one hand, to ensure, on certain conditions, the retroactive application of article 8, paragraph 2, of the Belgian-Luxembourg Convention of 9 March 1931 and, on the other hand, to regulate the application of communal taxation affecting, in either of the two States, persons in receipt of salaries and wages who carry on their activity in that State but are resident on the territory of the other State, is, and shall be deemed to be, non-existent.

II. Under the present legislation of the two contracting States, no communal taxation is laid down in the State where the persons in receipt of wages and salaries carry on their activity, if such persons have their fiscal domicile in the other State. In the event of any subsequent change in this situation, the two contracting States shall by common agreement take all necessary steps for the speedy conclusion of the appropriate supplementary agreement provided for in the Protocol of closure of the Convention of 9 March 1931.

III. The application of the arrangement of 22 July 1938 establishing the conditions required for the determination of the status of the frontier worker and stating the nature of the special document certifying to the possession of such status, is suspended with respect to the fiscal years 1941 to 1946. With effect from 1 January of the fiscal year 1947, paragraphs 2 and 3 of the said arrangement shall be replaced by the following:

“2. For the purposes of the present arrangement, the Belgian frontier zone and the Luxembourg frontier zone shall be delimited, on either side of the common frontier of the two States, by an imaginary line drawn ten kilometres from the frontier, it being understood that the communes through which this imaginary line passes shall only form part of the frontier zone if the major portion of their territory is situated in the said zone.

“3. Frontier workers of Belgian or Luxembourg nationality residing in Belgium shall have issued to them by the communal authorities of their place of residence a frontier card valid for two years in conformity with the model annexed hereto. The use of this card shall be conditional on its being countersigned, each December, by the regional inspector for the withholding tax on salaries and wages who is competent for the place of work.

“Frontier workers of Luxembourg or Belgian nationality residing in the Grand Duchy who desire to be allowed to work in an establishment in the Belgian frontier zone must have their Luxembourg card of identity countersigned by the regional inspector of direct taxation who is competent for their place of residence and endorsed by the communal authorities of the place in which they work with the words ‘frontier worker’ attested by the seal of the commune. The visa of the regional inspector shall only be valid for the current calendar year. The card of identity, thus completed, shall take the place of the frontier card.”

IV. The present arrangement shall come into force on the day of its signature and shall be retroactive to 1 January of the fiscal year 1947. It shall cease to apply on 31 December of the fiscal year 1949.

V. Appeals against assessments made in either of the contracting States in violation of article 8, paragraph 2, of the Convention of 9 March 1931, and of the present arrangement, must be submitted in the manner and conditions and within the time limits laid down by the legislation of the said State.

VI. It is specified that:

1. for the purposes of the application of paragraph V hereof, the time limit laid down for the presentation of claims against taxes levied on remuneration for the year 1947 shall not in any event be less than six months to run from the publication of the arrangement in the official journal of the State levying the tax;

2. for the purposes of the application of paragraph III, 3, hereof, the period prescribed for the presentation of the frontier card for countersigning by the regional inspector for the withholding tax on salaries and wages shall, as an exceptional measure, on this first occasion, be the third month following the month in which the arrangement is published in the *Moniteur belge* and the *Mémorial* of the Grand Duchy of Luxembourg.

I have the honour to be, etc.

(Signed) BERRYER

II

Luxembourg, 25 March 1948

His Excellency Viscount Joseph Berryer, Envoy Extraordinary and Minister Plenipotentiary of Belgium in Luxembourg

Sir,

By your letter of today's date, Your Excellency was kind enough to inform me of the following:

[See note I]

I have the honour to inform Your Excellency that the Luxembourg Government takes note of this communication and gives its agreement to the proposals contained therein.

I have the honour to be, etc.

(Signed) BECH