No. 1689

NETHERLANDS
and
SWITZERLAND

Agreement (with annexes, final protocol and additional protocol) for the avoidance of double taxation with respect to taxes on income and property. Signed at The Hague, on 12 November 1951

Official texts: French and Dutch.

Registered by the Netherlands on 2 April 1952.

PAYS-BAS
et
SUISSE

Convention (avec annexes, protocole final et protocole additionnel) en vue d'éviter les doubles impositions dans le domaine des impôts sur le revenu et sur la fortune. Signée à La Haye, le 12 novembre 1951

Textes officiels français et néerlandais.

Enregistrée par les Pays-Bas le 2 avril 1952.

[TRANSLATION — TRADUCTION]

No. 1689. AGREEMENT[1] BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE SWISS CONFEDERATION FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND PROPERTY. SIGNED AT THE HAGUE, ON 12 NOVEMBER 1951

Her Majesty the Queen of the Netherlands of the one part, and the Swiss Federal Council of the other part;

Desiring still further to avoid the double taxation with respect to taxes on income and property,

Have agreed to conclude a Convention of this purpose;

And have appointed as their Plenipotentiaries :

Her Majesty the Queen of the Netherlands

M. D. U. STIKKER, Her Minister for Foreign Affairs;

The Swiss Federal Council

M. D. SECRÉTAN, Envoy Extraordinary and Minister Plenipotentiary of Switzerland at The Hague;

Who, having communicated their full powers found in good and due form, have agreed upon the following provisions :

Article 1

(1) The purpose of this Agreement is to afford protection to taxpayers of either State against double taxation which might result from the simultaneous application of Netherlands and Swiss laws in the case of :

a. direct taxes on income (general income tax and taxes on portions of income) and on property (general tax on property and taxes on portions of property). This Agreement also includes, within the above meaning, taxes on proceeds from the sale or exchange of assets and of immovable property and on increases in value and property;

b. taxes on income from movable property taxed at the source.

(2) The Agreement shall apply to taxes levied for the benefit of either of the two States, provinces, cantons, districts, communes, groups of communes and commune funds, but particularly to the taxes specified in annexes I (Swiss

[1] Came into force on 9 January 1952 by the exchange of the instruments of ratification at Berne, in accordance with the provisions of article 15 of the Convention.

legislation) and II (Netherlands legislation), as also to identical or similar taxes added to or replacing such taxes in the future. It shall also apply to surtax.

(3) Without prejudice to the provision contained in article 12, this Agreement shall be applicable only to territory in Europe in so far as the Kingdom of the Netherlands is concerned.

(4) Subject to the supplementary provisions set forth in the Additional Protocol signed the same day and which forms an integral part of the Agreement, the Agreement shall likewise apply to the single capital levy imposed by the Netherlands (law of 11 July 1947) to the Netherlands emergency tax on increases in property (law of 19 September 1946) and to the Federal war profits tax (Federal Council decree of 12 January 1940/19 July 1944).

Article 2

(1) Save as otherwise provided for in this Agreement, property and income shall be taxable only in the State in which the person to whom such property belongs or who draws such income has his domicile.

(2) For the purposes of this Agreement, a natural person shall be considered as having his domicile in the place where he has a permanent dwelling available. If there are several such places, his domicile shall be deemed to be where his personal relations are closest (centre of vital interests). In the event of disagreement respecting the centre of vital interests, the place of residence shall be determined as provided in paragraph (3).

(3) If a natural person has no permanent dwelling available in either of the two States, he shall be deemed to have his domicile in the place where he regularly resides. For the purposes of this provision a person shall be deemed to be regularly resident in the place in which he resides in such a manner as to indicate that he does not intend to remain in the place only temporarily. If a natural person does not reside regularly in either of the two States, he shall be deemed to have his domicile in the State of which he is a national, provided that the legislation of the State subjects him to direct taxation in view of his domicile. If a natural person has his domicile in both States by virtue of the above provisions, the supreme administrative authorities shall decide on the matter in each individual case.

(4) For the purposes of this Agreement, bodies corporate shall be domiciled according to the tax legislation of each of the two States. If, as a result of this provision, there is domicile in both States, the body corporate shall be deemed to have its domicile in the State where it has its statutory main office.

Article 3

(1) Immovable property (including appurtenances and livestock and equipment used in agriculture or forestry) and the income derived therefrom (including

the proceeds of any agriculture or forestry) shall not be taxable except in the State in which such property is situated.

(2) Rights to which the provisions of private law respecting real estate apply and rights of usufruct over immovable property shall be treated as immovable property.

(3) Claims secured by immovable property and income accruing therefrom shall be taxable only in the State in which such immovable property is situated. The rule set forth in article 2, paragraph (1), however, shall be applicable to :

a. debentures on a loan secured by immovable property, and the income accruing therefrom;

b. claims secured by immovable property, which pertain to an enterprise of the kind specified in article 4, and the income accruing therefrom, unless a claim constitutes part of the working capital of a permanent establishment in the State where the immovable property is situated.

(4) The concepts of immovable property and appurtenances, of rights treated in the same way as immovable property and of usufruct shall be determined by the laws of the State in which the object concerned is situated.

Article 4

(1) Commercial, industrial or handicraft enterprises of every type, and the income derived therefrom including profits realized by the total or partial alienation of the enterprise, shall be taxable only in that one of the two States in which the enterprise has a permanent establishment. This shall also apply when the enterprise extends its operations to the territory of the other State without possessing a permanent establishment there.

(2) For the purposes of this Agreement a permanent establishment means a fixed establishment of the enterprise in which its business is carried on in whole or in part. The following must therefore be considered as permanent establishments : the head office of the enterprise, the office of the management, the branches, factories and workshops, the sales departments, the mines and other mineral deposits in operation and the permanent agencies.

(3) If the enterprise maintains permanent establishments in both States, each State shall tax only the property serving the permanent establishment situated on its territory and only the proceeds from this establishment.

(4) Participation in enterprises constituted as companies, with the exception of participation in the form of shares, shares in co-operative societies or *sociétés à responsabilité limitée* and with the further exception of *bons de jouissance*, bonds entitling the holder to a share in profits, and similar paper securities, shall be treated as enterprises within the meaning of paragraph (1).

(5) Enterprises engaging in international maritime navigation, inland shipping or aviation, and the income derived therefrom, shall be taxable only in the State in which the management of the enterprise is situated.

Article 5

(1) Subject to the provisions of article 7, income from liberal professions exercised by persons having their domicile in one of the two States shall be taxable in the other State only if the person concerned engages in his personal gainful activity while using the permanent establishment regularly available to him.

(2) Nothwithstanding paragraph (1), professional income earned in one of the two States by actors (theatre, radio, film), musicians, artists etc. shall be taxable therein irrespective of whether a permanent establishment is regularly available to such persons in the exercise of their gainful occupation.

(3) Movable property pertaining to permanent establishments used in the exercise of a liberal profession shall be taxable only in the State in which these establishments are situated.

Article 6

(1) Without prejudice to the provisions of articles 7 and 8, income derived from a gainful occupation in the employ of another shall be taxable only in the State in the territory of which the personal occupation from which the income is derived is exercised.

(2) Nevertheless a person employed in one of the two States, residing temporarily for reasons of his occupation in the territory of the other State, shall be exempt from taxation on the income derived from his work in the latter State, even from taxation at the source, of he engages in his gainful occupation for the benefit of an employer not domiciled in that State. In that case the State in which the person is employed shall have the right to levy tax.

(3) Subject to the provisions of article 8, pensions, widows' or orphans' pensions and other payments or benefits assessable in terms of money which are granted for previous services rendered by a person formerly engaged in a gainful occupation in the employ of another shall be taxable only in the State in which the beneficiary is domiciled.

Article 7

(1) Directors' percentages, attendance fees and other payments made to members of the boards of directors and of the supervisory boards (*conseil de surveillance*) of limited liability companies (*sociétés anonymes*), limited partnerships (*sociétés en commandite par actions*) or co-operative societies, or to managers

(*gérants*) of *sociétés à responsabilité limitée*, shall be taxable only in that one of the two States where the company or association paying them is domiciled.

(2) Payments for services rendered which the persons specified in paragraph (1) actually receive in another capacity shall be taxable as provided in articles 5 or 6.

Article 8

(1) Salaries, wages, pensions, widows' or orphans' pensions and other payments or benefits assessable in terms of money that are granted by one of the two States, by a public body corporate in that State, or by a fund established by that State or by a public body corporate of the State in virtue of past or present administrative services or employment shall be taxable only in the State where the incomes originate.

(2) The question whether a body corporate is a public body corporate shall be decided in accordance with the law of the State in which the body in question is constituted.

Article 9

(1) Subject to the provisions of paragraph (2) of this article, the right of either of the two States to tax by deduction at source income from movable capital shall not be restricted by the fact that such income is subject to direct taxation only in the State designated in paragraph (1) of article 2.

(2) In the case of tax on income from movable capital levied by one of the two States by deduction at source, the recipient of such income domiciled in the other State may, within a period of two years, request reimbursement through the State in which he is domiciled, subject to the production of an official certificate of domicile and of liability to direct taxation in the State of domicile :

a. if the State of domicile of the recipient of the income also taxes similar income at the source : up to the amount which the State, in respect of which the right of repayment is exercised, grants deductions on direct taxes to recipients residing on its territory, but at least up to an amount 5 per cent higher than the capital yield;

b. in all other cases : up to an amount 10 per cent higher than the capital yield.

Article 10

(1) Nationals (natural persons or corporate bodies) of one of the two States cannot be obliged by the other State to pay taxes or duties other or higher than those paid by its own nationals in similar circumstances.

(2) The provisions of this Agreement shall not restrict the benefits which either of the two States may grant to its taxpayers.

Article 11

(1) If a taxpayer shows that, as a result of measures adopted by the fiscal authorities of the two States, he is subject to double taxation, he shall be entitled to lodge an objection with the State in which he is domiciled. If the objection is found to be justified, the supreme administrative authority of this State shall, if it is unwilling to renounce its own tax claim, endeavour to come to an agreement with the supreme administrative authority of the other State, with a view to the equitable avoidance of double taxation.

(2) The supreme administrative authorities of the two States may also agree to eliminate double taxation in cases not covered by this Agreement and in cases where the interpretation or application of this Agreement may give rise to difficulties or doubt.

Article 12

(1) This Agreement may be extended either in its entirety or with approved modifications, to any of the Netherlands Overseas Territories which levies taxes substantially similar to those specified in article 1. Any such extension shall take effect from such date and subject to such modifications and conditions (including conditions as to termination) as may be specified and agreed between the High Contracting Parties in notes to be exchanged for this purpose.

(2) The termination in respect of the Netherlands or Switzerland of this Agreement under article 15 shall, unless otherwise expressly agreed by both High Contracting Parties, terminate the application of this Agreement to any territory to which it has been extended under this article.

(3) The Netherlands territories to which this article applies are any territories, other than the Kingdom of the Netherlands in Europe, for the foreign relations of which the Netherlands Government is responsible.

Article 13

This Agreement shall be applicable for the first time to :

a. direct taxes on income and property levied for the period following 31 December 1948 and taxes levied for a previous period but not finally assessed at the time when this Agreement comes into force;

b. taxes deducted at the source on capital proceeds which fall due in the calendar year 1949.

Article 14

If terminated within the time-limit specified in article 15, this Agreement shall be applicable for the last time :

a. to direct taxes on income and property levied for the period preceding the expiration of the calendar year to the end of which the termination related;

b. to taxes levied at the source on capital proceeds falling due in the calendar year to the end of which the termination related.

Article 15

(1) This Agreement shall be ratified and the instruments of ratification shall be exchanged at Bern as soon as possible.

(2) The Agreement shall come intofor ce on the day on which the instruments of ratification are exchanged; it may be terminated by either High Contracting Party with effect from the end of the calendar year, subject to at least six months' notice.

IN WITNESS WHEREOF the abovementioned plenipotentiaries have signed the present Agreement and have thereto affixed their seals.

DONE in duplicate at The Hague, on 12 November 1951, in the Netherlands and French languages, both texts being equally authentic.

(*Signed*) STIKKER
(*Signed*) D. SECRÉTAN

ANNEX I

(*Swiss tax legislation*)

The Agreement shall relate in particular to the following Swiss taxes :

A. Confederation taxes :

a. National defence tax;
b. Supplementary national defence tax;
c. War profits tax;
d. First and second national defence contribution;
e. Stamp duty on coupons;
f. Tax deducted at source in advance;
g. Tax deducted from life insurance benefits;

B. Direct taxes levied by cantons, districts, zones (*cercles*) and communes :

a. Income (total income, carned income, proceeds from property, commercial profits, etc);

b. Property (total property, real and immovable property, commercial property, etc.) and on capital.

ANNEX II

(Netherlands tax legislation)

The Agreement shall relate in particular to the following taxes levied by the Kingdom of the Netherlands, by its provinces and communes (*gemeenten*):

a. Land tax;
b. Income tax including tax on wages and salaries;
c. Tax on property;
d. Tax on companies;
e. Tax on enterprises;
f. Tax on the emoluments of company directors and managers;
g. Single capital levy;
h. Dividend tax;
i. Emergency tax on increases in fortune;
j. Commune tax on the increase in value of certain forms of immovable property;
k. Commune tax on building sites;
l. Tax on roads and waterways;
m. Tax on mines.

FINAL PROTOCOL

On the occasion of the signing of the Agreement concluded this day between the Kingdom of the Netherlands and the Swiss Confederation for the avoidance of double taxation of income and property, the undersigned Plenipotentiaries have agreed upon the following declarations which shall form an integral part of the Agreement:

Ad Article 1

(1) The supreme administrative authorities of the two States shall inform each other, at the end of each year, of any amendments that may have been made in their tax legislations. They shall consult together to remove any doubts that may arise regarding the taxes to which the present Agreement is to be applied.

(2) In particular the present Agreement shall not apply to the federal tax levied at the source on lottery winnings nor on sums deducted from such winnings by the Netherlands State under its legislation.

Ad Article 2

(1) Save as otherwise provided in article 4, income derived from the transfer or granting of licences for the utilization of copyrights or rights in respect of patents, trade marks, samples, technical projects, processes and experiments, formulae etc., including charges for the hire of films or for the use of industrial, commercial or scientific equipment shall be taxable in accordance with article 2, paragraph (1). The same shall apply to property derived from such rights.

(2) When a taxpayer has finally transferred his domicile from one State to the other, he shall cease to be liable in the first State to taxes dependent on residence as from the end of the calendar month in which such transfer of domicile occurred. Liability to pay taxes based on domicile shall start in the other State at the beginning of the calendar month following on the one during which the transfer of domicile took place.

(3) Students and those undergoing a period of apprenticeship or training, residing in one of the two States solely for purposes of study or training, shall not be liable to taxation in that State in respect of remittances received by them from relatives, scholarship funds or similar institutions domiciled in the other State, for the purposes of their maintenance, studies or training.

(4) Movable property held in usufruct shall be taxable only in the State where the usufructuary resides.

Ad Articles 2 to 8

(1) Save as otherwise provided in article 9, income taxable under the provisions of this Agreement in one of the two States shall not be taxable in the other State even by deduction at source.

(2) The present Agreement shall not limit the right of Switzerland to assess, at the rate corresponding to the aggregate income or aggregate property of the taxpayer, direct taxes on such portions of income or property as are taxable exclusively by it.

(3) If the taxpayer resides in the Netherlands, this State shall retain the right to assess direct taxes in respect of income and property for the entire portion taxable under its tax legislation, but it shall deduct from such assessment whichever of the two following sums is the lesser :

a. the sum of the taxes levied by Switzerland on the portions of income or property taxable in its territory in accordance with articles 3 to 8 inclusive of this Agreement; or

b. the portion of the tax assessed by the Netherlands corresponding to the ratio of the portions taxable in Switzerland in accordance with articles 3 to 8 inclusive of this Agreement to the total income or total property.

Ad Article 3

(1) The provisions of article 3 shall apply not only to income derived from the direct management or enjoyment of immovable property but also to income obtained from the renting, leasing or any other use of such property and also to income derived from the alienation of such immovable property, including, where applicable, property accessory thereto and livestock and equipment used in agriculture or forestry and included in such alienation.

(2) Immovable property forming part of trading capital shall be considered as immovable property within the meaning of article 3.

Ad Article 4

(1) The definition of permanent establishment within the meaning of article 4 shall not cover the maintenance of business relations solely through a representative who is completely independent and acts in his own capacity and in his own name. The same shall apply to the maintenance of a representative (agent) who, although working constantly in the territory of one State for an enterprise of the other State, is merely an intermediary unauthorized to conclude any business on behalf of and for the account of the person whom he represents.

(2) The fact that a representative (agent) within the meaning of the first paragraph has a stock of specimens, a stock sent out on consignment or a stock for delivery belonging to the enterprise represented does not constitute in the State of the representative a permanent establishment of the enterprise represented.

(3) Offices which merely purchase goods to supply one or more sales establishments or manufacturing or processing establishments operated in the territory of one State by an enterprise established in the other State shall not be deemed to be permanent establishments.

(4) The warehousing of goods by an enterprise of one of the two States with an enterprise of the other State for purposes of manufacture or processing and reconsignment, and their manufacture or processing and reconsignment by the person who manufactured or processed such goods shall not constitute a permanent establishment of the enterprise acting as principal within the meaning of article 4, paragraph (2).

(5) The holding of stock or of shares in co-operative societies or in " *sociétés à responsabilité limitée* ", or participation in the form of ownership of securities shall not constitute a permanent establishment for the owners of such securities, even if such ownership enables them to influence the management of the enterprise, as in the relationship between a parent company and a subsidiary company.

(6) If there are permanent establishments in both of the States, within the meaning of article 4, paragraph (3), when the income is apportioned 10 per cent to 20 per cent shall normally first be assigned to the head office of the enterprise where a substantial part of the management is concentrated.

(7) The property and profits of insurance companies which maintain permanent establishments in both States shall, after deduction from the income of 10 per cent in favour of the State where the head office of the enterprise is situated, be apportioned according to the ratio of the sum of the premiums of the permanent establishment to the total of the premiums received by the enterprise. The proceeds may also be apportioned, after deduction of 10 per cent in favour of the State where the head office of the permanent establishment is situated, by applying coefficients to the premiums of the permanent establishment based on the average proceeds of the large enterprises in the same branch of insurance in the State where the permanent establishment is situated.

(8) The taxable income may not exceed the total profits derived from industry, commerce, or handicrafts by the permanent establishment, including, where applicable, the profits or benefits accruing indirectly from the permanent establishment or allotted or granted to shareholders, to other participants or to persons of similar status, either by fixing disproportionate prices or by the granting of any other advantage that would not have been granted to a third party.

(9) In all other respects, the supreme administrative authorities shall come to special agreements for each particular case or particular groups of cases, as regards the division of fiscal jurisdiction within the meaning of the third paragraph of article 4.

Ad Article 5

A liberal profession shall mean any gainful independent activity not practiced as part of an enterprise, exercised independently in the sciences, arts, literature, teaching or education, and gainful occupation exercised independently by medical practitioners, lawyers, architects, engineers, accountants, tax consultants and patents agents.

Ad Article 8

The present Agreement shall not apply to pensions, widows' and orphans' pensions and other grants or benefits assessable in cash which are paid out to public servants of the Overseas Territories or to their relatives, even if payment is made through a public fund established in the Kingdom of the Netherlands.

Ad Article 9

(1) The expression " income from movable capital " shall apply both to income from securities (loan bonds, bonds entitling the holder to a share in profits and other bonds, whether or not secured by immovable property, government, bonds mortgage bonds, mortgage shares, shares, *actions de jouissance*, *bons*

de jouissance, founder's shares or other company shares in the form of securities) and to income from loans, deposits, cash securities or other capital assets and to membership shares in " *sociétés à responsabilité limitée* " or in co-operative societies.

(2) Within the meaning of article 9, a tax levied by deduction at source on the proceeds of movable capital shall be a tax which the person owing the said proceeds must pay for the reckoning of the person to whom the proceeds are due.

(3) The time limit of two years provided for in article 9, paragraph (2) shall be deemed to have been observed if the application for repayment is received by the competent authority of the State, where the applicant resided, within two years from the end of the calendar year in which the taxable payment fell due.

(4) The supreme administrative authorities of the two States shall agree on reimbursement procedure and in particular on the form of applications for reimbursement, the type of supporting documents to be produced by the applicant and the measures to be taken to prevent the making of improper applications for reimbursement.

(5) The following provisions shall apply, under article 9, paragraph (2), to the claims of members of diplomatic or consular representative bodies and to international organizations and their organs and officials.

a. Whosoever, being part of a diplomatic or consular representative body of one of the two States, resides officially in the other State, or in a State other than the Contracting States, and is a national of the State by which he is sent, shall be deemed to have his domicile in the latter State, if he is liable to payment of direct taxes on movable capital and on the proceeds thereof that are subject to taxation at the source in the other State.

b. International organizations, their organs and officials and diplomatic or consular staff, that are domiciled or reside in one of the two States and are there exempt from direct taxation on movable capital and on the proceeds thereof, shall not be entitled to reimbursement of taxes levied by deduction at the source in the other State.

(6) The State levying the tax shall make available to applicants for reimbursement of deducted tax the same means of legal redress as are available to its own taxpayers.

(7) The foregoing provisions shall not affect the right to reimbursement of taxes levied at the source that are granted by the State levying the tax. Unless otherwise agreed by the supreme administrative authorities of the two States, these rights may be exercised only according to the legislation of the State levying the tax.

Ad Article 11

(1) The procedure provided for in article 11, paragraph (1), may be applied before the taxpayer has exhausted all the stages of legal redress open to him; conversely the application of such procedure shall not preclude the taxpayer from resorting to all the means of redress accorded to him by law.

(2) The taxpayer shall, as a general rule, be required to lodge claims under article 11, paragraph (1), not later than one year after the end of the calendar year in which the existence of double taxation came to his notice as a result either of tax notifications or of other official decisions.

(3) The supreme administrative authority in the sense of article 11 is, in the case of Switzerland, the Federal Department of Finance and Customs (federal tax administration) and, in the case of the Netherlands, the Ministry of Finance (Director-General for Fiscal Affairs).

DONE in duplicate at The Hague, on 12 November 1951, in the Netherlands and French languages, both texts being equally authentic.

(*Signed*) STIKKER
(*Signed*) D. SECRÉTAN

ADDITIONAL PROTOCOL

to the Agreement signed on 12 November 1951 at The Hague between the Kingdom of the Netherlands and the Swiss Confederation for the avoidance of double taxation with respect to taxes on income and property

In accordance with article 1, paragraph (4) of the Agreement to-day concluded between the Kingdom of the Netherlands and the Swiss Confederation for the avoidance of double taxation with respect to taxes on income and property, the plenipotentiaries have agreed on the following supplementary provisions for the application of the Agreement to the Netherlands single capital levy to the Netherlands emergency tax on increases in fortune and to the Federal war profits tax :

(1) In levying the Netherlands single capital levy under the law of 11 July 1947 :

a. The Kingdom of the Netherlands may, notwithstanding article 2, paragraph (2) and (3) of the Agreement, apply article 4, clauses *b*, *c* and *d* of the above law to all natural persons who, on 1 January 1946, were Netherlands nationals, or who, if aliens, were not Swiss nationals on that date;

b. The Kingdom of the Netherlands shall not levy taxes on property that Switzerland is empowered to tax under articles 3 and 4 and article 5, paragraph (3) of the Agreement and that belongs to natural persons of Swiss

nationality domiciled in the Netherlands on 1 January 1946, nor on the movable property of such persons constituting their first or second national defence contribution.

c. The Kingdom of the Netherlands, notwithstanding article 10, paragraph (1) of the Agreement, shall reserve the right to levy the single capital levy on the Netherlands portions of the assets of bodies corporate established under Swiss law, with the exception of claims of every kind, whether or not secured by immovable property, of movable and of all other incorporeal assets.

(2) In levying the Netherlands emergency tax on increases in property under the law of 19 September 1946 :

a. The Kingdom of the Netherlands, notwithstanding article 2, paragraphs (2) and (3) of the Agreement, may apply article 3, clauses *b*, *c*, *d* and *e* of the above law to all natural persons who, on 1 January 1946, were Netherlands nationals or who, if aliens, were not Swiss nationals on that date.

b. The Kingdom of the Netherlands shall not tax increases in property accruing to an alien subject to this tax who is a Swiss national in respect of the portion of the property which Switzerland is empowered to tax under articles 3 and 4 and article 5, paragraph (3) of the Agreement;

c. The Kingdom of the Netherlands shall not tax increases in property occurring during the period when a taxpayer was domiciled in Switzerland within the meaning of article 2 of the Agreement. If a natural person liable to this tax is a Netherlands national, without at the same time being a Swiss national, the exemption shall not cover increases in property resulting fom fluctuations in the rates of exchange;

d. The Kingdom of the Netherlands shall not tax increases in property invested in permanent establishments and real estate situated in Switzerland belonging either to a body corporate under Swiss law or a body corporate under Netherlands law, if the greater part of the invested capital of such a body corporate is in Swiss hands.

(3) The Federal war profits tax, according to the Federal Council decree of 12 January 1940/19 July 1944, shall not be levied on war profits accumulated during the period when the taxpayer was domiciled in the Netherlands within the meaning of article 2 of the Agreement.

(4) Notwithstanding article 13 *a* of the Agreement, it is agreed that the Agreement is applicable to the Netherlands single capital levy, to the Netherlands emergency tax on increases in property and to the Federal war profits tax in every case which was not finally settled on 19 September 1946.

DONE in duplicate at The Hague, on 12 November 1951, in the Netherlands en French languages, both texts being equally authentic.

(*Signed*) STIKKER
(*Signed*) D. SECRÉTAN
