

No. 1795

**NETHERLANDS
and
NORWAY**

Agreement (with exchange of notes) for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital. Signed at The Hague, on 29 December 1950

Official texts of the agreement: Dutch and Norwegian.

Official text of the exchange of notes: English.

Registered by the Netherlands on 7 July 1952.

**PAYS-BAS
et
NORVÈGE**

Traité (avec échange de notes) tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur le capital. Signé à La Haye, le 29 décembre 1950

Textes officiels du traité: néerlandais et norvégien.

Texte officiel de l'échange de notes: anglais.

Enregistré par les Pays-Bas le 7 juillet 1952.

[TRANSLATION — TRADUCTION]

No. 1795. AGREEMENT¹ BETWEEN THE NETHERLANDS AND NORWAY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL. SIGNED AT THE HAGUE, ON 29 DECEMBER 1950

Her Majesty the Queen of the Netherlands, and

His Majesty the King of Norway, being desirous of concluding an agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital, have for this purpose appointed as their plenipotentiaries :

Her Majesty the Queen of the Netherlands :

Mr. D. U. Stikker, Her Minister of Foreign Affairs;

His Majesty the King of Norway :

Mr. Jens Steenberg Bull, His Envoy Extraordinary and Minister Plenipotentiary at The Hague,

Who, having communicated to each other their full powers, found in good and due form, have agreed on the following articles :

Article I

(1) The taxes which are the subject of the present Convention are :

(a) In the case of the Netherlands :

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

(b) In the case of Norway :

The State tax on income and capital, the additional State tax on capital, the defence tax, the communal tax on income and capital, the old age pension tax, the war pension tax, the tax on bank deposits and the seamen's tax (hereinafter referred to as "Norwegian tax").

¹ Came into force on 14 May 1952 by the exchange of the instruments of ratification, in accordance with article XXVIII.

(2) The present Convention shall apply also to any other taxes of a substantially similar character imposed by either Contracting State subsequently to the date of signature of the present Convention.

(3) In the event of appreciable changes in the fiscal laws of either of the Contracting States the competent authorities of the Contracting States will communicate with each other.

Article II

(1) As used in this Convention :

(a) The term " Netherlands " means only the Kingdom of the Netherlands in Europe ;

(b) The term " Norway " means the Kingdom of Norway ; the provisions of the Convention shall not, however, extend, to Svalbard and Jan Mayen, nor do they apply to the Norwegian dependencies outside Europe ;

(c) The terms " resident of the Netherlands " and " resident of Norway " mean :

As to individuals, respectively any individual who is resident in the Netherlands for the purposes of Netherlands tax, and any individual who is resident in Norway for the purposes of Norwegian tax, and

As to corporations, a corporation the business of which is managed and controlled respectively in the Netherlands or in Norway.

If an individual can be deemed to be a resident of both Contracting States the competent authorities of the Contracting States shall settle by special agreement where he shall be regarded as having his residence for the purpose of the present Convention. In this respect they shall take into consideration in which State his economic interests may be considered to be centred or, if this cannot be decided, his nationality ;

(d) The term " corporation " means a corporation, association or other organization or juridical entity ;

(e) The term " Netherlands enterprise " means an industrial or commercial enterprise or undertaking carried on in the Netherlands by a resident of the Netherlands and the term " Norwegian enterprise " means an industrial or commercial enterprise or undertaking carried on in Norway by a resident of Norway ;

(f) The term " permanent establishment ", when used with respect to an enterprise of one of the Contracting States, means a branch, 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 behalf of such enterprise. An enterprise of one of the Contracting States shall not be deemed to have a permanent establishment in the other

Contracting State merely because it carries on business dealings in such other Contracting State through a *bona fide* commission agent, broker or custodian acting in the ordinary course of his business as such. The fact that an enterprise of one of the Contracting States maintains in the other Contracting State a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute such fixed place of business a permanent establishment of such enterprise. When a corporation resident of one of the Contracting States has a subsidiary corporation which is a resident of the other Contracting State or which is engaged in trade or business in the other Contracting State such subsidiary corporation shall not, merely because of that fact, be deemed to be a permanent establishment of its parent corporation;

(g) The term “competent authority” means, in the case of the Netherlands, the Minister of Finance, and in the case of Norway, the Minister of Finance and Customs.

(2) In the application of the provisions of the present Convention by either of the Contracting States, any term which is not defined in the present Convention shall, unless the context otherwise requires, have the meaning which that term has under the laws of such Contracting State relating to the taxes which are the subject of the present Convention.

Article III

(1) Income from real property and royalties in respect of the operation of mines, quarries, or other natural resources, shall be taxable in the Contracting State in which such property, mines, quarries or other natural resources are situated.

(2) Gains derived from the sale or exchange of real property shall be taxable in the Contracting State in which such property is situated.

Article IV

(1) An enterprise of one of the Contracting States shall not be subject to taxation by the other Contracting State in respect of its industrial or commercial profits unless it is engaged in trade or business in the other Contracting State through a permanent establishment situated therein. If it is so engaged tax may be imposed by the other Contracting State on those profits, but only on so much of them as is attributable to that permanent establishment.

(2) Where an enterprise of one of the Contracting States is engaged in trade or business in the other Contracting State through a permanent establishment situated therein, there shall be attributed to such permanent establishment the industrial or commercial profits which it might be expected to derive 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.

(3) In determining industrial or commercial profits from sources within one of the Contracting States of an enterprise of the other Contracting State, no profits shall be deemed to arise from the mere purchase of goods or merchandise within the former Contracting State by such enterprise.

(4) The competent authorities of the Contracting States may lay down rules by agreement for the apportionment of industrial or commercial profits.

Article V

Where :

(a) An enterprise of one of the Contracting States participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

(b) The same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the Contracting States and an enterprise of the other Contracting State,

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 VI

Income which an enterprise of one of the Contracting States derives from the operation of ships or aircraft shall be exempt from taxation in the other Contracting State.

Article VII

(1) Dividends paid by a corporation which is a resident of the Netherlands to a resident of Norway, shall be exempt from Netherlands tax unless the dividends are attributable to a permanent establishment in the Netherlands.

(2) Norwegian tax on dividends paid by a corporation which is a resident of Norway to a resident of the Netherlands shall not exceed 10 per cent unless the dividends are attributable to a permanent establishment in Norway; provided that where the resident of the Netherlands is a corporation which controls,

directly or indirectly, not less than 50 per cent of the entire voting power of the corporation paying the dividends, the dividends shall be exempt from Norwegian tax unless they are attributable to a permanent establishment in Norway.

Article VIII

(1) Interest on bonds, securities, notes, debentures or any other form of indebtedness and royalties for the right to use copyrights, patents, designs, secret processes and formulas, trade marks, and other analogous property, and royalties for the use of industrial, commercial or scientific equipment, derived from sources within one of the Contracting States by a resident of the other Contracting State shall be exempt from tax imposed by the former State unless they are attributable to a permanent establishment in that State.

(2) Where any interest or royalty exceeds a fair and reasonable consideration in respect of the indebtedness or rights for which it is paid, the exemption provided by the present Article shall apply only to so much of the interest or royalty as represents such fair and reasonable consideration.

(3) Any capital sum derived from sources within one of the Contracting States from the sale of patent rights by a resident of the other Contracting State shall be exempt from tax in that first-mentioned State, unless they are attributable to a permanent establishment in that State.

Article IX

Remuneration for labour or personal services, performed by an individual, resident of one of the Contracting States, in the other Contracting State shall be taxable in the Contracting State, in which the labour or services are performed, in so far as is not otherwise provided in the following articles.

Article X

(1) A resident of the Netherlands shall be exempt from Norwegian tax upon compensation for labour or personal services performed within Norway if he is temporarily present within Norway for a period or periods not exceeding a total of one hundred eighty-three days during the taxable year and his compensation is received for labour or personal services performed as a worker or employee of, or under contract with, a resident of the Netherlands, carrying the actual burden of the remuneration.

(2) The provisions of paragraph (1) of this Article shall apply, *mutatis mutandis*, to a resident of Norway deriving compensation for labour or personal services performed within the Netherlands.

Article XI

An individual, resident of one of the Contracting States, shall not be subject to tax in the other Contracting State in respect of compensation for liberal and artistic professions, unless the individual performs his activity in the latter State through a permanent establishment.

Article XII

(1) Wages, salaries and similar compensation, and pensions and life annuities, paid either directly by, or from funds and institutions created by, one of the Contracting States or the political subdivisions thereof to individuals, resident of the other Contracting State shall be exempt from taxation in the latter State.

(2) Private pensions and life annuities derived from sources within one of the Contracting States and paid to individuals, residents of the other Contracting State, shall be exempt from taxation in the former State.

(3) The term "pensions" as used in this Article means periodic payments made in consideration for injuries received.

(4) The term "life annuities" as used in this Article means a stated sum payable periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Article XIII

Remunerations of a director, member of management, controlling committee or similar positions of a corporation resident of one of the Contracting States shall be taxable in the Contracting State in which the corporation is resident.

Article XIV

(1) A resident of one of the Contracting States shall be exempt from tax in the other Contracting State in respect of remuneration for services performed on ships or aircraft in international traffic.

(2) Individuals living on board of ships or aircraft without any real domicile in either of the Contracting States shall be deemed to be residents of the Contracting State in which the ship or the aeroplane has its home port.

Article XV

A professor or teacher, a resident of one of the Contracting States, who temporarily visits the other Contracting State for the purpose of teaching for a period not exceeding two years at a university, college, school or other educational institution in the other Contracting State, shall be exempted in such other Contracting State from tax on his remuneration for such teaching for such period.

Article XVI

A student or apprentice, a resident of one of the Contracting States, who temporarily visits the other Contracting State exclusively for the purposes of study or for acquiring business or technical experience shall not be taxable in the latter State in respect of remittances received by him from abroad for the purpose of his maintenance or studies.

Article XVII

It is agreed that double taxation shall be avoided in the following manner :

(a) The Netherlands in determining its taxes specified in Article I of the present Convention in the case of residents may, regardless of any other provision of the present Convention, include in the basis upon which such taxes are imposed all items of income taxable under the tax laws of the Netherlands as if the present Convention had not come into effect. As far as may be in accordance with the provisions of Netherlands law, the Netherlands agree to allow a deduction from Netherlands tax with respect to income which under the foregoing provisions of the present Convention is liable to Norwegian tax.

(b) Norway in determining its taxes specified in Article I of the present Convention in the case of residents may, regardless of any other provision of the present Convention, include in the basis upon which such taxes are imposed all items of income taxable under the tax laws of Norway as if the present Convention had not come into effect. Norway shall, however, deduct from the taxes so calculated that portion of such tax liability which that part of the taxpayers income which under the foregoing provisions of the present Convention is liable to Netherlands tax, bears to his entire income. The competent authority of Norway may, however, decide that the deduction shall not exceed the Netherlands tax on income taxable in the Netherlands.

Article XVIII

(1) Where under the provisions of the present Convention a resident of the Netherlands is exempt or entitled to relief from Norwegian tax, similar exemption or relief shall be applied to the undivided estates of deceased persons in so far as one or more of the beneficiaries is a resident of the Netherlands.

(2) In so far as the income of an undivided estate of a deceased person under the provisions of the present Convention is liable to Norwegian tax and accrues to a beneficiary who is resident in the Netherlands, the Netherlands shall allow a deduction in conformity with letter *a* of Article XVII of the present Convention.

Article XIX

As to the capital taxes mentioned in Article I of the present Convention the principles laid down in the Articles III, IV, VI and XI shall apply in so far as the capital consists of real property, is employed in industrial and commercial enterprises, in enterprises operating ships or aircraft, or in liberal and artistic professions. All other kinds of capital shall be taxable in the Contracting State of which the taxpayer is a resident.

Article XX

The competent authorities of the Contracting States shall exchange such information (being information which such authorities have in proper order at their disposal) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than persons (including a court) concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

Article XXI

(1) The Contracting States undertake to lend assistance and support to each other in the collection of the taxes which are the subject of the present Convention, together with interest, costs, and additions to the taxes and fines not being of a penal character.

(2) In the case of applications for enforcement of taxes, revenue claims of each of the Contracting States which have been finally determined shall be accepted for enforcement by the other Contracting State and collected in that

State in accordance with the laws applicable to the enforcement and collection of its own taxes, provided that such claims shall not enjoy priority in the latter State. Norwegian revenue claims shall be regarded as finally determined, when they can no longer be altered on administrative appeal. The State to which application is made shall not be required to enforce executory measures for which there is no provision in the law of the State making the application.

(3) Any application shall be accompanied by documents establishing that under the laws of the State making the application the taxes have been finally determined as provided in paragraph (2) of the present Article.

(4) The assistance provided for in the present Article shall not be accorded with respect to nationals or corporations of the State to which application is made.

Article XXII

(1) In no case shall the provisions of Articles XX and XXI be construed so as to impose upon either of the Contracting States the obligation :

(a) To carry out administrative measures at variance with the regulations and practice of either Contracting State, or

(b) To supply particulars which are not procurable under its own legislation or that of the State making application.

(2) The State to which application is made for information or assistance shall comply as soon as possible with the request addressed to it. Nevertheless, such State may refuse to comply with the request for reasons of public policy. In such case it shall inform, as soon as possible, the State making the application.

Article XXIII

The agreement dated January 11th, 1929,¹ between the Netherlands and Norway for the reciprocal exemption from income tax, in certain cases, of profits accruing from the business of shipping shall not have effect in relation to any tax for any period for which the present Convention has effect as respects that tax.

Article XXIV

Where the action of the revenue authorities of the Contracting States has resulted or will result in double taxation contrary to the provisions of the present Convention, the taxpayer shall be entitled to lodge a claim with the State of which he is a national or, if he is not a national of either of the Contracting States, with the State of which he is a resident. Should the claim be upheld,

¹ League of Nations, *Treaty Series*, Vol. LXXXV, p. 409.

the competent authority of such State shall undertake to come to an agreement with the competent authority of the other State with a view to equitable avoidance of the double taxation in question.

Article XXV

(1) The nationals of one of the Contracting States shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other, higher or more burdensome than the taxation and connected requirements to which the nationals of the latter State, residing in its territory, are or may be subjected.

(2) In this Article the term "nationals" means :

(a) In relation to the Netherlands :

- (i) All Netherlands nationals;
- (ii) All Netherlands subjects, residents of the Netherlands;
- (iii) All Netherlands corporations.

(b) In relation to Norway :

All Norwegian nationals and all Norwegian corporations.

Article XXVI

(1) The provisions of the present Convention shall not be construed to restrict in any manner any exemption, deduction, credit or other allowance accorded by the laws of one of the Contracting States in the determination of the tax imposed by such State.

(2) Should any difficulty or doubt arise as to the interpretation or application of the present Convention, the competent authorities of the Contracting States shall undertake to settle the question by mutual agreement.

Article XXVII

(1) The competent authorities of each of the Contracting States, in accordance with the practices of that State, may prescribe regulations necessary to carry out the provisions of the present Convention.

(2) With respect to the provisions of the present Convention relating to exchange of information and mutual assistance in the collection of taxes, the competent authorities may, by common agreement, prescribe rules concerning matters of procedure, forms of application and replies thereto, conversion of currency, disposition of amounts collected, minimum amounts subject to collection, and related matters.

(3) The competent authorities of the Contracting States may communicate with each other directly for the purpose of giving effect to the provisions of the present Convention.

Article XXVIII

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Oslo as soon as possible.

(2) Upon exchange of ratifications the present Convention shall have effect :

In the Netherlands :

As respects income and capital taxes for any taxable year beginning after 31st December 1949;

As respects the company tax for any chargeable accounting period beginning after the 31st December 1949, and for the unexpired portion of any chargeable accounting period current at that date;

As respects taxes withheld at the source for the calendar year 1950 and subsequent years.

In Norway :

As respects income tax for the taxable years beginning after 31st December 1949 and

As respects capital tax for such tax assessed on the basis of the capital on or after the 31st December 1950.

Article XXIX

The present Convention shall continue in effect indefinitely but either of the Contracting States may, on or before the 30th June in any calendar year not earlier than the year 1955, give to the other Contracting State, through diplomatic channels, written notice of termination and in such event, the present Convention shall cease to be effective :

(a) In the Netherlands :

As respects income and capital taxes for any taxable year beginning after the end of the calendar year in which the notice is given;

As respects the company tax for any chargeable accounting period beginning after the end of the calendar year in which the notice is given, and for the unexpired portion of any accounting period current at the end of that year,

And as respects any other taxes for any calendar year following that in which the notice is given.

(b) In Norway :

As respects income tax for the taxable years beginning after the 31st of December in the calendar year in which the notice is given and as respects

capital tax for such tax assessed on the basis of the capital after 31st of December of the same year.

IN WITNESS WHEREOF the above-mentioned Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

DONE at The Hague, 29 December 1950, in duplicate, in the Netherlands and Norwegian languages.

(Signed) STIKKER

(Signed) Jens BULL

EXCHANGE OF NOTES

I

MINISTRY OF FOREIGN AFFAIRS
EUROPEAN DEPARTMENT
WESTERN EUROPE SECTION

The Hague, December 29th, 1950

Sir,

Referring to the Netherlands-Norwegian Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital, which convention has been signed today, I may propose that the following reservation be made in connection with art. XX of this convention :

“ It is understood that the obligation to exchange information does not include information obtained from banks or institutions assimilated therewith.”

I should appreciate Your Excellency confirming the approval of the Norwegian Government.

Accept Sir, the renewed assurances of my high consideration.

(Signed) STIKKER

His Excellency Mr. Jens Bull
Envoy extraordinary and Minister plenipotentiary
of Norway at The Hague

II

LÉGATION ROYALE DE NORVÈGE

The Hague, December 29th, 1950

Sir,

I have the honour to acknowledge receipt of Your Excellency's letter of today, which reads as follows :

[See note I]

I have the honour to inform Your Excellency of the agreement of my Government with the reservation described in Your above-quoted letter.

Accept Sir, the renewed assurances of my highest consideration.

(Signed) Jens BULL

His Excellency Dr. D. U. Stikker
Minister for Foreign Affairs of The Netherlands
The Hague