

No. 1821

NETHERLANDS
and
UNITED STATES OF AMERICA

Exchange of notes (with memorandum) constituting an agreement concerning relief from taxes on United States expenditures in the Netherlands for the common defense. The Hague, 7 March 1952

Official text: English.

Registered by the Netherlands on 5 August 1952.

PAYS-BAS
et
ÉTATS-UNIS D'AMÉRIQUE

Échange de notes (avec mémorandum) constituant un accord portant exonération fiscale pour les dépenses effectuées aux Pays-Bas par les États-Unis aux fins de la défense commune. La Haye, 7 mars 1952

Texte officiel anglais.

Enregistré par les Pays-Bas le 5 août 1952.

No. 1821. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE NETHERLANDS AND THE UNITED STATES OF AMERICA CONCERNING RELIEF FROM TAXES ON UNITED STATES EXPENDITURES IN THE NETHERLANDS FOR THE COMMON DEFENSE. THE HAGUE, 7 MARCH 1952

I

The Minister of Foreign Affairs of the Netherlands to the American Ambassador

MINISTRY OF FOREIGN AFFAIRS

No. 3974

The Hague, March 7, 1952

Sir,

Conversations between representatives of the Government of the United States of America and the Government of the Kingdom of the Netherlands with regard to the former Government's request for relief from taxes on United States expenditures for the common defense, as formulated in the United States Embassy's Note number 301 of November 19, 1951, have led to mutual concurrence. Conclusions reached have been confirmed with a memorandum of which a copy is enclosed herewith.

This opportunity is taken to establish the Netherlands Government's interpretation of the following points :

1. The Netherlands Government assume that the term ' any foreign aid program of the United States ' relates to the United States aid programs within the framework of the common defense effort.
2. The Netherlands Government assume that relief granted by the present memorandum does not relate to the purchase by Post Exchanges of supplies, including cigars, cigarettes and beer, for the personal use of any United States forces stationed in the Netherlands, or to purchases by individual members of such forces in the Netherlands.

¹ Came into force on 7 March 1952 by the exchange of the said notes.

I shall appreciate receiving your concurrence in the memorandum and the interpretations contained herein.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

(Signed) STIKKER

His Excellency Selden Chapin
Ambassador Extraordinary and Plenipotentiary
of the United States of America
at The Hague

MEMORANDUM ON TAX RELIEF

Recently discussions have been held between the Government of the United States of America and the Government of the Kingdom of the Netherlands on the subject of Netherlands taxation insofar as it may affect expenditures of the Government of the United States for the common defense. These discussions have resulted in certain understandings, which I am pleased to communicate to you as the undertakings of the Government of the Netherlands.

1. Relief will be granted by the Government of the Netherlands to the Government of the United States from Netherlands taxes specified below and to the extent and in the manner there stated. Such tax relief will be applied to all United States expenditures in the Netherlands for equipment, materials, facilities and services for the common defense effort, including expenditures for any foreign aid program of the United States.

The United States expenditures in question consist of expenditures

(a) for equipment, materials, facilities and services purchased in the Netherlands, whether for United States forces, for Netherlands forces, or for the forces of other countries;

(b) for infrastructure facilities in the Netherlands whether to be used multilaterally by NATO forces, by United States forces alone, or by United States forces in conjunction with Netherlands forces;

(c) for any foreign aid program of the Government of the United States.

2. The tax relief in connection with such expenditures will apply to

(a) turnover taxes, and

(b) import taxes and duties on any imported articles, or imported components used in the production of articles,

insofar as relief from such taxes and duties would be accorded if the articles were exported from the Netherlands, whether or not they are retained in the Netherlands or are in fact exported.

3. The laws in the Netherlands with regard to social security and other contributions related to the employment of individuals are not affected by this Agreement.

4. (a) With regard to such expenditures made under contracts concluded, with Netherlands suppliers and financed directly by the Government of the United States, the tax relief accorded under this memorandum shall be provided in such manner that payments by the Government of the United States under such contracts shall be net of the duties and taxes specified in paragraph 2.

(b) With respect to infrastructure facilities and any other program for which the Government of the Netherlands act as procuring agency and receives reimbursement in whole or in part from the Government of the United States, such reimbursement will be net of the duties and taxes specified in paragraph 2. Tax relief for such expenditures for infrastructure facilities cannot, however, for technical reasons be realised by means of an exemption from taxes. Therefore, in such cases the applicable taxes will be added to the costs borne by the Government of the Netherlands.

5. With respect to any Netherlands taxes not specifically referred to in this memorandum, which may be found to be applicable to expenditures in the categories embraced in this memorandum, or with respect to any expenditures of the Government of the United States of types not referred to in this memorandum, the two Governments will discuss whether relief from such taxes, or inclusion of such expenditures, would be consistent with the principles underlying this memorandum. If so, the two Governments will agree upon procedures for providing relief from such taxes or inclusion of such expenditures.

6. This memorandum is not intended to affect tax relief provided by the Government of the Netherlands in accordance with existing agreements, such as the Mutual Defense Assistance Agreement of January 27, 1950,¹ nor is it intended that the Agreement signed in London on June 19, 1951, on the status of NATO forces should affect the understandings contained in this memorandum.

7. The relief to be accorded hereunder is applicable to all expenditures of the types covered by this memorandum made after the date of this memorandum.

8. In the event of the Government of the United States considering that any tax imposed in an overseas part of the Kingdom of the Netherlands affects expenditures of the types covered by this memorandum, the Government of the Netherlands will, at the request of the Government of the United States, consult the authorities of the overseas part of the Realm concerned regarding the possibility of obtaining for the Government of the United States appropriate relief similar to that outlined in this memorandum.

The Hague, March 7, 1952.

¹ United Nations, *Treaty Series*, Vol. 80, p. 219.

II

The American Ambassador to the Minister of Foreign Affairs of the Netherlands

AMERICAN EMBASSY

No. 524

The Hague, Netherlands, March 7, 1952

Excellency :

I have the honor to acknowledge receipt of Your Excellency's Note dated March 7, 1952, and reading as follows :

[Here follows the text of the " Memorandum on tax relief ". See note I]

I also have the honor to acknowledge receipt of Your Excellency's letter of January 7, 1952,¹ and reading as follows :

[See note I]

I have the honor to confirm that the provisions contained in the Note quoted above and the interpretations contained in Your Excellency's letter are acceptable to the Government of the United States, and that the aforementioned Note and the present reply constitute an agreement between the Governments of the United States of America and the Kingdom of the Netherlands.

Please accept, Excellency, the renewed assurances of my highest consideration.

(Signed) Selden CHAPIN

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

¹ The following information is provided in *Tractatenblad van het Koninkrijk der Nederlanden*, 12 (1952) No. 1, p. 4, footnote 1 : "The correct date is March 7, 1952."