

No. 2743

NETHERLANDS
and
FRANCE

**Agreement (with Additional Protocol and exchange of notes)
for the avoidance of double taxation resulting from
the application of the extraordinary taxes on property,
or on accretions thereto, levied in France and the
Netherlands. Signed at Paris, on 30 December 1949**

Official texts of the Agreement and Additional Protocol: French and Dutch.

Official text of the Exchange of notes: French.

Registered by the Netherlands on 2 February 1955.

PAYS-BAS
et
FRANCE

**Convention (avec Protocole additionnel et échange de notes)
tendant à éviter les doubles impositions résultant de
l'application des impôts extraordinaires sur la fortune
ou sur l'accroissement de fortune établis en France et
aux Pays-Bas. Signée à Paris, le 30 décembre 1949**

Textes officiels de la Convention et du Protocole additionnel: français et néerlandais.

Texte officiel de l'échange de notes: français.

Enregistrée par les Pays-Bas le 2 février 1955.

[TRANSLATION — TRADUCTION]

No. 2743. AGREEMENT¹ BETWEEN THE NETHERLANDS AND FRANCE FOR THE AVOIDANCE OF DOUBLE TAXATION RESULTING FROM THE APPLICATION OF THE EXTRAORDINARY TAXES ON PROPERTY, OR ON ACCRETIONS THERETO, LEVIED IN FRANCE AND THE NETHERLANDS. SIGNED AT PARIS, ON 30 DECEMBER 1949

The President of the French Republic,
and Her Majesty the Queen of the Netherlands,

Desiring to avoid as far as possible that property which belongs to individuals or bodies corporate, domiciled or established in one of the two States, and which is in fact or in law situated in the other State, should be subjected both to the national solidarity tax instituted by the French Ordinance of 15 August 1945 and to the extraordinary taxes on property and on accretions thereto instituted by the Netherlands Acts of 19 September 1946 and 11 July 1947, have decided to conclude an agreement and have for this purpose appointed as their respective plenipotentiaries :

The President of the French Republic :

Mr. Robert Schuman, Minister of Foreign Affairs

Her Majesty the Queen of the Netherlands,

His Excellency, Baron C. G. W. H. Van Boetzelaer Van Oosterhout,
Ambassador Extraordinary and Plenipotentiary to the French Republic,

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

A. TAXES ON PROPERTY

Article I

The classes of property hereinafter designated belonging to individuals shall be subject to taxation as follows :

(a) Immovable property and corporeal chattels other than gold and metallic or fiduciary currency situated in one of the two States shall be taxable in that State ;

¹ Came into force on 22 May 1954, in accordance with the terms of article IX, the instruments of ratification having been exchanged at The Hague on 21 May 1954.

(b) Business or industrial undertakings operated in one of the two States shall be taxable in that State.

In this connexion a business or industrial undertaking shall include, *inter alia*, the plant, merchandise, leasehold rights, good-will, patents and trade marks and other intangible assets and also claims on sundry debtors, securities and bank deposits connected therewith.

Branches, factories, workshops, workrooms, sale offices and warehouses managed by non-independent agents and situated in one of the two States and subsidiary to an establishment having its centre of management in the other State shall for the purposes of this article be deemed to be separate commercial or industrial undertakings and shall be taxable in the State where they are situated.

Article II

All other property belonging to an individual shall be taxable only in the State in which the individual in question is domiciled.

The foregoing provisions shall apply, *inter alia*, to government securities, stocks, debentures and shares issued by any organizations, companies or bodies whatsoever debts whether secured by a mortgage or unsecured, bank deposits, gold and metallic or fiduciary currency.

Article III

Companies and other juristic persons having their centre of management in one of the two States shall be taxable in that State only.

B. TAXES ON ACCRETIONS TO PROPERTY

Article IV

Individuals and juristic persons domiciled or having their centre of management in one of the two States shall be taxable in that State only.

C. COMMON PROVISIONS

Article V

For the purposes of the present Convention groups of individuals who do not under Netherlands law possess juristic personality shall nevertheless be treated as juristic persons.

Article VI

The question of ascertaining in which contracting State the taxpayer is domiciled for the purposes of the present Convention shall be settled according to the law in each of the two States governing extraordinary taxes on patrimony or on accretions to property.

The provisions of article 3, sub-paragraphs *c*, *d* and *e*, of the Netherlands Act of 19 September 1946 (*Official Gazette*, No. G264) and of article 4, subparagraphs *b* and *c*, of the Netherlands Act of 11 July 1947 (*Official Gazette*, No. H238) shall not apply to persons who were by French law reputed to be domiciled in France on 4 June 1945.

Article VII

(1) Where a taxpayer shows proof that the action of the revenue authorities of the two contracting States has resulted in subjecting him to double taxation, he shall be entitled to lodge a claim with the competent authority of the State of which he is a national. If the claim is allowed, such authority shall endeavour to come to an agreement with the competent authority of the other State with a view to equitable avoidance of such double taxation.

(2) The competent authorities of the two contracting States may likewise agree for the prevention of double taxation in cases not governed by the present Convention, and also in the event of difficulties or doubts arising in regard to the interpretation thereof.

Article VIII

The two contracting States shall exchange such fiscal information as they may possess which might be useful to one another in the proper assessment and collection of the taxes covered by this Convention and in applying, as regards the taxes in question the statutory provisions for the prevention of fraud on the revenue.

All information thus exchanged shall be regarded as secret and shall not be divulged to persons other than those whose duty it is to assess and collect the taxes covered by the present Convention.

The provisions of this article shall in no case be construed as obliging either of the two contracting States to communicate to the other any information which its own taxation laws do not permit it to obtain, or which if produced would involve the violation of an industrial, commercial or professional secret.

These provisions shall likewise not be construed as obliging either of the two contracting States to take administrative action which is not consistent with its own rules and practices.

Article IX

(1) The present Convention, done in duplicate in French and in Dutch shall be ratified and the instruments of ratification shall be exchanged as soon as possible at The Hague.

(2) The Convention shall enter into force on the day following the exchange of the instruments of ratification.

IN WITNESS WHEREOF the plenipotentiaries of the two States have signed the present Convention and have affixed their seals thereto.

DONE in Paris, 30 December 1949.

(Signed) SCHUMAN

(Signed) W. VAN BOETZELAER

ADDITIONAL PROTOCOL

On proceeding to sign the present Convention for the avoidance of double taxation resulting from the application of extraordinary taxes on property or on accretions thereto, the undersigned plenipotentiaries have made the following joint declaration, which shall form an integral part of the Convention itself :

It is hereby agreed that the exchange of information as provided in Article VIII of the Convention shall take place only in so far as the documents available to the administrative authorities of the two States are normally utilised by the said authorities.

DONE in duplicate in Paris, 30 December 1949.

(Signed) SCHUMAN

(Signed) W. VAN BOETZELAER

EXCHANGE OF NOTES

I

MINISTRY OF FOREIGN AFFAIRS

Paris, 30 December 1949

Sir,

Articles XXII and VIII of the Agreements for the avoidance of double taxation with respect to taxes on income¹ and with respect to extraordinary taxes on property and accretions to property respectively signed on 30 December 1949 provide that the Contracting States will exchange such information as may be of use to them in ensuring the normal application of the taxes to which they relate.

These articles are, however, couched in general terms and do not specify in detail the information to be exchanged by the tax authorities of the two countries.

During the negotiations which led to the signing of the Agreements the Netherlands delegation and the French delegation recognized that it would be

¹ See p. 85 of this volume.

useful to specify in an exchange of letters between the Governments of the Contracting States the precise nature of this information and the circumstances in which it should be exchanged.

I have the honour to inform you that the French Government assents to the following provisions on which the delegations agreed during their conversations.

The Netherlands and French Governments consider that schedules A and B, listing certain information to be supplied by the two administrations constitute the application of article XXII of the Agreement concerning double taxation with respect to taxes on income and article VIII of the Agreement concerning double taxation with respect to extraordinary taxes on property and accretions to property.

Each Government reserves the right to request the Government of the other State to adapt these schedules to any new circumstances that may arise. After discussion, and except as provided in the articles referred to, the schedules may be amended and supplemented by mutual agreement.

The Netherlands Government has informed the French Government that it cannot in present circumstances supply the French authorities with the information which might be available to it from banks or institutions of a similar character (in particular, insurance companies) regarding third persons.

The French Government accepts this view and refers in this connexion to the right reserved to it in the penultimate paragraph above.

Subject to these comments, the schedules of information drawn up by mutual agreement are herewith reproduced :

SCHEDULE A

EXCHANGE OF INFORMATION UNDER ARTICLE XXII OF THE AGREEMENT CONCERNING DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME

The tax authorities of each State will transmit in the ordinary course the following information to the tax authorities of the other State, in the form of abstracts of instruments or registrations or information circulars :

1. Instruments relating to the establishment of, changes in or dissolution of companies or partnerships other than joint-stock companies when at least one of the members has his fiscal domicile in the other State.

2. (a) In the case of the Netherlands, any entries in or removals from the registers of the chambers of commerce of enterprises wholly or partly owned by persons who have their fiscal domicile in France.

(b) In the case of France, any transfers of business undertakings wholly or partly acquired from or conveyed to persons domiciled in the Netherlands.

3. Deeds of sale, gift, licitation, partition, exchange, composition or lease and in general any transfer or assignment of property, usufruct or use involving real properties situated in the other State or concluded by persons domiciled in that State.

4. The establishment of any mortgage claims in favour of persons domiciled in the other State, cessions, subrogations, transfers by gift, succession or legacy and partitions involving the transfer or assignment of such claims to such persons.

5. Marriage contracts, when one or both of the spouses were born or are domiciled in the other country or when the property given or settled is wholly or partly situated therein; wills, when the testator lives in the other country; in short, all contingent disposals or any deed conditional on the contingency of decease which might concern property situated in that country.

6. Inventories drawn up after decease occurring on the territory of the other State, when such records refer to or account in detail for title to personal or real property owned by the deceased in that State.

7. Information appearing in statements concerning the estate of the deceased or in deeds of gift relating to conveyances of property included in the estate of persons domiciled in France or delivered to persons domiciled in France.

8. Information appearing in statements concerning the estate of the deceased or in deeds of gift relating to indebtedness to persons domiciled in the other country.

9. Any information which the tax authorities of either country may gather relating to the distribution of profits earned by undertakings with permanent establishments in both countries, as provided for in articles IV to VII of the Agreement concerning double taxation with respect to taxes on income.

10. Information on salaries, wages, pensions and life annuities paid in one State to persons domiciled in the other.

11. Any information which the authorities of one State may be able to gather relating to real property owned in that State by physical persons or bodies corporate domiciled in the other State.

12. Information—obtained from declarations made by the payers—on the interest on debts and income (personal and real property, fees for the use of patents, designs, trade-marks, secret manufacturing processes or formulae, industrial, commercial or agricultural profits and the like), whether steady or variable, having their source in one State and accruing to persons domiciled in the other.

13. (a) In the case of the Netherlands, the list of those French nationals domiciled in France who are liable to the tax on real property and the taxes on income and property in the Netherlands, with their addresses.

(b) In the case of France, the list of those Netherlands nationals domiciled in the Netherlands who are liable to the individual income tax (proportional tax and progressive surtax) or to the tax on associations of persons, with their addresses.

In addition to the information exchanged in the ordinary course under the foregoing provisions, the administration of either country may request from that of the other information on specific cases, subject to the reservations set forth in Article XXII of the Agreement concerning taxes on income.

SCHEDULE B

EXCHANGE OF INFORMATION MORE PARTICULARLY DESIGNED TO ENSURE THE APPLICATION OF THE AGREEMENT CONCERNING DOUBLE TAXATION WITH RESPECT TO EXTRAORDINARY TAXES ON PROPERTY AND ACCRETIONS TO PROPERTY

For the purposes of the collection of extraordinary taxes, the tax administrations of each State will reciprocally supply each other with the following information, the Netherlands in respect of taxpayers domiciled in France, France in respect of taxpayers domiciled in the Netherlands :

I. *Information supplied in the ordinary course*

(1) Information on infringements of the foreign exchange legislation between 1940 and 1945 inclusive.

(2) Information on the changing of banknotes.

(3) Information on mortgage claims on property situated in either country.

(4) Information on any other claims, when the debtor is not a bank, in so far as the existence of such claims is disclosed by the examination of declarations made for the purpose of the assessment of the extraordinary taxes.

(5) Information on any indebtedness of taxpayers incurred as a result of contracts for licences or other contracts entailing the payment of royalties, and on life annuities paid to persons domiciled in either country in so far as such information is disclosed by the examination of declarations made for the purpose of the assessment of the extraordinary taxes.

(6) The names and addresses of persons suspected of collaboration with the enemy during the occupation.

(7) The information referred to in paragraphs 2, 3, 4 and 5 shall be supplied only when it concerns cash or securities of a capital value exceeding 2,000 florins or 100,000 francs, or, in the case of life annuities or royalties, when it concerns annuities or royalties amounting to 500 florins or 25,000 francs, or more, annually.

As regards paragraphs 3, 4 and 5, the information shall take into account the situation existing on 4 June 1945 in the case of France and on 1 January 1946 in the case of the Netherlands.

II. *Information supplied on request*

(1) All information possible about persons who collaborated with the enemy during the occupation.

(2) Information which would have been supplied in the ordinary course for the assessment of the annual taxes if the Agreement concerning taxes on income had been applicable as of 1 January 1940, in so far as such information relates to acts, events or situations subsequent to 31 December 1939.

(3) Any other information relating to property which can be supplied subject to the provisions of article VIII of this Agreement.

I should be grateful if you would inform me whether these provisions are agreeable to the Netherlands Government also.

I have the honour to be, etc.

(Signed) SCHUMAN

H. E. Baron Van Boetzelaer Van Oosterhout
Ambassador of the Netherlands
Paris

II

EMBASSY OF THE NETHERLANDS

No. 17648

Paris, 30 December 1949

Sir,

I have the honour to acknowledge the receipt of your letter dated 30 December 1949 and to confirm that the Government of the Netherlands accepts in their entirety the provisions embodied therein. They are as follows :

[See note I]

I have the honour to be, etc.

(Signed) W. VAN BOETZELAER

H. E. Mr. Robert Schuman
Minister of Foreign Affairs
Paris