



Treaty Series No. 83 (1971)

Exchange of Notes

between the

Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of the Netherlands extending to the Netherlands Antilles the Convention of 31 October 1967 for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital

The Hague, 24 July 1970

[The Exchange of Notes entered into force on 18 January 1971]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
November 1971*

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**EXCHANGE OF NOTES
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS
EXTENDING TO THE NETHERLANDS ANTILLES THE
CONVENTION OF 31 OCTOBER 1967 FOR THE AVOIDANCE
OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES ON INCOME AND
CAPITAL**

No. 1

*Her Majesty's Ambassador at The Hague to the
Minister for Foreign Affairs of the Netherlands*

*British Embassy,
The Hague.*

24 July, 1970.

Your Excellency,

I have the honour to refer to the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of the Netherlands for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital, signed at London on 31st October, 1967,⁽¹⁾ and to propose, upon the instructions of Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs, that, in accordance with the provisions of paragraph (1) of Article 30, the Convention shall be extended to the Netherlands Antilles by an agreement in the following terms:

- (1) In the present agreement the "1967 Convention" means the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of the Netherlands for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital, signed at London on 31st October, 1967.
- (2) The provisions of the 1967 Convention shall apply:
 - (a) as if the Contracting Parties were the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Netherlands Antilles;
 - (b) as if references to the Netherlands were (except where the context otherwise requires) references to the Netherlands Antilles;
 - (c) as if the taxes referred to in sub-paragraph (b) of paragraph (1) of Article 2 were the income tax (inkomstenbelasting), the profits tax (winstbelasting) and the surtaxes on the income and profits taxes;
 - (d) as if sub-paragraph (b) of paragraph (1) of Article 3 were deleted and replaced by the following:

(1) Treaty Series No. 50 (1968), Cmnd. 3667.

“(b) the term “Netherlands Antilles” means the part of the Kingdom of the Netherlands that is situated in the Caribbean area and consisting of the islands Aruba, Bonaire, Curaçao, Saba, St. Eustatius and St. Martin (Dutch part) and the part of the sea bed and its sub-soil under the Caribbean Sea over which the Kingdom of the Netherlands has sovereign rights in accordance with international law;”;

- (e) as if the term “taxation authorities” meant in the case of the Netherlands Antilles the Minister of Finance (de Minister van Financiën) or his authorised representative;
- (f) as if paragraph (2) of Article 11 were deleted and replaced by the following:

“(2) However, such dividends may be taxed in the State of which the company paying the dividends is a resident, and according to the law of that State, but where such dividends are beneficially owned by a resident of the other State the tax charged shall not exceed 15 per cent of the gross amount of the dividends.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.”;

- (g) as if paragraph (7) of Article 11 were deleted;
- (h) as if sub-paragraph (b) of paragraph (1) of Article 26 were deleted;
- (i) as if in sub-paragraph (a) of paragraph (2) of Article 26 any reference to Netherlands income tax were a reference to Netherlands Antilles income tax and any reference to Netherlands company tax were a reference to Netherlands Antilles profits tax;
- (j) as if in sub-paragraph (b) of paragraph (2) of Article 26 the reference to Article 11, paragraph (2) were deleted;
- (k) as if sub-paragraph (b) of paragraph (2) of Article 27 were deleted and replaced by the following:

“(b) in relation to the Netherlands Antilles:

- (i) all individuals possessing the Netherlands nationality;
- (ii) all legal persons, partnerships, associations and other entities deriving their status as such from the law in force in the Netherlands Antilles.”;

- (l) as if Article 30 were deleted and replaced by the following:

“ARTICLE 30

Restriction of relief

Notwithstanding the provisions of Articles 11, 12 and 13 of this Convention nothing in this Convention shall give a title to any relief from United Kingdom tax on any dividend, interest or royalty

which enjoys any of the special tax benefits provided under the Netherlands Antilles National Ordinance on Profits Tax of 1940 as in force at 1st November, 1969 (that is to say the benefits provided under Article 13, Article 14 or Article 14A of that Ordinance but not the relief provided under Article 8A of that Ordinance while that relief remains in substantially the form in force at 1st November, 1969), or which enjoys any similar tax benefits granted under any law of the Netherlands Antilles enacted after that date.”;

(m) as if Article 31 and Article 32 were deleted

(3) On its entry into force the present agreement shall have effect:

(a) in the United Kingdom:

(i) in respect of income tax (including surtax) and capital gains tax, for any year of assessment beginning on or after 6th April, 1970;

(ii) in respect of corporation tax, for any financial year beginning on or after 1st April, 1970;

(b) in the Netherlands Antilles:

in respect of any taxes for taxable years and periods beginning on or after 1st January, 1970.

(4) Each of the Contracting Parties shall notify the other in writing of the completion of the procedures required by its law to give effect to the present agreement in its territories. The present agreement shall enter into force⁽²⁾ on the date of the later of these notifications and shall remain in force indefinitely unless denounced by one of the Contracting Parties on or before the thirtieth day of June in any calendar year after the year 1970.

(5) In the event of its denunciation the present agreement shall cease to have effect:

(a) in the United Kingdom:

(i) as respects income tax (including surtax) and capital gains tax, for any year of assessment beginning on or after 6th April in the calendar year next following that in which the notice is given;

(ii) as respects corporation tax, for any financial year beginning on or after 1st April in the calendar year next following that in which the notice is given;

(b) in the Netherlands Antilles:

for any taxable year or period beginning after the end of the calendar year in which the notice is given.

⁽²⁾ The Agreement entered into force on 18 January, 1971.

If the foregoing proposal is acceptable to the Government of the Kingdom of the Netherlands I have the honour to suggest that the present Note and Your Excellency's reply to that effect shall be regarded as constituting an agreement between the two Governments in this respect.

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

E. E. TOMKINS

No. 2

*The Minister for Foreign Affairs of the Netherlands to
Her Majesty's Ambassador at The Hague*

*Ministry of Foreign Affairs,
The Hague.*

Your Excellency,

24 July, 1970.

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

[As in No. 1]

In reply I have the honour to inform Your Excellency that the Government of the Kingdom of the Netherlands accept the foregoing proposal and agree to regard Your Excellency's Note, together with the present reply, as constituting an agreement between the two Governments in this respect.

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

J. M. A. H. LUNS

*Minister for Foreign Affairs
of the Kingdom of the Netherlands*

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