

# TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

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JAARGANG 2014 Nr. 178

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A. TITEL

*Overeenkomst tussen het Koninkrijk der Nederlanden en de Federale Democratische Republiek Ethiopië tot het vermijden van dubbele belasting en het voorkomen van het ontgaan van belasting met betrekking tot belastingen naar het inkomen;  
(met Protocol)  
Addis Abeba, 10 augustus 2012*

B. TEKST

De Engelse tekst van de Overeenkomst, met Protocol, is geplaatst in *Trb.* 2012, 179.

In dat Tractatenblad dienen in de tekst de volgende correcties te worden aangebracht.

Op blz. 1, in de titel, vierde regel, dient het woord „and” te worden vervangen door „on”.

Op blz. 29, in de titel, vierde regel, dient het woord „and” te worden vervangen door „on”.

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Op 18 augustus 2014 is te Addis Abeba een Protocol tot stand gekomen tussen het Koninkrijk der Nederlanden en de Federale Democratische Republiek Ethiopië, houdende een wijziging van de Overeenkomst van 10 augustus 2012. De Engelse tekst van dit Protocol luidt als volgt:

**Protocol amending the Convention between the Kingdom of the Netherlands and the Federal Democratic Republic of Ethiopia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income**

The Government of the Kingdom of the Netherlands  
and

the Government of the Federal Democratic Republic of Ethiopia,

Desiring to amend the Convention between the Kingdom of the Netherlands and the Federal Democratic Republic of Ethiopia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, with Protocol, signed at Addis Abeba on 10 August 2012 (hereafter: the Convention),

Have agreed that the Convention shall be amended as follows:

#### Article I

The following new Article shall be inserted immediately after Article 21:

#### “Article 21A

##### *Limitation on benefits*

1. A resident of a Contracting State shall be entitled to the benefits granted by the provisions in paragraph 2 of Article 10, paragraph 2 of Article 11 or paragraph 2 of Article 12, only if such resident is a qualified person as defined in paragraph 2.
2. A resident of a Contracting State is a qualified person only if such person is either:
  - a) an individual;
  - b) a contracting state, or a political subdivision or local authority thereof;
  - c) a pension fund;
  - d) a company, provided that:
    - i) the shares of the company are regularly traded on a recognized stock exchange; or
    - ii) at least 50 per cent of the shares of the company receiving the income is owned directly by one or more companies the shares of which are regularly traded on a recognized stock exchange, but only if the last-mentioned company or companies:
      - aa) is a resident or are residents of the other Contracting State;

or

  - bb) would be entitled to benefits with respect to the particular class of income for which benefits are claimed under this Convention which are similar to or more favorable than the benefits provided by this Convention pursuant to a comprehensive arrangement for the avoidance of double taxation between its or their state of residence and the Contracting State from which the benefits under this Convention are claimed or pursuant to a multilateral

- agreement to which its or their state of residence and the Contracting State from which the benefits under this Convention are claimed, are a party; or
- iii) the company is engaged in the active conduct of a trade or business in the Contracting State of which it is a resident (other than making or managing investments for the company's own account, unless these activities are banking or insurance carried on by a bank or an insurance company); or
  - iv) the company is a headquarters company for a multinational corporate group which provides a substantial portion of the overall supervision, financing or administration of the group and which has, and exercises, independent discretionary authority to carry out these functions, but only if:
    - aa) the multinational corporate group consists of corporations resident in, and engaged in an active business in, at least five countries or five groupings of countries and the business activities carried on in each of the five countries (or five groupings of countries) generate at least 10 per cent of the gross income of the group; and
    - bb) no more than 50 per cent of its gross income is derived from the Contracting State other than the Contracting State of which the headquarters company is a resident; or

3. A company that is not a qualifying person under paragraph 2, shall, nevertheless, be entitled to the benefits granted by the provisions in paragraph 2 of Article 10, paragraph 2 of Article 11 or paragraph 2 of Article 12, if the competent authority of the Contracting State which has to grant the benefits determines that the establishment, acquisition or maintenance of such company, or of its entitlements to such benefits or the conducts of its operations does not have as its main purpose or one of its main purposes to secure such benefits.

4. The determination under paragraph 3 shall be based on all facts and circumstances including:

- a) the nature and volume of the activities of the company in its country of residence in relation to the nature and volume of the income to which the benefits to be granted relate;
- b) both the historical and the current ownership of the company; and
- c) the business reasons for the company residing in its country of residence.

5. The competent authority of the Contracting State which has to grant the benefits shall consult the competent authority of the other Contracting State before denying the benefits under this provision.

6. For the purposes of the provisions of paragraph 2, the term "reorganized stock exchange" means:

- a) any of the stock exchanges in the member states of the European Union (EU);
- b) any of the stock exchanges of the African Securities Exchanges Association;
- c) any other stock exchange agreed upon by the competent authorities of the Contracting States, provided that the purchase or sale of shares on the stock exchange is not implicitly or explicitly restricted to a limited group of investors.”

## Article II

Article X of the Protocol shall be deleted and replaced by the following Article:

“X.

### *ad Article 10*

1. The provisions of paragraph 2 (subparagraph c) (i) of Article 10 shall apply as long as, under the provisions of its income tax laws the Netherlands applies a full tax exemption to participation dividends which a company receives from a company which is resident of Ethiopia.
2. The provisions of paragraph 2 (subparagraph c) (ii) of Article 10 shall apply as long as, under the provisions of the income tax laws of the Netherlands the income of pension funds are exempt.”

## Article III

### *Entry Into Force*

1. This Protocol shall enter into force on the last day of the month following the month in which the later of the notifications has been received in which the respective Governments have notified each other in writing that formalities constitutionally required in their respective States have been complied with and shall have retroactive effect as of the day the Convention entered into force.
2. The provisions of this Protocol shall thereupon have effect:
  - a) in Ethiopia:
    - (i) with regard to taxes withheld at source, in respect of amounts paid on or after the eighth day of July next following the date upon which the Convention enters into force;
    - (ii) with regard to other taxes, in respect of any tax year beginning on or after the eighth day of July next following the date upon which the Convention enters into force;

b) in the Netherlands: for any tax year and period beginning, and taxable events occurring, on or after the first day of January in the calendar year following that in which the Convention enters into force.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Protocol.

DONE at Addis Ababa this 18<sup>th</sup> day of August 2014, in duplicate, in the English language.

*For the Kingdom of the Netherlands,*

A.P. REMMELZWAAL

*For the Federal Democratic Republic of Ethiopia,*

SUFIAN AHMED

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C. VERTALING

Zie *Trb.* 2013, 84 HERDRUK.

D. PARLEMENT

Artikel 1 van de Wet van 14 juni 2014 (*Stb.* 2014, 257) luidt als volgt:

“Artikel 1

Het op 10 augustus 2012 te Addis Abeba tot stand gekomen Verdrag tussen het Koninkrijk der Nederlanden en de Federale Democratische Republiek Ethiopië tot het vermijden van dubbele belasting en het voorkomen van het ontgaan van belasting met betrekking tot belastingen naar het inkomen, waarvan de Engelse tekst en de vertaling in het Nederlands zijn geplaatst in *Tractatenblad* 2012, 179, en 2013, 84, wordt goedgekeurd voor het Europese en Caribische deel van Nederland.”

Deze Wet is gecontrasigneerd door de Staatssecretaris van Financiën E.D. WIEBES en de Minister van Buitenlandse Zaken F.C.G.M. TIMMERMANS.

Voor de behandeling in de Staten-Generaal zie Kamerstukken II 2012/2013, 2013/2014, 33638; Hand. II 2012/2013, 2013/2014, 33638; Kamerstukken I 2012/2013, 2013/2014, 33638; Hand. I 2013/2014, 33638.

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Het Protocol van 18 augustus 2014 behoeft ingevolge artikel 91 van de Grondwet de goedkeuring van de Staten-Generaal, alvorens het Koninkrijk aan het Protocol kan worden gebonden.

E. PARTIJEGEREVENS

Zie *Trb.* 2012, 192.

G. INWERKINGTREDING

Zie *Trb.* 2012, 179.

De bepalingen van het Protocol van 18 augustus 2014 zullen ingevolge artikel III, eerste lid, in werking treden op de laatste dag van de maand volgend op de maand waarin de latere notificatie is ontvangen, waarmee de respectieve regeringen elkaar er schriftelijk van op de hoogte hebben gebracht dat de nodige grondwettelijke formaliteiten zijn afgerond. Inwerkingtreding van dit Protocol geschiedt met terugwerkende kracht vanaf de datum van inwerkintreding van de Overeenkomst.

Uitgegeven de *achtste* oktober 2014.

*De Minister van Buitenlandse Zaken,*

F.C.G.M. TIMMERMANS