

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2006 Nr. 269

A. TITEL

*Verdrag tussen het Koninkrijk der Nederlanden en Barbados tot het
vermijden van dubbele belasting en het voorkomen van het ontgaan
van belasting met betrekking tot belastingen naar het inkomen;
(met Protocol)
Bridgetown, 28 november 2006*

B. TEKST

**Convention between the Kingdom of the Netherlands and
Barbados 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 Barbados,

Desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

CHAPTER I

SCOPE OF THE CONVENTION

Article 1

Persons covered

This Convention shall apply to persons who are residents of one or both of the Contracting States.

Article 2

Taxes covered

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which this Convention shall apply are in particular:

- a) in the Netherlands:
 - de inkomstenbelasting (income tax);
 - de loonbelasting (wages tax);
 - de vennootschapsbelasting (company tax), including the Government share in the net profits of the exploitation of natural resources levied pursuant to the Mijnwet (the Mining Act);
 - de dividendbelasting (dividend tax);(hereinafter referred to as “Netherlands tax”);
- b) in Barbados:
 - the income tax (including premium income tax);
 - the corporation tax (including the tax on branch profits); and
 - the petroleum winning operations tax;(hereinafter referred to as “Barbados tax”).

4. The Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws.

CHAPTER II

DEFINITIONS

Article 3

General definitions

1. For the purposes of this Convention, unless the context otherwise requires, the term:

- a) “a Contracting State” or “the other Contracting State” means the Kingdom of the Netherlands (the Netherlands) or Barbados, as the context requires;
- b) “the Netherlands” means the part of the Kingdom of the Netherlands that is situated in Europe, including its territorial sea, and any area beyond the territorial sea within which the Netherlands, in accordance with international law, exercises jurisdiction or sovereign rights with respect to the seabed, its subsoil and its superjacent waters, and their natural resources;
- c) “Barbados” means the island of Barbados and the territorial waters thereof, including any area outside such territorial waters which in accordance with international law and the laws of Barbados is an area within which the rights of Barbados with respect to the seabed and subsoil and their natural resources may be exercised;
- d) “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
- e) “competent authority” means:
- (i) in the Netherlands, the Minister of Finance or his authorised representative;
 - (ii) in Barbados, the Minister of Finance or his authorised representative;
- f) “enterprise of a Contracting State” or “enterprise of the other Contracting State” means an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State respectively;
- g) “international traffic” means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- h) “national” means:
- (i) in the case of Barbados, any individual who is a citizen of Barbados, and any legal person, partnership and association deriving its status as such from the laws in force in Barbados;
 - (ii) in the case of the Netherlands, any individual possessing the nationality of the Netherlands and any legal person, partnership or association deriving its status as such from the laws in force in the Netherlands;
- i) “person” includes an individual, a company and any other body of persons.

2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4

Resident

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State. In the case of income derived or paid by an estate or trust, the term “resident of a Contracting State” applies only to the extent that the income derived by such estate or trust is subject to tax in that State as the income of a resident, either in its hands or in the hands of its beneficiaries.

2. The term “resident of a Contracting State” also includes that State, any political subdivision or local authority thereof and a pension fund that is recognised and controlled according to the statutory provisions of a Contracting State and the income of which is generally exempt from tax in that State.

3. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);

b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;

c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;

d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

4. Where by reason of the provisions of paragraph 1, a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall settle its residence for the purpose of this Convention by mutual agreement, having regard to its place of effective management, its place of incorporation and any other relevant factors. In the absence of such agreement, such a person shall not be entitled to any benefits under this Convention.

Article 5

Permanent establishment

1. For the purposes of this Convention, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term “permanent establishment” includes especially:

- a) a place of management;
- b) a branch;
- c) an office;
- d) a factory;
- e) a workshop, and
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than six months.

4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:

- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 6 applies – is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

CHAPTER III

TAXATION OF INCOME

Article 6

Income from immovable property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term “immovable property” shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

Business profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If

the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Notwithstanding the provisions of paragraph 1, where an enterprise of a Contracting State which has a permanent establishment in the other Contracting State carries on business activities in that other State otherwise than through the permanent establishment of the same or similar kind as the business activities carried on by the permanent establishment, then the profits of such activities may be attributable to the permanent establishment unless the enterprise shows that there were *bona fide* commercial reasons why such activities were not undertaken by the permanent establishment.

3. Subject to the provisions of paragraph 4, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

4. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

5. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 3 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

6. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

7. If the information available to the tax authority concerned is inadequate to determine the profits to be attributed to the permanent establishment due to failure by the enterprise to provide such information as is stipulated by law, then such profits may be determined by the exercise of discretion or the making of an estimate by that authority, provided that such discretion shall be exercised or such estimate shall be made in accordance with the principles stated in this Article.

8. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

9. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

Shipping and air transport

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

3. For the purposes of this Article, profits derived from the operation in international traffic of ships and aircraft include profits derived from the rental on a bare boat basis of ships and aircraft if operated in international traffic if such rental profits are an occasional source of income in relation to the profits described in paragraph 1.

4. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

Associated enterprises

1. Where

a) an enterprise of a Contracting State 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 a Contracting State 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.

2. Where a Contracting State includes in the profits of an enterprise of that State – and taxes accordingly – profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10

Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

3. Notwithstanding the provisions of paragraph 2, the Contracting State of which the company is a resident shall not levy a tax on dividends paid by that company, if the beneficial owner of the dividends is a company the capital of which is wholly or partly divided into shares and which is a resident of the other Contracting State and holds directly at least 10 per cent of the capital of the company paying the dividends. This provision shall only apply if a company that is a resident of the Netherlands is not charged to Netherlands company tax with respect to dividends which it receives from a company that is a resident of Barbados.

4. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of paragraphs 2 and 3.

5. The provisions of paragraphs 2 and 3 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

6. The term “dividends” as used in this Article means
a) income from shares, “jouissance” shares or “jouissance” rights, mining shares, founders’ shares or other rights, not being debt-claims,

participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

b) income received in connection with the (partial) liquidation of a company or a purchase of own shares by a company.

7. The provisions of paragraphs 1, 2, 3 and 10 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

8. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

9. Where a company which is a resident of the Netherlands having a permanent establishment in Barbados derives profits or income from that permanent establishment, any remittances of such profits or income by the permanent establishment to the company which is a resident of the Netherlands shall, notwithstanding any other provisions of the Convention, be exempt from tax on branch profits in Barbados where such profits or income are exempt from tax in the Netherlands.

10. Notwithstanding the provisions of paragraphs (1), (2) and (8), dividends paid by a company whose capital is divided into shares and which under the laws of a State is a resident of that State, to an individual who is a resident of the other State may be taxed in the first-mentioned State in accordance with the laws of that State, if that individual – either alone or with his or her spouse – or one of their relations by blood or marriage in the direct line directly or indirectly holds at least 5 per cent of the issued capital of a particular class of shares in that company. This provision shall apply only if the individual to whom the dividends are paid has been a resident of the first-mentioned State in the course of the last ten years preceding the year in which the dividends

are paid and provided that, at the time he became a resident of the other State, the above-mentioned conditions regarding share ownership in the said company were satisfied.

In cases where, under the domestic laws of the first-mentioned State, an assessment has been issued to the individual to whom the dividends are paid in respect of the alienation of the aforesaid shares deemed to have taken place at the time of his emigration from the first-mentioned State, the above shall apply only as long as part of the assessment is still outstanding.

Article 11

Interest

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 5 percent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to the Government of the other Contracting State, or an agency or instrumentality thereof, shall be exempt from tax in the first-mentioned Contracting State. For the purposes of this paragraph, the term "Government" shall include the Central Bank of the Netherlands, the Central Bank of Barbados, and any other similar institution as may be agreed upon from time to time by the competent authorities of the Contracting States.

4. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of paragraphs 2 and 3.

5. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

6. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid

is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

7. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a State other than that of which he is a resident, a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

8. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12

Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 5 percent of the gross amount of the royalties.

3. The term “royalties” as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, and films, discs or tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process or for information concerning industrial, commercial or scientific experience.

4. Notwithstanding the provisions of paragraphs 1 and 2, copyright royalties in respect of the use of, or the right to use, any literary, artistic or scientific work (including royalties in respect of cinematographic films and films, discs or tapes for radio or television broadcasting) arising in a Contracting State and paid to a resident of the other Contracting State shall be exempt from tax in the first-mentioned State.

5. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of paragraphs 2 and 4.

6. The provisions of paragraphs 1, 2 and 4 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

7. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in another State than that of which he is a resident a permanent establishment or fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

8. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13

Capital gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. If the place of effective management of a shipping enterprise is aboard a ship, then, for the purposes of this paragraph, it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.

5. Notwithstanding the provisions of paragraph 4, a Contracting State may, in accordance with its own laws, including the interpretation of the term "alienation", levy tax on gains derived by an individual who is a resident of the other Contracting State from the alienation of shares in, "jouissance" rights or debt-claims on a company whose capital is divided into shares and which, under the laws of the first-mentioned Contracting State, is a resident of that State, and from the alienation of part of the rights attached to the said shares, "jouissance" shares or debt-claims, if that individual – either alone or with his or her spouse – or one of their relations by blood or marriage in the direct line directly or indirectly holds at least 5 per cent of the issued capital of a particular class of shares in that company. This provision shall apply only if the individual who derives the gains has been a resident of the first-mentioned State in the course of the last ten years preceding the year in which the gains are derived and provided that, at the time he became a resident of the other Contracting State, the above-mentioned conditions regarding share ownership in the said company were satisfied.

In cases where, under the domestic laws of the first-mentioned State, an assessment has been issued to the individual in respect of the alienation of the aforesaid shares deemed to have taken place at the time of his emigration from the first-mentioned State, the above shall apply only in so far as part of the assessment is still outstanding.

Article 14

Independent personal services

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities or he is present in that other State for a period or periods exceeding in the aggregate 183 days in the fiscal year concerned.

If he has such a fixed base or remains in that other State for the aforesaid period or periods, the income may be taxed in the other State but only so much of it as is attributable to that fixed base or is derived from his activities performed in that other State during the aforesaid period or periods.

2. The term “professional services” includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15

Dependant personal services

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and
- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- c) the remuneration is not borne by a permanent establishment which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated. If the place of effective management of a shipping enterprise is aboard a ship, then, for the purposes of this paragraph, it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

Article 16

Directors' fees

1. Directors' fees or other remuneration derived by a resident of a Contracting State in his capacity as a member of the board of directors,

a “bestuurder” or a “commissaris” of a company which is a resident of the other Contracting State may be taxed in that other State.

2. A “bestuurder” or “commissaris” of a Netherlands company means a person who is nominated as such by the general meeting of shareholders or by any other competent body of such company and is charged with the general management of the company and the supervision thereof, respectively.

3. Where the remuneration mentioned in paragraph 1 is derived by persons, who exercise activities in real and regular functions in a permanent establishment situated in the first-mentioned Contracting State mentioned in paragraph 1, and the remuneration is borne as such by that permanent establishment, then, notwithstanding the provisions of paragraph 1 of this Article, such remuneration may be taxed in the State in which the permanent establishment is situated.

Article 17

Entertainers and sportpersons

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived by a resident of a Contracting State from activities performed in the other Contracting State by entertainers or sportspersons if the visit to that State is substantially supported by public funds of the other Contracting State or a political subdivision or local authority thereof, or takes place under a cultural agreement between the Governments of the Contracting States. In such a case the income shall be taxable only in the Contracting State of which the entertainer or sportsperson is a resident.

Article 18

Pensions, annuities and social security payments

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration in consideration of past employment, whether

or not of a periodical nature, and annuities and lump-sum payments in lieu of the right to an annuity, arising in one of the Contracting States and paid to a resident of the other Contracting State may be taxed in the first-mentioned State.

2. Any pension and other payment paid out under the provisions of a social security system of one of the Contracting States to a resident of the other Contracting State may be taxed in the first-mentioned State.

3. The term “annuity” means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make payments in return for adequate and full consideration in money or money’s worth.

4. A pension or other similar remuneration or annuity is deemed to be derived from one of the Contracting States if and insofar as the contributions or payments associated with the pension or similar remuneration or annuity, or the entitlements received from it qualified for tax relief in that State. The transfer of a pension from a pension fund or an insurance company in one of the Contracting States to a pension fund or an insurance company in another State shall not restrict in any way the taxing rights of the first-mentioned State under this Article.

Article 19

Government service

1. a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

- (i) is a national of that State; or
- (ii) did not become a resident of that State solely for the purpose of rendering the services.

2. a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 15, 16 and 18 shall apply to salaries, wages and other similar remuneration and to pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20

Professors and teachers

1. Payments which a professor or teacher who is a resident of a Contracting State and who is present in the other Contracting State for the purpose of teaching or scientific research for a maximum period of two years in a university, college or other establishment for teaching or scientific research in that other State, receives for such teaching or research, shall be taxable only in the first-mentioned State.

2. The provisions of paragraph 1 of this Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

Article 21

Students and trainees

Payments which a student or trainee, who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training, receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 22

Charitable contributions

Contributions by a resident of a Contracting State to an organization constituting a charitable organization under the income tax laws of the other Contracting State shall be deductible for the purposes of computing the tax liability of that resident under the tax laws of the first-mentioned Contracting State under the same terms and conditions as are applicable to contributions to charitable organizations of the first-mentioned State where the competent authority of the first-mentioned State agrees that the organization qualifies as a charitable organization for the purposes of granting a deduction under its income tax laws.

Article 23

Other income

1. Items of income of a resident of a Contracting State, wherever aris-

ing, not dealt with in the foregoing Articles of this Convention and taxed by that State shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

CHAPTER IV

ELIMINATION OF DOUBLE TAXATION

Article 24

Elimination of double taxation

1. The Netherlands, when imposing tax on its residents, may include in the basis upon which such taxes are imposed the items of income which, according to the provisions of this Convention, may be taxed in Barbados.

2. However, where a resident of the Netherlands derives items of income which according to Article 6, Article 7, paragraph 7 of Article 10, paragraph 6 of Article 11, paragraph 6 of Article 12, paragraphs 1 and 2 of Article 13, paragraph 1 of Article 14, paragraphs 1 and 3 of Article 15, paragraphs 1 and 2 of Article 18, paragraphs 1 (subparagraph a) and 2 (subparagraph a) of Article 19, paragraph 2 of Article 23 of this Convention may be taxed in Barbados and are included in the basis referred to in paragraph 1, the Netherlands shall exempt such items of income by allowing a reduction of its tax. This reduction shall be computed in conformity with the provisions of Netherlands law for the avoidance of double taxation. For that purpose the said items of income shall be deemed to be included in the amount of the items of income which are exempt from Netherlands tax under those provisions.

3. Further, the Netherlands shall allow a deduction from the Netherlands tax so computed for the items of income which according to paragraph 2 of Article 10, paragraph 2 of Article 11, paragraph 2 of Article 12, paragraph 5 of Article 13, Article 16 and Article 17 of this Convention may be taxed in Barbados to the extent that these items are included in the basis referred to in paragraph 1. The amount of this deduction shall be equal to the tax paid in Barbados on these items of income, but

shall, in case the provisions of the Netherlands law for the avoidance of double taxation provide so, not exceed the amount of the deduction which would be allowed if the items of income so included were the sole items of income which are exempt from Netherlands tax under the provisions of Netherlands law for the avoidance of double taxation.

This paragraph shall not restrict allowance now or hereafter accorded by the provisions of the Netherlands law for the avoidance of double taxation, but only as far as the calculation of the amount of the deduction of Netherlands tax is concerned with respect to the aggregation of income from more than one country and the carry forward of the tax paid in Barbados on the said items of income to subsequent years.

4. Notwithstanding the provisions of paragraph 2, the Netherlands shall allow a deduction from the Netherlands tax for the tax paid in Barbados on items of income which according to Article 7, paragraph 7 of Article 10, paragraph 6 of Article 11, paragraph 6 of Article 12 and paragraph 2 of Article 23 of this Convention may be taxed in Barbados to the extent that these items are included in the basis referred to in paragraph 1, insofar as the Netherlands under the provisions of Netherlands law for the avoidance of double taxation allows a deduction from the Netherlands tax of the tax levied in another country on such items of income. For the computation of this deduction the provisions of paragraph 3 of this Article shall apply accordingly.

5. In Barbados, double taxation shall be eliminated as follows:

- a) Subject to the provisions of the laws of Barbados regarding the allowance as a credit against Barbados tax of tax payable in a territory outside Barbados (which shall not affect the general principle hereof):
 - (i) Netherlands tax payable under the laws of the Netherlands and in accordance with the Convention, whether directly or by deduction, on profits or income from sources within the Netherlands (excluding, in the case of a dividend tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any Barbados tax computed by reference to the same profits or income by reference to which the Netherlands tax is computed;
 - (ii) In the case of a dividend paid by a company which is a resident of the Netherlands to a company which is a resident of Barbados and which holds directly at least 5 percent of the capital of the company paying the dividend, the credit shall take into account in addition to any Netherlands tax creditable under sub-paragraph a)(i) the Netherlands tax payable by the company paying the dividend in respect of the profits out of which such dividend is paid.
- b) The credit, however, shall in no case exceed the part of the Barbados tax, as computed before the credit is given, which is appropriate to the income which may be taxed in the Netherlands.

CHAPTER V

SPECIAL PROVISIONS

Article 25

Activities on the continental shelf

1. The provisions of this Article shall apply notwithstanding any other provisions of this Convention. However, this Article shall not apply where offshore activities of a person constitute for that person a permanent establishment under the provisions of Article 5 or a fixed base under the provisions of Article 14.

2. In this Article the term “offshore activities” means activities which are carried on offshore in connection with the exploration or exploitation of the seabed and its subsoil and their natural resources, situated in a Contracting State.

3. An enterprise of a Contracting State which carries on offshore activities in the other Contracting State shall, subject to paragraph 4 of this Article, be deemed to carry on, in respect of those activities, business in that other State through a permanent establishment situated therein, unless the offshore activities in question are carried on in the other State for a period or periods not exceeding in the aggregate 30 days in any twelve month period.

For the purposes of this paragraph:

a) where an enterprise carrying on offshore activities in the other Contracting State is associated with another enterprise and that other enterprise continues, as part of the same project, the same offshore activities that are or were being carried on by the first-mentioned enterprise, and the aforementioned activities carried on by both enterprises – when added together – exceed a period of 30 days, then each enterprise shall be deemed to carry on its activities for a period exceeding 30 days in any twelve month period;

b) an enterprise shall be regarded as associated with another enterprise if one holds directly or indirectly at least one third of the capital of the other enterprise or if a person holds directly or indirectly at least one third of the capital of both enterprises.

4. However, for the purposes of paragraph 3 of this Article the term “offshore activities” shall be deemed not to include:

a) one or any combination of the activities mentioned in paragraph 4 of Article 5;

b) towing or anchor handling by ships primarily designed for that purpose and any other activities performed by such ships;

c) the transport of supplies or personnel by ships or aircraft in international traffic.

5. A resident of a Contracting State who carries on offshore activities in the other State which consist of professional services or other activities of an independent character, shall be deemed to perform those activities from a fixed base in the other State, if the offshore activities in question last for a continuous period of 30 days or more.

6. Notwithstanding the second sentence of paragraph 1 of this Article, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment connected with offshore activities carried on through a permanent establishment in the other Contracting State may, to the extent that the employment is exercised offshore in that other State, be taxed in that other State.

7. Where documentary evidence is produced that tax has been paid in Barbados on the items of income which may be taxed in Barbados according to Articles 7 and 14 in connection with paragraph 3 and paragraph 5 of this Article respectively, and according to Article 15 in connection with paragraphs 3 or 5 and 6 of this Article, the Netherlands shall allow a reduction of its tax which shall be computed in conformity with the rules laid down in paragraph 2 of Article 24.

Article 26

Non-discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 8 of Article 11, or paragraph 8 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

4. The provisions of paragraph 2 shall not be construed to prevent Barbados from applying, at the rates specified in the Income Tax Act, tax

- a) on branch profits unless paragraph 9 of Article 10 applies; and
- b) on the premium income of non-resident insurers or foreign insurance companies.

5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

6. Contributions paid by, or on behalf of, an individual who is a resident of a Contracting State to a pension plan that is recognised for tax purposes in the other Contracting State will be treated in the same way for tax purposes in the first-mentioned State as a contribution paid to a pension plan that is recognised for tax purposes in that first-mentioned State, provided that

- a) such individual was contributing to such pension plan before he became a resident of the first-mentioned State; and
- b) the competent authority of the first-mentioned State agrees that the pension plan corresponds to a pension plan recognised for tax purposes by that State.

For the purpose of this paragraph, "pension plan" includes a pension plan created under a public social security system.

7. This Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 27

Mutual agreement procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 26, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent

authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

5. If any difficulty or doubt arising as to the interpretation or application of the Convention cannot be resolved by the competent authorities of the Contracting States in a mutual agreement procedure pursuant to the previous paragraphs of this Article within a period of two years after the question was raised, the case may, at the request of either Contracting State, be submitted for arbitration, but only after fully exhausting the procedures available under paragraphs 1 to 4 of this Article and provided the taxpayer or taxpayers involved agree in writing to be bound by the decision of the arbitration board. The decision of the arbitration board in a particular case shall be binding on both Contracting States and the taxpayer or taxpayers involved with respect to that case.

Article 28

Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes referred to in the first sentence. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. The Contracting States may release to the arbitration board, established under the provisions of paragraph 5 of Article 27, such information as is necessary for carrying out the arbitration procedure. Such

release of information shall be subject to the provisions of paragraph 3 of this Article. The members of the arbitration board shall be subject to the limitations on disclosure described in paragraph 1 of this Article with respect to any information so released.

3. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

c) to supply information which would disclose any trade, business, industrial, commercial, or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 29

Members of diplomatic missions and consular posts

1. Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

2. An individual who is a member of a diplomatic mission or consular post of a Contracting State in the other Contracting State or in a third State and who is a national of the sending State shall be deemed to be a resident of the sending State if he is subjected therein to the same obligations in respect of taxes on income as are residents of that State.

3. The Convention shall not apply to international organisations, organs and officials thereof and members of a diplomatic mission or consular post of a third State, being present in a Contracting State, if they are not subjected therein to the same obligations in respect of taxes on income as are residents of that State.

Article 30

Territorial extension

1. This Convention may be extended, either in its entirety or with any necessary modifications, to either or both of the countries of the Netherlands Antilles and Aruba, if the country concerned imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed in notes to be exchanged through diplomatic channels.

2. Unless otherwise agreed the termination of the Convention shall not also terminate any extension of the Convention to any country to which it has been extended under this Article.

CHAPTER VI

MISCELLANEOUS PROVISIONS

Article 31

Miscellaneous

1. The benefits of this Convention are not applicable to companies or other persons which are wholly or partly exempted from tax by a special regime under the laws of either one of the Contracting States. They are also not applicable to income from such companies or other persons derived by a resident of the other State, nor to shares, “jouissance” rights or interests in such companies or other persons.

2. The provisions of paragraph 1 of this Article are also applicable in case a company or other person is treated under the administrative practice of that State in the same or similar way as a company or person as meant in that paragraph.

3. The competent authorities of the Contracting States shall by mutual agreement decide whether a regime is a special regime within the meaning of paragraph 1 of this Article. The provisions of paragraph 1 are also applicable to any identical or substantially similar legislation in addition to or replacing such a special regime enacted after the entry into force of this Convention unless the competent authorities of the Contracting States decide otherwise by mutual agreement.

4. Where under any provision of this Convention any item of income or any gain is relieved from Netherlands tax, either in full or in part, and, under the law in force in Barbados, a person, in respect of that income or that gain is subject to tax by reference to the amount thereof which is remitted to or received in Barbados and not by reference to the full amount thereof, then the relief to be allowed under this Convention in the Netherlands shall apply only to so much of the income or gain as is taxed in Barbados.

5. Where tax has been levied at source in excess of the amount of tax chargeable under the provisions of Articles 10, 11 or 12, applications for the refund of the excess amount of tax have to be lodged with the competent authority of the State having levied the tax, within a period of three years after the expiration of the calendar year in which the tax has been levied.

CHAPTER VII

FINAL PROVISIONS

Article 32

Entry into force

This Convention shall enter into force on the thirtieth day after the latter of the dates on which the respective Governments have notified each other in writing that the formalities constitutionally required in their respective States have been complied with, and its provisions shall have effect for taxable years and periods beginning on or after the first day of January in the calendar year following that in which the Convention has entered into force.

Article 33

Termination

This Convention shall remain in force until terminated by one of the Contracting States. Either State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the expiration of a period of five years from the date of its entry into force. In such event, the Convention shall cease to have effect for taxable years and periods beginning after the end of the calendar year in which the notice of termination has been given.

IN WITNESS whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Convention.

DONE at Bridgetown this 28th day of November 2006 in duplicate in the English language.

For the Government of the Kingdom of the Netherlands,

H. P. P. M. HORBACH

For the Government of Barbados,

MIA AMOR MOTTLEY

Protocol

At the moment of signing the Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, this day concluded between the Kingdom of the Netherlands and Barbados, the undersigned have agreed that the following provisions shall form an integral part of the Convention.

I. General

1. It is understood that both Contracting States will follow the OECD Commentary when applying and interpreting the provisions of this Convention that are substantially the same as those in the OECD Model Convention.

2. In the case of an item of income, profit or gain derived through a person that is fiscally transparent under the laws of either State, such item shall be considered to be derived by a resident of a State to the extent that the item is treated for the purposes of the taxation law of such State as the income, profit or gain of a resident.

II. Ad paragraph 2 of Article 3 and Article 27

It is understood that if the competent authorities of the Contracting States, in mutual agreement have reached a solution, within the context of the Convention, for cases in which double taxation or double exemption would occur

a) as a result of the application of paragraph 2 of Article 3 with respect to the interpretation of a term not defined in the Convention; or
b) as a result of differences in classification (for example of an element of income or of a person),

this solution, after publication thereof by both competent authorities, shall for the application of the Convention also be binding in other similar cases in the application of the provisions of the Convention.

III. Ad Article 4

An individual living aboard a ship who is not resident in either of the Contracting States shall be deemed to be a resident of the Contracting State in which the ship has its home harbour.

IV. Ad Articles 5, 6, 7, 13 and 25

It is understood that rights to the exploration and exploitation of natural resources shall be regarded as immovable property located in the Contracting State to whose seabed – and subsoil thereof – these rights apply, and that these rights are regarded as assets of a permanent establishment in that State. Furthermore, it is understood that the aforementioned rights include rights to interests in, or benefits from assets that arise from, that exploration or exploitation.

V. Ad Article 7

In respect of paragraphs 1, 2 and 3 of Article 7, where an enterprise of a Contracting State sells goods or merchandise or carries on business in the other Contracting State through a permanent establishment situated therein, the profits of that permanent establishment shall not be determined on the basis of the total amount received by the enterprise, but shall be determined only on the basis of that portion of the income of the enterprise that is attributable to the actual activity of the permanent establishment in respect of such sales or business. Specifically, in the case of contracts for the survey, supply, installation or construction of industrial, commercial or scientific equipment or premises, or of public works, when the enterprise has a permanent establishment, the profits attributable to such permanent establishment shall not be determined on the basis of the total amount of the contract, but shall be determined only on the basis of that part of the contract that is effectively carried out by the permanent establishment in the Contracting State where the permanent establishment is situated. The profits related to that part of the contract which is carried out by the head office of the enterprise shall be taxable only in the Contracting State of which the enterprise is a resident.

VI. Ad Articles 7 and 14

Payments received as a consideration for technical services, including studies or surveys of a scientific, geological or technical nature, or for consultancy or supervisory services shall be deemed to be payments to which the provisions of Article 7 or Article 14 apply.

VII. Ad Article 9

It is understood that the fact that associated enterprises have concluded arrangements, such as cost sharing arrangements or general services agreements, for or based on the allocation of executive, general administrative, technical and commercial expenses, research and development expenses and other similar expenses, is not in itself a condition as meant in paragraph 1 of Article 9.

VIII. Ad Article 10

Notwithstanding the provisions of paragraph 2 of Article 10 the Contracting State of which the company is a resident shall not levy a tax on dividends paid by that company, if the beneficial owner of the dividends is a pension fund referred to in paragraph 2 of Article 4.

IX. Ad Article 10, paragraph 6, and Article 11, paragraph 5

Notwithstanding paragraph 6 of Article 10 and paragraph 5 of Article 11, it is understood that income from debt-claims shall be regarded as dividends, provided that, and due regard being had to Article 9 of this

Convention, the laws of the Contracting State in which this income arises subjects such income to the same taxation treatment as income from shares.

X. Ad Article 19

It is understood that the provisions of subparagraph (a) of paragraphs 1 and 2 of Article 19 do not prevent the Netherlands from applying the provisions of Article 24 of this Convention.

XI. Ad Article 27

The competent authorities of the States may also agree, with respect to any agreement reached as a result of a mutual agreement procedure as meant in Article 27, if necessary contrary to their respective national legislation, that the State in which there is an additional tax charge as a result of the aforementioned agreement shall not impose any increases, surcharges, interest and costs with respect to this additional tax charge, if the other State, in which there is a corresponding reduction of tax as a result of the agreement refrains from the payment of any interest due with respect to such a reduction of tax.

XII. Ad Article 28

It is understood that with respect to political subdivisions or local authorities, Article 28 shall not apply to other taxes than those covered by this Convention until the national legislation of the Netherlands contains a juridical basis for the exchange of information in respect of those other taxes.

IN WITNESS whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Protocol.

DONE at Bridgetown, this 28th day of November 2006 in duplicate in the English language.

For the Government of the Kingdom of the Netherlands,

H. P. P. M. HORBACH

For the Government of Barbados,

MIA AMOR MOTTLEY

D. PARLEMENT

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

G. INWERKINGTREDING

De bepalingen van het Verdrag, met Protocol, zullen ingevolge artikel 32 juncto de preambule bij het Protocol in werking treden op de dertigste dag na de datum van de laatste nota, waarin de Verdragsluitende Partijen elkaar langs diplomatieke weg schriftelijk ervan in kennis hebben gesteld dat aan de grondwettelijke vereisten voor de inwerkingtreding van dit Verdrag is voldaan.

Uitgegeven de *eenentwintigste* december 2006.

De Minister van Buitenlandse Zaken,

B. R. BOT