

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 2005 Nr. 292

A. TITEL

*Verdrag tussen het Koninkrijk der Nederlanden en het Eiland Man tot het vermijden van dubbele belasting met betrekking tot ondernemingen die schepen of luchtvaartuigen exploiteren in het internationale verkeer;
Douglas, 12 oktober 2005*

B. TEKST

Agreement between the Kingdom of the Netherlands and the Isle of Man for the avoidance of double taxation with respect to enterprises operating ships or aircraft in international traffic

The Government of the Kingdom of the Netherlands

and

the Government of the Isle of Man,

Desiring to conclude an agreement for the avoidance of double taxation with respect to enterprises operating ships or aircraft in international traffic,

Have agreed as follows:

Article 1

Definitions

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

a) the terms “a Contracting Party” means the Kingdom of the Netherlands or the Isle of Man, as the context requires; the term “Contract-

ing Parties” means the Kingdom of the Netherlands and the Isle of Man;

b) the term “the Netherlands” means the part of the Kingdom of the Netherlands that is situated in Europe, including its territorial seas, and any area beyond the territorial sea within which the Netherlands, in accordance with international law, exercises jurisdiction or sovereign rights;

c) the term “Isle of Man” means the island of the Isle of Man;

d) the term “person” includes an individual, a company and any other body of persons;

e) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;

f) the term “resident of a Contracting Party” means any person, who under the law of that Party is liable to taxation therein by reason of his domicile, residence, place of effective management or any other criterion of a similar nature;

g) the term “enterprise of a Contracting Party” means an enterprise, carried on by a resident of a Contracting Party;

h) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting Party, except when the ship or aircraft is operated solely between places in the other Contracting Party;

i) the term “income derived from the operation of ships or aircraft in international traffic” includes revenues, gross receipts and profits derived from:

(i) such operation of ships or aircraft for the transport of passengers or cargo;

(ii) the rental on a charter basis of ships or aircraft where the rental is ancillary to the operation of ships or aircraft in international traffic;

(iii) the sale of tickets or similar documents and the provision of services connected with such transport, either for the enterprise itself or for any other enterprise, where such sale of tickets or similar documents or provision of services is directly connected with or ancillary to the operation of ships or aircraft in international traffic;

(iv) the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise, where the use, maintenance or rental is directly connected with or ancillary to the operation of ships or aircraft in international traffic;

(v) interest on funds deposited directly in connection with the operation of ships or aircraft in international traffic.

j) the term “competent authority” means:

(i) in the case of the Netherlands, the Minister of Finance or his authorised representative;

(ii) in the case of Isle of Man, the Chief Financial Officer of the Treasury or his delegate;

2. As regards the application of the Agreement at any time by a Contracting Party, 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 Party for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

Article 2

Avoidance of double taxation

1. An enterprise of a Contracting Party operating ships or aircraft in international traffic shall be exempted in the other Contracting Party from taxes of every kind and description on income derived therefrom, irrespective of the manner in which they are levied.

2. An enterprise of a Contracting Party operating ships or aircraft in international traffic shall be exempted in the other Contracting Party from taxes of every kind and description on gains derived from the alienation of ships or aircraft or movable property pertaining to the operation of such ships or aircraft, irrespective of the manner in which they are levied.

3. The provisions of paragraphs 1 and 2 shall also apply to income, profits and gains derived by an enterprise of a Contracting Party from the participation in a pool, a joint business or an international operating agency.

4. 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 that Party in which the place of effective management of the enterprise is situated.

Article 3

Mutual agreement procedure

1. The competent authorities of the Contracting Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. Consultation requested by the competent authority of a Contracting Party shall begin within 90 days from the date of the receipt of such request.

2. The competent authorities of the Contracting Parties may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraph.

Article 4

Territorial extension

1. As regards the Kingdom of the Netherlands this Agreement 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 Government of the Isle of Man agrees so. The Government of the Kingdom of the Netherlands will notify the Government of the Isle of Man of the extension to the Netherlands Antilles and/or Aruba and of the “competent authorities” mentioned in Article 1, paragraph 1, subparagraph j in case of the Netherlands Antilles and/or Aruba.

2. The provisions of this Agreement shall have effect for the Netherlands Antilles and/or Aruba for taxable years and periods beginning on or after the first day of January in the calendar year next following that in which the above mentioned notification was received.

3. Unless otherwise agreed the termination of this Agreement shall also terminate the application of this Agreement to any of the parts of the Kingdom of the Netherlands to which it has been extended under this Article.

Article 5

Entry into force

1. This Agreement shall enter into force on the thirtieth day after the latter of the dates on which the respective Contracting Parties have notified each other in writing that the formalities constitutionally required in their respective Parties 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 Agreement has entered into force.

2. Notwithstanding paragraph 1 of this Article, the Agreement shall only enter into force when the Agreement between the Isle of Man and the Kingdom of the Netherlands for the exchange of information relating to tax matters shall have effect for criminal as well as civil tax matters.

Article 6

Termination

1. This Agreement shall remain in force until terminated by one of the Contracting Parties. Either Party may terminate the Agreement by giving notice of termination in writing 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 Agreement 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.

2. Notwithstanding paragraph 1 of this Article, this Agreement will be terminated, without giving notice of termination, on the date of termination of the Agreement between the Isle of Man and the Kingdom of the Netherlands for the exchange of information relating to tax matters.

IN WITNESS whereof, the undersigned, duly authorised thereto, have signed this Agreement.

DONE at Douglas, this 12th day of October 2005, in two originals, each in the English language.

For the Government of the Kingdom of the Netherlands,

J. G. WIJN

For the Government of the Isle of Man,

A. R. BELL

D. PARLEMENT

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

G. INWERKINGTREDING

De bepalingen van het Verdrag zullen ingevolge artikel 5, eerste lid, in werking treden op de dertigste dag na de laatste van de data waarop beide Verdragsluitende Partijen elkaar er schriftelijk van in kennis hebben gesteld dat aan hun vereiste constitutionele formaliteiten is voldaan, mits ook de voorwaarden van artikel 5, tweede lid, zijn vervuld.

Uitgegeven de *eenentwintigste* november 2005.

De Minister van Buitenlandse Zaken,

B. R. BOT