

N° 3924.

**GRANDE-BRETAGNE
ET IRLANDE DU NORD
ET PAYS-BAS**

Convention pour l'exemption réciproque d'impôts dans des cas spéciaux, signée à Londres, le 6 juin 1935, et échange de notes y relatif de la même date.

**GREAT BRITAIN
AND NORTHERN IRELAND
AND THE NETHERLANDS**

Convention for the Reciprocal Exemption from Taxes in Certain Cases, signed at London, June 6th, 1935, and Exchange of Notes relating thereto of the same Date.

TEXTE NÉERLANDAIS. — DUTCH TEXT.

N^o 3924. — VERDRAG ¹ TUSSCHEN GROOT-BRITANNIË EN NOORD-IERLAND EN NEDERLAND, TOT WEDERZIJDSCHE VRIJSTELLING VAN BELASTINGEN IN BEPAALDE GEVALLEN. GETEEKEND TE LONDEN, DEN 6DEN JUNI 1935.

Textes officiels néerlandais et anglais communiqués par le ministre des Affaires étrangères des Pays-Bas et le secrétaire d'Etat aux Affaires étrangères de Sa Majesté en Grande-Bretagne. L'enregistrement de cette convention a eu lieu le 1^{er} juillet 1936.

HARE MAJESTEIT DE KONINGIN DER NEDERLANDEN en ZIJNE MAJESTEIT DE KONING VAN GROOT-BRITANNIË, IERLAND EN DE OVERZEESCHE BRITSCHE GEBIEDSDEELEN, KEIZER VAN INDIË, wenshende een verdrag te sluiten tot wederzijdsche vrijstelling van belastingen in bepaalde gevallen, hebben te dien einde tot Hunne gevolmachtigden benoemd :

HARE MAJESTEIT DE KONINGIN DER NEDERLANDEN :

Jonkheer R. DE MAREES VAN SWINDEREN, Ridder-Grootkruis in de Orde van Oranje-Nassau, Commandeur in de Orde van den Nederlandschen Leeuw, Ridder-Grootkruis in de Victoria Orde, Hoogst Derzelve Buitengewoon Gezant en Gevolmachtigd Minister te Londen ;

ZIJNE MAJESTEIT DE KONING VAN GTOOT-BRITANNIË, IERLAND EN DE BRITSCHE OVERZEESCHE GEBIEDSDEELEN, KEIZER VAN INDIË (hierna verder aangeduid als Zijne Majesteit de Koning) :

VOOR GROOT-BRITANNIË EN NOORD-IERLAND :

The Right Honourable Sir John Allsebrook SIMON, G.C.S.I., K.C.V.O., O.B.E., K.C., M.P., Hoogst Deszelfs Eersten Staatssecretaris voor Buitenlandsche Zaken ;

Die, na elkander mededeeling te hebben gedaan van hunne volmachten, welke in behoorlijken vorm werden bevonden, het volgende zijn overeengekomen :

Artikel 1.

Zijne Majesteit de Koning verklaart, dat de voordeelen of winsten waarop dit artikel betrekking heeft, zoolang de vrijstellingen vermeld in artikel 2 van dit verdrag van kracht blijven, zullen zijn vrijgesteld van « Income Tax » (« Sur-Tax » inbegrepen), verschuldigd in het Vereenigd Koninkrijk over het belastingjaar aanvangende op den 6 den April negentien honderd een en dertig, en over ieder volgend belastingjaar, en dat Zijne Regeering op grond van artikel zeventien van

¹ L'échange des ratifications a eu lieu à Londres, le 22 mai 1936.

No. 3924. — CONVENTION¹ BETWEEN GREAT BRITAIN AND NORTHERN IRELAND AND THE NETHERLANDS FOR THE RECIPROCAL EXEMPTION FROM TAXES IN CERTAIN CASES. SIGNED AT LONDON, JUNE 6TH, 1935.

Dutch and English official texts communicated by the Netherlands Minister for Foreign Affairs and by His Majesty's Secretary of State for Foreign Affairs in Great Britain. The registration of this Convention took place July 1st, 1936.

HER MAJESTY THE QUEEN OF THE NETHERLANDS and HIS MAJESTY THE KING OF GREAT BRITAIN, IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA, being desirous of concluding a Convention for reciprocal exemption from taxes in certain cases, have appointed to that end as their Plenipotentiaries :

HER MAJESTY THE QUEEN OF THE NETHERLANDS :

Jonkheer R. DE MAREES VAN SWINDEREN, Knight Grand Cross of the Order of Orange-Nassau, Commander of the Order of the Netherlands Lion, Knight Grand Cross of the Royal Victorian Order, Her Envoy Extraordinary and Minister Plenipotentiary in London ;

HIS MAJESTY THE KING OF GREAT BRITAIN, IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA (hereinafter referred to as His Majesty the King) :

FOR GREAT BRITAIN AND NORTHERN IRELAND :

The Right Honourable Sir John Allsebrook SIMON, G.C.S.I., K.C.V.O., O.B.E., K.C., M.P., His Principal Secretary of State for Foreign Affairs ;

Who, having communicated to each other their full powers, found to be in due form, have agreed as follows :

Article 1.

His Majesty the King undertakes that the profits or gains to which this Article relates shall, so long as the exemptions specified in Article 2 hereof remain effective, be exempted from Income Tax (including Sur-Tax) chargeable in the United Kingdom for the year of assessment commencing on the sixth day of April, nineteen hundred and thirty-one, and for every subsequent year of assessment, and that His Government in the United Kingdom will take the necessary action under

¹ The exchange of ratifications took place at London, May 22nd, 1936.

section seventeen of the Act of Parliament of the United Kingdom known as the Finance Act, 1930, with a view to giving the force of law to the exemption aforesaid.

The profits or gains to which this Article relates are any profits or gains arising, whether directly or indirectly, through an agency in the United Kingdom, to a person who is resident in the Netherlands and is not resident in the United Kingdom, unless the profits or gains either :

(a) Arise from the sale of goods from a stock in the United Kingdom ; or

(b) Accrue directly or indirectly through any branch or management in the United Kingdom or through an agency in the United Kingdom where the agent has and habitually exercises a general authority to negotiate and conclude contracts.

Article 2.

Her Majesty the Queen of the Netherlands undertakes that as from the sixth day of April, 1931, and thereafter, so long as the exemption specified in Article 1 hereof remains effective :

(a) The profits or gains to which this Article relates shall be exempted from Income Tax and Municipal Fund Tax (Inkomstenbelasting and Gemeentefondsbelasting) ; and

(b) Any property which is owned or possessed and employed in the Netherlands by a person resident in the United Kingdom and not resident in the Netherlands for the purpose of making profits or gains to which this Article relates shall, in so far as it is employed for that purpose, be exempted from Property Tax and Defence Tax I (Vermogensbelasting and Verdedigingsbelasting I) ;

and that Her Government will take the necessary action under the law of the 14th June, 1930 (Collection of Acts, No. 244, 1930), with a view to giving the force of law to the exemptions aforesaid.

Her Majesty the Queen of the Netherlands further declares that, under the laws of the Netherlands relating to Dividend and Tantieme Tax (Dividend- en Tantiemebelasting), tax is not chargeable on dividends or other sums distributed on account of profits or gains to which this Article relates by a body corporate which is resident in the United Kingdom, and undertakes that, so long as the exemption specified in Article 1 hereof remains effective, the dividends and other sums aforesaid shall continue to be exempt from tax under the laws of the Netherlands for the time being in force relating to the said Dividend and Tantieme Tax.

The profits or gains to which this Article relates are any profits or gains arising, whether directly or indirectly, through an agency in the Netherlands, to a person who is resident in the United Kingdom and is not resident in the Netherlands, unless the profits or gains either :

(a) Arise from the sale of goods from a stock in the Netherlands ; or

(b) Accrue directly or indirectly through any branch or management in the Netherlands or through an agency in the Netherlands where the agent has and habitually exercises a general authority to negotiate and conclude contracts.

Article 3.

His Majesty the King declares that under the laws in force in the United Kingdom relating to Income Tax the purchasing of goods or material in the United Kingdom, for sale or manufacture elsewhere than in the United Kingdom by a person who is resident in the Netherlands and is not resident in the United Kingdom, does not involve liability to United Kingdom Income Tax (including

Sur-Tax) on the part of that person, notwithstanding that the purchase is effected through a branch or management in the United Kingdom or through such an agency in the United Kingdom as is mentioned in the second paragraph of Article 1 hereof.

Her Majesty the Queen of the Netherlands undertakes that as from the sixth day of April 1931, and thereafter, so long as the position under the laws in force in the United Kingdom continues to be as declared in the preceding paragraph of this Article, the purchasing of goods or material in the Netherlands for sale or manufacture elsewhere than in the Netherlands by a person who is resident in the United Kingdom and is not resident in the Netherlands shall not involve liability to the Netherland taxes mentioned in Article 2 hereof on the part of that person, notwithstanding that the purchase is effected through a branch or management in the Netherlands or through such an agency in the Netherlands as is mentioned in the third paragraph of Article 2 hereof, and the Government of Her Majesty the Queen of the Netherlands will take the necessary action under the law of the 14th June, 1930 (Collection of Acts, No. 244, 1930), with a view to giving the force of law to the exemption aforesaid.

Article 4.

The exemptions granted under the foregoing Articles shall not extend to Income Tax chargeable in the United Kingdom under Schedule A of the Income Tax Acts or to Property Tax or Defence Tax I (Vermogensbelasting or Verdedigingsbelasting I) chargeable in the Netherlands in respect of immovable property in the Netherlands.

Article 5.

For the purposes of this Convention the word " person " includes any body of persons, corporate or not corporate, and a body corporate shall be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom, and shall be regarded as resident in the Netherlands if its business is managed and controlled in the Netherlands.

Article 6.

The present Convention shall be ratified and shall come into force on the date of exchange of the instruments of ratification, which shall take place in London as soon as possible. The Convention may be denounced by either High Contracting Party at any time by a notice in writing given through the diplomatic channel, and shall cease to operate six months after the date on which the notice of denunciation is received.

In witness whereof the above-named Plenipotentiaries have signed the present Convention and affixed thereto their seals.

Done at London, in duplicate, in the English and Netherlands languages, both texts being equally authentic, the 6th day of June, 1935.

(L. S.) R. DE MAREES VAN SWINDEREN.

(L. S.) John SIMON.

EXCHANGE OF NOTES.

I.

GEZANTSCHAP DER NEDERLANDEN

Netherlands Legation.

No. 911.

LONDON, *June 6th*, 1935.

SIR,

With reference to the Convention signed this day, for reciprocal exemption from taxes in certain cases, I have the honour to give the following assurances and explanations in regard to the application of that Convention in the Netherlands :

(a) For the purpose of the laws in force in the Netherlands, profits or gains accruing to a person, resident in the United Kingdom and not resident in the Netherlands, from sales under contracts, entered into in the United Kingdom (that is to say, where the acceptance of the offer is effected in the United Kingdom) of goods stocked in a warehouse in the Netherlands for convenience of delivery and not for purposes of display are not liable to the Netherlands taxes mentioned in Article 2 of the Convention, even though the offers of purchase have been obtained by an agent in the Netherlands of the principal in the United Kingdom and transmitted by him to the principal for acceptance.

(b) The word "agency" in the Convention connotes the relation of agent and principal and not that of servant and master.

I have the honour to remain, with the highest consideration, Sir, Your obedient Servant.

R. DE MAREES VAN SWINDEREN.

The Right Honourable

Sir John Simon, G.C.S.I., K.C.V.O., M.P.,
etc., etc., etc.

II.

No. W. 4290/375/29.

FOREIGN OFFICE, S.W. 1, *June 6th*, 1935.

SIR,

With reference to the Convention signed this day, for reciprocal exemption from taxes in certain cases, I have the honour to give you the following assurances and explanations in regard to the application of that Convention in the United Kingdom :

(a) Under the law in force in the United Kingdom, profits or gains accruing to a person, resident in the Netherlands and not resident in the United Kingdom, from sales under contracts, entered into in the Netherlands (that is to say, where the acceptance of the offer is effected in the Netherlands) of goods stocked in a warehouse in the United Kingdom for convenience of delivery and not for purposes of display are not liable to United Kingdom income tax (including Sur-tax) even though the offers of purchase have been obtained by an agent in the United Kingdom of the Netherlands principal and transmitted by him to the principal for acceptance.

(b) With reference to the meaning of the word "controlled" in connection with bodies corporate in Article 5 of the Convention, this word does not include the control

exercisable by virtue of a preponderance of voting power ; the words " managed and controlled " in the Article are intended to be read as a whole and connote the effective management, or what is sometimes called the real centre of management, of the business. The expression " managed and controlled " in this connection is well understood in this sense in United Kingdom Income Tax law.

(c) The word " agency " in the Convention connotes the relation of agent and principal and not that of servant and master.

I have the honour to be, with the highest consideration, Sir, Your obedient Servant.

John SIMON.

Jonkheer R. de Marees van Swinderen, G.C.V.O.,
etc., etc., etc.

Certifié pour copie conforme :

*Le Secrétaire général du Ministère
des Affaires étrangères des Pays-Bas,*

A. M. Snouck Hurgronje.

¹ TRADUCTION. — TRANSLATION.

N^o 3924. — CONVENTION ENTRE LA GRANDE-BRETAGNE ET L'IRLANDE DU NORD ET LES PAYS-BAS POUR L'EXEMPTION RÉCIPROQUE D'IMPOTS DANS DES CAS SPÉCIAUX. SIGNÉE A LONDRES, LE 6 JUIN 1935.

SA MAJESTÉ LA REINE DES PAYS-BAS et SA MAJESTÉ LE ROI DE GRANDE-BRETAGNE, d'IRLANDE ET DES DOMINIONS BRITANNIQUES AU DELÀ DES MERS, EMPEREUR DES INDES, désireux de conclure une convention en vue d'accorder des exonérations fiscales réciproques dans certains cas, ont nommé à cet effet pour plénipotentiaires :

SA MAJESTÉ LA REINE DES PAYS-BAS :

Le jonkheer R. DE MAREES VAN SWINDEREN, Grand-Croix de l'Ordre d'Orange-Nassau, Commandeur de l'Ordre du Lion des Pays-Bas, Grand-Croix de l'Ordre royal de Victoria, son envoyé extraordinaire et ministre plénipotentiaire à Londres ;

SA MAJESTÉ LE ROI DE GRANDE-BRETAGNE, d'IRLANDE ET DES DOMINIONS BRITANNIQUES AU DELÀ DES MERS, EMPEREUR DES INDES (désigné ci-après comme Sa Majesté le Roi) ;

POUR LA GRANDE-BRETAGNE ET L'IRLANDE DU NORD :

Le très honorable sir John Allsebrook SIMON, G.C.S.I., K.C.V.O., O.B.E., K.C., M.P., son principal secrétaire d'Etat aux Affaires étrangères ;

Lesquels, après s'être communiqué leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus de ce qui suit :

Article premier.

Sa Majesté le Roi convient que les revenus ou bénéfices auxquels s'applique le présent article seront, aussi longtemps que les exonérations spécifiées à l'article 2 de la présente convention seront en vigueur, exonérés de l'impôt sur le revenu (y compris la surtaxe) perçu dans le Royaume-Uni pour l'année fiscale ayant commencé le six avril mil neuf cent trente et un et pour chaque année fiscale ultérieure, et que son Gouvernement dans le Royaume-Uni prendra les mesures nécessaires, en vertu de l'article 17 de la loi du Royaume-Uni désignée sous le nom de « Finance Act, 1930 », pour donner force de loi à cette exonération.

Sont considérés comme des revenus ou bénéfices auxquels s'applique le présent article tous les revenus ou bénéfices qu'une personne domiciliée ou résidant aux Pays-Bas et sans domicile ou résidence dans le Royaume-Uni retire, directement ou indirectement, d'une agence dans le Royaume-Uni, à moins que les revenus ou bénéfices :

a) Ne résultent de la vente de marchandises provenant d'un stock dans le Royaume-Uni, ou

b) Ne proviennent directement ou indirectement d'une succursale ou d'un établissement dans le Royaume-Uni ou d'une agence dans le Royaume-Uni, si l'agent possède et exerce habituellement des pleins pouvoirs généraux l'autorisant à négocier et à conclure des contrats.

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

¹ Translated by the Secretariat of the League of Nations, for information.