

**AGREEMENT OF 16TH JUNE, 1959 AS AMENDED BY PROTOCOLS OF 13TH MARCH 1980, 21ST
MAY 1991 AND 4TH JUNE, 2004**

AGREEMENT BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE KINGDOM OF THE
NETHERLANDS FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON
INCOME AND FORTUNE AND VARIOUS OTHER TAXES, AND FOR THE REGULATION OF OTHER
QUESTIONS RELATING TO TAXATION

Article 1

(1) This Agreement shall apply to taxes which, under the legislation of each of the Contracting States, are levied either directly on income or fortune or on various other tax bases on behalf of the States or of Lander, municipalities or associations of municipalities.

(2) The taxes which are the subject of this Agreement are:

1. In the Federal Republic of Germany:

- (a)** The income tax (Einkommensteuer) (including the wages tax (Lohnsteuer), the tax on income from capital (Kapitalertragsteuer) and the tax on directors' fees (Aufsichtsratssteuer)),
- (b)** The corporation tax (Körperschaftsteuer),
- (c)** The Berlin emergency contribution (Abgabe Notopfer Berlin),
- (d)** The fortune tax (Vermögensteuer),
- (e)** The business tax (Gewerbesteuer),
- (f)** The land tax (Grundsteuer);

2. In the Kingdom of the Netherlands:

- (a)** The income tax (inkomstenbelasting),
- (b)** The wages tax (loonbelasting),
- (c)** The corporation tax (vennootschapsbelasting),
- (d)** The dividends tax (dividendbelasting),
- (e)** The tax on directors' fees (commissarissenbelasting),
- (f)** The fortune tax (vermogensbelasting),
- (g)** The land tax (grondbelasting),
- (h)** The local profits tax (local taxes on the increase in value of certain plots of land) (gemeentelijke baatbelastingen),
- (i)** The local building plot tax (gemeentelijke bouwterreinbelastingen),
- (j)** The road, street and waterway tax (wegen-, straat- en vaartbelastingen),
- (k)** The mine tax (het recht op de mijnen).

(3) This Agreement shall apply to any other tax of the same or substantially similar character which may be imposed by either Contracting State after the date of signature of this Agreement.

(4) The chief financial authorities of the Contracting States shall inform each other of new taxes introduced, of any material changes made in existing taxes covered by this Agreement, or of the abolition of any such taxes.

Article 2

(1) In this Agreement, unless the context otherwise requires:

1. The term “person” means both individuals and bodies corporate, bodies corporate being deemed to include associations and assets liable as such to taxation as bodies corporate, as also the Netherlands commanditaire vennootschappen op aandelen (limited partnerships with share capital);
2. The term “permanent establishment” means a fixed place of business in which an enterprise carries on all or part of its activities.

(a) The following, in particular, shall be deemed to be permanent establishments:

(aa) A place of management,

(bb) A branch,

(cc) A business office,

(dd) A factory,

(ee) A workshop,

(ff) A mine, a quarry or any other place where natural resources are worked,

(gg) A construction or assembly project, the duration of which exceeds twelve months.

(b) The following shall not be deemed to constitute a permanent establishment:

(aa) The use of facilities exclusively for the storage, display or delivery of goods or merchandise belonging to the enterprise;

(bb) The maintenance, exclusively for storage, display or delivery, of a stock of goods or merchandise belonging to the enterprise;

(cc) The maintenance, exclusively for manufacturing or processing by some other enterprise, of a stock of goods or merchandise belonging to the enterprise;

(dd) The maintenance of a fixed place of business exclusively for the purchase of goods and merchandise or for procuring information for the enterprise;

(ee) The maintenance of a fixed place of business exclusively for advertising purposes, for the supply of information, for scientific

research or for similar activities which are in the nature of preparatory or subsidiary activities for the benefit of the enterprise.

- (c) A person acting in one of the Contracting States for an enterprise of the other Contracting State--other than an independent representative within the meaning of sub-paragraph (d)--shall be deemed to constitute a permanent establishment situated in the first-mentioned State if he has and habitually exercises in that State a general authority to negotiate and conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.
 - (d) An enterprise of one of the Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business dealings there through a broker, commission agent or other independent representative acting in the ordinary course of his business as such.
 - (e) The fact that a company which is domiciled in one of the Contracting States controls, or is controlled by, a company which is domiciled in the other State or carries on business dealings there (either through a permanent establishment or otherwise) shall not of itself constitute one of the two companies a permanent establishment of the other.
3. The term “chief financial authority” means, in the case of the Federal Republic of Germany, the Federal Minister of Finance, and, in the case of the Kingdom of the Netherlands, the Minister of Finance or his authorized representative.
4. The term “national” means:
- (a) In relation to the Federal Republic of Germany:

All German nationals within the meaning of article 116, paragraph 1, of the Basic Law for the Federal Republic of Germany;
 - (b) In relation to the Kingdom of the Netherlands:

All Netherlands nationals and, in addition, all Netherlands subjects living in the Netherlands.
- A body corporate constituted under the laws in force in either Contracting State shall also be deemed to be a national of that State.
5. The term “enterprise of one of the Contracting States” or “enterprise of the other State” means, as the context requires, a business enterprise carried on by a person domiciled in the Netherlands or a business enterprise carried on by a person domiciled in the Federal Republic of Germany.
6. The term “cross-border industrial area” is a regionally enclosed area that extends into the sovereign territories of both the Netherlands and the German Federal Republic and through which the mutual border between the two Contracting States runs, provided that the Contracting States have mutually designated the area as a cross-border industrial area.

(2) In the application of this Agreement by either Contracting State, any term not defined in this Agreement shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that State relating to the taxes which are the subject of this Agreement.

Article 3

(1) An individual shall be deemed for the purposes of this Agreement to be domiciled in the Contracting State in which he has a dwelling under circumstances justifying the assumption that he will retain and use it.

(2) Where an individual does not possess a dwelling under the circumstances referred to in paragraph (1) in either Contracting State but regularly resides in one of the States, he shall be deemed for the purposes of this Agreement to be domiciled in the State in which he has his regular residence. A person has his regular residence in a State if he resides there under circumstances justifying the assumption that his stay in that State is not merely temporary.

(3) Where an individual may be deemed under the preceding paragraphs to be domiciled in both Contracting States, he shall be deemed for the purposes of articles 4-19 of this Agreement to be domiciled in the State with which he has the closer personal and economic ties (centre of vital interests). If the centre of vital interests cannot be determined, the chief financial authorities of the Contracting States shall come to an agreement as provided in article 25.

(4) Where an individual has, on land, neither a dwelling under the circumstances referred to in paragraph (1) nor a regular residence within the meaning of paragraph (2), regularly resides on board a ship belonging to a shipping enterprise, he shall be deemed for the purposes of this Agreement to be domiciled in the Contracting State in which the place of management of the shipping enterprise is situated.

(5) A body corporate shall be deemed for the purposes of this Agreement to be domiciled in the Contracting State in which its place of management is situated. If its place of management is not situated in either Contracting State, it shall be deemed to be domiciled in the place where its registered office is situated.

(5a) If (1) a national has a place of business in a cross-border industrial area, (2) the mutual border between the Contracting States runs through the permanent commercial site in which the place of business is located and (3) it cannot be clearly determined in which of the Contracting States the national has the place of residence, then it shall be in the Contracting State in which the enterprise is utilized. More detailed provisions for determining in which Contracting State the national has a place of business may be found in the annex to the Agreement.

(6) For the purpose of this Agreement, the place of management shall be the place where the centre of actual management of the enterprise is situated. Where the place of management of a shipping enterprise is situated on board a ship, the place of management for the purposes of this Agreement shall be deemed to be the place in which the home port of the ship is situated.

Article 4

(1) Where a person domiciled in one of the Contracting States derives income from immovable property (including accessories thereto) situated in the other State, such income shall be subject to taxation by the latter State.

(2) The provisions of paragraph (1) shall apply both to income derived from the direct administration and use of immovable property (including agricultural and forestry enterprises ancillary thereto) and to income derived from the lease or use in any other form of such property, in particular fixed or variable compensation for the use of natural resources; they shall also apply to income derived from the alienation of immovable property.

(3) The provisions of paragraphs 1 and 2 shall also apply to property referred to in those paragraphs which forms part of the assets of a business enterprise.

Article 5

(1) Where a person domiciled in one of the Contracting States derives income, as owner or co-owner, from a business enterprise whose activities extend to the territory of the other State, the said income shall be subject to taxation by the latter State only in so far as it is attributable to a permanent establishment of the enterprise which is situated in its territory.

(2) In this connexion, the income to be attributed to the permanent establishment shall be that which would have accrued to it if it were a separate enterprise engaged in the same or similar activities under the same or similar conditions and carrying on business as an independent enterprise.

(3) The provisions of paragraph (1) shall apply both to income derived from the direct administration and use of the business enterprise and to income derived from the lease or use in any other form thereof; they shall also apply to income derived from the alienation of a business as a whole, of a share in the enterprise, of a part of the business or of an object used in the business.

(4) If an enterprise in one of the Contracting States has a permanent commercial site in that part of a cross-border industrial area that belongs to the sovereign territory of the other Contracting State, the commercial site shall not, for the purpose of taxation of income generated by the commercial site, be deemed to be a place of business. Article 10 shall not be affected by this provision.

(5) If a permanent commercial site belonging to a commercial enterprise of one of the Contracting States is located in a cross-border industrial area and is then moved to a location that is either outside of this cross-border enterprise area or within this cross-border enterprise area and if as a result of this re-location the right to tax income generated by the commercial enterprise is transferred to the other Contracting State, the first-named country may in cases of hardship, upon request and for a period of five years or less following the first due date, defer payment of the taxes that arise as a result of the re-location. A hardship shall exist if the re-location is made for reasons not attributable to the enterprise.

Article 6

(1) Where an enterprise of one of the Contracting States, by virtue of its participation in the management or financial structure of an enterprise of the other State, arranges with or imposes upon that enterprise economic or financial conditions differing from those which would be arranged with an independent enterprise, any income which would normally have accrued to one of the two enterprises but which by reason of those conditions has not so accrued may be included in the income of that enterprise and taxed accordingly.

(2) The provisions of paragraph (1) shall apply *mutatis mutandis* to the relationship between two enterprises in whose management or assets the same person participates directly or indirectly.

Article 7

(1) Where a person domiciled in one of the Contracting States derives income, as owner or co-owner, from a shipping, inland waterways transport or air transport enterprise having its place of management in one of the Contracting States, income directly connected with the shipping, inland waterways transport or air transport operations shall be subject to taxation only by the State in which the place of management is situated, even if the enterprise has a permanent establishment in the other State.

(2) So long as the Contracting State in which the place of management is situated fails to exercise its right to tax a person domiciled in the other State, the latter State shall be entitled to exercise that right.

Article 8

(1) Where a person domiciled in one of the Contracting States derives income from the disposal of an interest in a joint-stock company domiciled in the other State, the said income shall be subject to taxation by the former State.

(2) The provisions of paragraph (1) shall not apply where a person domiciled in one of the Contracting States has a permanent establishment in the other State and the income accrues to him through that establishment. In this case the income shall be subject to taxation by the latter State.

Article 9

- (1) Where a person domiciled in one of the Contracting States derives income from present or past self-employment in the other State, the said income shall be subject to taxation by the latter State.
- (2) A person shall not be deemed to be self-employed in the other State unless in the exercise of his occupation he makes use of permanent facilities regularly available to him there. This restriction shall not, however, apply to self-employment in the case of artistes, performers, athletes or entertainers.
- (3) The provisions of article 5, paragraph (3), shall apply as appropriate.
- (4) Where an individual domiciled in one of the Contracting States receives fees as a member of a board of directors or a non-managing member of a similar organ from a body corporate domiciled in the other State, the said fees shall be subject to taxation by the latter State.

Article 10

- (1) Where an individual domiciled in one of the Contracting States derives income from employment in the other State, the said income shall be subject to taxation by the latter State.
- (2) Notwithstanding paragraph (1), income derived from employment shall be taxable solely in the Contracting State in which the employed person is domiciled if:
 1. He is present in the other State temporarily, for a total of not more than 183 days in one calendar year;
 2. The remuneration for his work during that time is paid by an employer who is not domiciled in the other State; and
 3. The remuneration for his work is not charged against a permanent establishment or fixed base which the employer has in the other State.

(2a) Notwithstanding the preceding provisions of this present Article, incomes from non-independent work which are received by a national whose place of residence is in one of the Contracting Countries and the payment of which is debited against a permanent commercial site located in a cross-border enterprise area through which the mutual border between the Contracting States runs may be taxed only by that country in which the national has its place of residence, unless such national is subject to the legal provisions of the other country pursuant to EWG Directive No. 1408/71 of the Council, dated June 14, 1971 (Official Gazette No. L 149, dated July 5, 1971) or pursuant to a directive of the European Union which will supersede it after the Third Supplementary Protocol has been executed.

- (3) Where an individual's services are performed exclusively or predominantly on board a ship or aircraft of a shipping or air transport enterprise, they shall be deemed to have been performed in the Contracting State in which the place of management of the enterprise is situated. So long as the latter State does not tax the income derived from such services, the State of domicile shall be entitled to do so.

Article 11

- (1) Where an individual domiciled in one of the Contracting States derives income in the form of wages, salaries or similar remuneration paid by one of the two States or by Lander, provinces, municipalities or associations of municipalities or other public corporations of one of the two States, the said income shall be subject to taxation by the State from whose public funds it is paid. If, however, such individual is a national of the State of domicile without at the same time being a national of the State from whose public funds the income

is paid, and his activity is exercised in the State of domicile, then the said income shall be subject to taxation by the State of domicile.

(2) Remuneration for services rendered in connexion with a business carried on for profit by either Contracting State or by another public corporation shall be subject to the provisions of article 10.

Article 12

(1) Where an individual domiciled in one of the Contracting States receives half pay, a retirement, widow's or orphan's pension, or other payments or benefits in money's worth in respect of past services, such income shall be subject to taxation by the State of domicile.

(2) Notwithstanding the provisions of paragraph (1), half pay, retirement, widows' or orphans' pensions or other payments or benefits in money's worth paid in respect of past services by one of the two States or by Lander, provinces, municipalities or associations of municipalities or other public corporations of one of the two States to employees or their survivors, either direct or through a public agency established for that purpose, shall be subject to taxation by that State.

(3) The provisions of paragraph (2) shall also apply in respect of:

1. Payments made under a statutory social insurance scheme;
2. Pensions, life annuities and other recurrent or non-recurrent payments made by one of the Contracting States or by a public or private corporation of such State as compensation for damage resulting from military action or political persecution.

Article 13

(1) Dividends received by a person domiciled in one of the Contracting States from the other State shall be subject to taxation by the State of domicile.

(2) To the extent that in the other Contracting State the tax on income from capital is collected by deduction (at the source), the right to make such tax deductions shall not be affected.

(3) Tax deducted as provided in paragraph (2) shall not exceed 15 per cent of the dividends.

(4) Tax deducted as provided in paragraph (2) shall not, however, exceed 10 per cent of the dividends if these are paid by a joint-stock company domiciled in one of the Contracting States to a joint-stock company domiciled in the other State and holding at least 25 per cent of the voting shares of the first-mentioned company.

(5) The provisions of paragraphs (1) to (4) shall not apply where a person domiciled in one of the Contracting States has a permanent establishment in the other State and realizes the income through that establishment. In this case the income shall be subject to taxation by the latter State.

Article 14

(1) Where a person domiciled in one of the Contracting States receives interest from the other State, such interest shall be subject to taxation by the State of domicile.

(2) The provisions of paragraph (1) shall not apply where a person domiciled in one of the Contracting States has a permanent establishment in the other State and realizes the income through that establishment. In this case the income shall be subject to taxation by the latter State.

(3) The term “income” as used in this article means income from loans, bonds, bills of exchange and debt-claims of any other kind. Income derived from convertible bonds and participating debentures shall be subject to the provisions of article 13, paragraphs (1), (2), (3) and (5).

Article 15

(1) Where a person domiciled in one of the Contracting States derives from the other State income from royalties or other remuneration paid as consideration for the use of or for the right to use copyrights, patents, registered designs, manufacturing processes, trade marks, or similar rights (other than rights pertaining to the exploitation of natural resources), such income shall be subject to taxation by the State of domicile.

(2) The provisions of paragraph (1) shall also apply to income derived from the alienation of the rights referred to therein.

(3) Rentals and like payments for the hire of cinematograph films, for the use of industrial, commercial or scientific equipment or for industrial information shall be treated as royalties.

(4) The provisions of paragraphs (1) and (2) shall not apply where a person domiciled in one of the Contracting States has a permanent establishment in the other State and realizes the income through that establishment. In this case the income shall be subject to taxation by the latter State.

Article 16

Where a person domiciled in one of the Contracting States receives income in respect of which no provision is made in the preceding articles, such income shall be subject to taxation by the State of domicile.

Article 17

Professors or teachers domiciled in one of the Contracting States who receive remuneration, during a period of temporary residence not exceeding two years, for teaching at a university, college, school or other educational establishment in the other State shall be taxed in respect of such remuneration only by the State of domicile.

Article 18

A student, business or other apprentice or unsalaried trainee from one of the Contracting States who is present in the other State for the sole purpose of education or training shall not be taxed by the latter State in respect of payments which he receives for his maintenance, education or training, provided that such payments are made to him from sources outside that State.

Article 19

(1) Where the fortune of a person domiciled in one of the Contracting States consists of:

- (a) Immovable property (including accessories thereto),
- (b) Claims secured by mortgages or other charges on immovable property,
- (c) Property used by business enterprises, including shipping, inland waterways transport or air transport enterprises,

(d) Property used by a self-employed person in the exercise of his occupation,

it shall be subject to taxation by the State which is entitled under this Agreement to tax the income derived therefrom.

(2) Other fortune owned by a person domiciled in one of the Contracting States shall be subject to taxation by that State.

Article 20

(1) Income or elements of fortune which under the preceding articles are subject to taxation by the State of domicile shall not be taxed by the other State. The foregoing shall be without prejudice to the provisions of article 13, paragraph (2) and article 14, paragraph (3), second sentence.

(2) If the Federal Republic of Germany is the State of domicile, it shall exclude from the tax base any income and fortune which under the preceding articles are subject to taxation by the Netherlands. Nevertheless, taxes on income or elements of fortune subject to taxation by the Federal Republic of Germany shall be levied at the rate applicable to the taxpayer's total income or total fortune. Notwithstanding the first sentence of this paragraph, dividends (other than those referred to in article 13, paragraph (4)) and interest on convertible bonds and participating debentures shall not be excluded from the tax base; Netherlands tax which is deducted from such income shall be credited against the taxes levied on this income by the Federal Republic of Germany, the latter taxes being computed on the basis of an average rate of tax.

(3) If the Netherlands is the State of domicile, it shall be entitled to include in the tax base income and elements of fortune (except for disability pensions and other benefits for invalids that are paid under the social security laws of the Federal Republic of Germany to a national whose place of residence as defined in this Agreement is in the Netherlands and who was a forced laborer in Germany during World War II.) which under the preceding articles are subject to taxation by the Federal Republic of Germany; however, the Netherlands, subject to its domestic regulations concerning the avoidance of double taxation with respect to the compensation of losses, shall deduct from the tax thus computed the portion thereof attributable to income and fortune which under articles 4, 5, 6, 7, 8, paragraph (2), 9, 10, paragraph (1), 11, 12, paragraphs (2) and (3), 13, paragraph (5), 14, paragraph (2), 15, paragraph (4) and 19, paragraph (1), are subject to taxation by the Federal Republic of Germany. The tax to be deducted shall be computed on the basis of the ratio of the income or fortune subject to taxation by the Federal Republic of Germany, under the articles mentioned in the preceding sentence, to the total income or total fortune.

(4) The Netherlands shall grant a discount from the Netherlands tax for those components of the income which may be taxed in the Federal Republic of Germany pursuant to Article 13 paragraph 2 of the Agreement, provided that these components are included in the tax assessment basis described in paragraph 3. The amount of the discount shall equal the tax paid in the Federal Republic of Germany for these income components. However, the amount of the discount that is to be granted pursuant to the above shall not exceed the amount that would have been granted if the income components that are included in this manner had been the only income components that are tax free on the basis of the provision contained in the legal provisions of the Netherlands for avoiding double taxation.

This paragraph contains no restriction with respect to any existing or future adjustment pursuant to the provisions of the Netherlands for avoiding double taxation; it is applicable only in reference to the calculation of the amount of discount of the Netherlands tax that pertains to the additional incomes from more than one country.

Article 21

This Agreement shall not affect claims to any additional exemptions to which diplomatic or consular officials may be entitled under the general rules of international law or by virtue of special agreements. Where, owing to such additional exemptions, income and fortune are not taxed in the receiving State, the right of taxation shall be reserved to the sending State.

Article 22

(1) When a person domiciled in one of the Contracting States shows proof that the action of the taxation authorities of the Contracting States has resulted in his case in double taxation contrary to the provisions of this Agreement, he may, without prejudice to such legal remedies as may be open to him under national law, apply to the chief financial authority of the Contracting State in which he is domiciled or of which he is a national.

(2) If the objection is considered to be justified, the chief financial authority competent under paragraph (1) shall endeavour to come to an agreement with the chief financial authority of the other State with a view to the avoidance of double taxation.

Article 22A

(1) If an enterprise of one of the Contracting States has a permanent commercial site that is either completely or partially in that part of a cross-border enterprise area that belongs to the sovereign area of the other Contracting State and if the first named country has the right to tax the incomes generated by this commercial enterprise, the incomes generated by non-independent work of employees of this commercial enterprise, the first named country may - to this extent - independently conduct independent audits to determine the tax relationships that prevail in this permanent commercial site. The other country shall have the right to participate in such audits.

(2) The Contracting State on whose sovereign territory an independent audit as described in paragraph 1 is to be conducted must be notified thereof by the other Contracting State at least two weeks before the audit is scheduled to begin. The following information must be provided in the notification:

- (a) The name of the authority or office from which the notification by the highest revenue and taxation authority is being sent;
- (b) The name of the authority or office which intends to conduct the independent audit;
- (c) The name, address, and other pertinent information necessary to identify the enterprise to be audited;
- (d) The time the independent audit is scheduled to begin;
- (e) The types of tax and periods of time to be covered by the independent audit. After the independent audit has been completed, the Contracting State that conducted the audit shall inform the other Contracting State concerning the time the audit was ended.

(3) The laws and procedural provisions of the Contracting State conducting the audit shall govern the way in which the independent audit defined in paragraph 1 is conducted. Any appeal against the measures or methods used by the Contracting State in conducting the audit must be filed with the court or other authority in such Contracting State that has jurisdiction over such matters.

(4) Data pertaining to third persons of which the Contracting State conducting the independent audit becomes aware while conducting the audit may not be used by this country until they have been transmitted to the other Contracting State, processed and evaluated by that Contracting State pursuant to its provisions of law, and then made available to the Contracting State that conducted the independent audit along with permission to use the data.

(5) Paragraph 1 shall not apply, if the Contracting State on whose sovereign territory the independent audit is to be conducted objects to the independent audit being conducted. Such an objection is permissible only if, in the opinion of the last named country, the independent audit is against the public order or important interests of the country. In such case the two Contracting States shall conduct a joint audit of the pertinent commercial enterprise within one month of the declaration of cancellation. The regulations and provisions of law of the country in whose sovereign territory the joint audit is being conducted shall govern the process.

Article 23

(1) The chief financial authorities of the Contracting States shall exchange such information as is necessary for carrying out this Agreement and, in particular, for preventing tax evasion. The chief financial authorities may refuse information which cannot be given on the basis of data at the disposal of the financial authorities but would necessitate extensive inquiries.

(2) Information communicated to the chief financial authorities in accordance with this article shall be treated as secret but may be disclosed to persons who are statutorily concerned with the assessment or collection of the taxes which are subject to this Agreement. Such persons shall be under the same obligation as the chief financial authorities.

(3) In no case shall the provisions of paragraph (1) be so construed as to impose on either State the obligation:

(a) To carry out administrative measures at variance with the regulations or administrative practice of the two Contracting States;

(b) To supply particulars which are not obtainable under the laws of the Contracting States.

(4) No information may be given which would disclose a business or professional secret.

(5) Information may be refused for reasons of public policy.

Article 24

(1) Nationals of one of the Contracting States shall not be subjected in the other State to any taxation other or higher than that to which the nationals of the latter State are subjected in similar circumstances. The same provision shall apply as regards the extent of any tax allowances, reliefs and reductions granted on the basis of marital status or family circumstances.

(2) Enterprises carried on by a person domiciled in one of the Contracting States shall not as a general rule be subjected, in respect of their permanent establishments in the other Contracting State to any tax mentioned in article 1 of this Agreement or to any requirement connected therewith which is other, higher or more burdensome than the taxes or connected requirements to which enterprises carried on by a person domiciled in the other Contracting State are subjected.

Article 25

(1) In dealing with matters arising out of this Agreement, the chief financial authorities of the Contracting States may enter into direct contact with each other.

(2) Where any difficulty or doubt arises in the interpretation or application of this Agreement, or where any hardship occurs through double taxation in cases for which the Agreement does not provide, the chief financial authorities shall settle the matter by arrangement between them. They shall consult each other before issuing any regulations for giving effect to this Agreement.

Article 26

(1) This Agreement shall also apply to Land Berlin unless the Government of the Federal Republic of Germany notifies the Government of the Kingdom of the Netherlands to the contrary within three months after its entry into force.

(2) In the application of this Agreement to Land Berlin, any reference to the Federal Republic of Germany shall be deemed also to be references to Land Berlin.

Article 27

(1) So far as the Kingdom of the Netherlands is concerned, this Agreement shall apply only to that part of the Kingdom which is situated in Europe.

(2) This Agreement may be extended, either in its entirety or with modifications, to any part of the Kingdom of the Netherlands outside Europe which imposes taxes which are substantially identical with or similar to those specified in article 1 of this Agreement, if such part of the Kingdom of the Netherlands so desires and the Federal Republic of Germany gives its consent. The Kingdom of the Netherlands and the Federal Republic of Germany shall exchange notes for that purpose. They shall specify in such notes the modifications and conditions (including conditions as to entry into force and termination) subject to which the Agreement shall apply.

Article 28

(1) This Agreement shall apply to taxes levied for periods subsequent to 31 December 1955.

(2) By way of exception to paragraph 1, the tax deduction maximum provided for in article 13, paragraph (3), shall apply to dividends paid after 31 December 1957.

Article 29

(1) This Agreement shall be ratified; the instruments of ratification shall be exchanged as soon as possible at Bonn.

(2) This Agreement shall enter into force one month after the exchange of the instruments of ratification and shall continue in force until notice of termination is given by one of the Contracting States. Where such notice is given not less than six months before the end of a calendar year, the Agreement shall cease to have effect on 1 January of the next following year; otherwise it shall cease to have effect on 1 January of the second year following the year of notice. Notice of termination may not be given to take effect earlier than 1 January 1962.

ANNEX

If a national has a business in a cross-border industrial area and the mutual border between the Contracting States runs through the permanent commercial site in which the business is located, the Contracting State in which the national has its place of residence as defined in Article 3 paragraph 5a of the Agreement shall be determined as follows:

- a. If it can be unambiguously determined in which of the Contracting States the business of the national is located, then such Contracting State shall be the place of residence.

- b. If it cannot be unambiguously determined in which of the Contracting States the business of the national is located, then the place of residence of such national shall be in that Contracting State in which is located the greatest share of the area used by the enterprise in which the enterprise's business is used.

Examples:

[Figure omitted]

The location of the business can be unambiguously determined.

The Netherlands has the right to tax the incomes generated by the commercial enterprise (Article 3 paragraph 5a in conjunction with Article 5 paragraph 1 and 4 of the Agreement).

[Figure omitted]

The location of the business cannot be unambiguously determined, because the location of the business is not unambiguously located in either one or the other of the two Contracting States.

The largest share of the area of the building used by the enterprise in which the enterprise's business is used shall govern.

Area used by the enterprise: $100 \text{ m}^2 + 100 \text{ m}^2 + 400 \text{ m}^2 = 600 \text{ m}^2$

Of which the area in Germany is: $50 \text{ m}^2 + 50 \text{ m}^2 + 400 \text{ m}^2 = 500 \text{ m}^2$

And the area in the Netherlands is: $50 \text{ m}^2 + 50 \text{ m}^2 = 100 \text{ m}^2$

The Federal Republic of Germany has the right to tax the incomes generated by the commercial enterprise (Article 3 paragraph 5a in conjunction with Article 5 paragraph 1 and 2 of the Agreement).

[Figure omitted]

The location of the business cannot be unambiguously determined, because the location of the business is not unambiguously located in either one or the other of the two Contracting States.

The largest share of the area of the building used by the enterprise in which the enterprise's business is used shall govern (in this case: building 1).

Area used by the enterprise: $100 \text{ m}^2 + 100 \text{ m}^2 = 200 \text{ m}^2$

Of which the area in Germany is: $30 \text{ m}^2 + 30 \text{ m}^2 = 60 \text{ m}^2$

And the area in the Netherlands is: $70 \text{ m}^2 + 70 \text{ m}^2 = 140 \text{ m}^2$

The Netherlands has the right to tax the incomes generated by the commercial enterprise (Article 3 paragraph 5a in conjunction with Article 5 paragraph 1 and 2 of the Agreement).

[Figure omitted]

The location of the business cannot be unambiguously determined, because the location of the business is not unambiguously located in either one or the other of the two Contracting States.

The largest share of the area of the building used by the enterprise in which the enterprise's business is used shall govern.

Area used by the enterprise: 250 m^2

Of which the area in Germany is: 200 m^2

And the area in the Netherlands is: 50 m²

The Federal Republic of Germany has the right to tax the incomes generated by the commercial enterprise (Article 3 paragraph 5a in conjunction with Article 5 paragraph 1 and 2 of the Agreement).