

No. 49473

**Netherlands (for the European part of the Netherlands)
and
Hong Kong Special Administrative Region (under authorization
by the Government of the People's Republic of China)**

Agreement between the Kingdom of the Netherlands and the Hong Kong Special Administrative Region of the People's Republic of China for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol and exchange of letters). Hong Kong, 22 March 2010

Entry into force: *24 October 2011, in accordance with article 29*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *Netherlands, 5 March 2012*

**Pays-Bas (pour la partie européenne des Pays-Bas)
et
Région administrative spéciale de Hong Kong (par autorisation
du Gouvernement de la République populaire de Chine)**

Accord entre le Royaume des Pays-Bas et la Région administrative spéciale de Hong Kong de la République populaire de Chine en vue d'éviter la double imposition et de prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole et échange de lettres). Hong Kong, 22 mars 2010

Entrée en vigueur : *24 octobre 2011, conformément à l'article 29*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : *Pays-Bas, 5 mars 2012*

[ENGLISH TEXT – TEXTE ANGLAIS]

Agreement between the Kingdom of the Netherlands and the Hong Kong Special Administrative Region of the People's Republic of China for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income

The Government of the Kingdom of the Netherlands,

And

The Government of the Hong Kong Special Administrative Region of the People's Republic of China,

Desiring to conclude an Agreement 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 AGREEMENT

Article 1

Persons Covered

This Agreement shall apply to persons who are residents of one or both of the Contracting Parties.

Article 2

Taxes Covered

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting Party 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 Agreement shall apply are in particular:

- a) in the case of 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 Mijnbouwwet (the Mining Act); and
 - de dividendbelasting (dividend tax);
 - b) in the case of the Hong Kong Special Administrative Region:
 - profits tax;
 - salaries tax; and
 - property tax;
- whether or not charged under personal assessment.

4. This Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes, as well as any other taxes falling within paragraphs 1 and 2 of this Article which a Contracting Party may impose in future. The competent authorities of the Contracting Parties shall notify each other of any significant changes that have been made in their taxation laws.

5. The existing taxes, together with the taxes imposed after the signature of this Agreement, are hereinafter referred to as “Hong Kong Special Administrative Region tax” and “Netherlands tax” respectively.

CHAPTER II

DEFINITIONS

Article 3

General Definitions

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

a) the terms “a Contracting Party” and “the other Contracting Party” mean the Kingdom of the Netherlands (the Netherlands) or the Hong Kong Special Administrative Region, as the context requires;

b) the term “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;

c) the term “Hong Kong Special Administrative Region” means the Hong Kong Special Administrative Region of the People’s Republic of China;

d) the term “person” includes an individual, a company, a partnership and any other body of persons and in the case of the Hong Kong Special Administrative Region also a trust;

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

f) the term “enterprise” applies to the carrying on of any business;

g) the terms “enterprise of a Contracting Party” and “enterprise of the other Contracting Party” mean respectively an enterprise carried on by a resident of a Contracting Party and an enterprise carried on by a resident of the other Contracting Party;

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

i) 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 the Hong Kong Special Administrative Region, the Commissioner of Inland Revenue or his authorised representative or any person or body authorised to perform any functions at present exercisable by the Commissioner or similar functions;

j) the term “national”, in relation to the Netherlands means 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;

k) the term “business” includes the performance of professional services and of other activities of an independent character.

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

Article 4

Resident

1. For the purposes of this Agreement, the term “resident of a Contracting Party” means:

a) in the case of the Netherlands, any person who, under the laws of the Netherlands, 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 the Netherlands in respect only of income from sources in the Netherlands;

b) in the case of the Hong Kong Special Administrative Region,

(i) any individual who ordinarily resides in the Hong Kong Special Administrative Region;

(ii) any individual who stays in the Hong Kong Special Administrative Region for more than 180 days during a year of assessment or for more than 300 days in two consecutive years of assessment one of which is the relevant year of assessment;

(iii) a company incorporated in the Hong Kong Special Administrative Region or, if incorporated outside the Hong Kong Special Administrative Region, being normally managed or controlled in the Hong Kong Special Administrative Region;

(iv) any other person constituted under the laws of the Hong Kong Special Administrative Region or, if constituted outside the Hong Kong Special Administrative Region, being normally managed or controlled in the Hong Kong Special Administrative Region;

2. The term “resident of a Contracting Party” also includes:

a) for the Netherlands, the Government of the Netherlands, any political subdivision or local authority thereof;