

BIJLAGE

Briefwisseling van 29 mei 2009

I have the honour to acknowledge receipt of Your Excellency's Letter of the 29th of May 2009, which reads as follows:

'I have the honour to refer to the Convention between the Government of the Netherlands and the Government of the Grand Duchy of Luxembourg for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on Income and Capital, signed at The Hague on 8 May 1968, as amended by the Protocol signed today (the 'Convention') and to propose on behalf of the Government of Luxembourg the following understandings:

1. It is understood that the competent authority of the requested State will provide upon request by the competent authority of the requesting State information for the purposes referred to in Article 26.
2. The competent authority of the applicant State will provide the following information to the competent authority of the requested State when making a request for information under the Convention to demonstrate the foreseeable relevance of the information to the request:
 - (a) the identity of the person under examination or investigation;
 - (b) a statement of the information sought including its nature and the form in which the applicant State wishes to receive the information from the requested State;
 - (c) the tax purpose for which the information is sought;
 - (d) grounds for believing that the information requested is held in the requested State or is in the possession or control of a person within the jurisdiction of the requested State;
 - (e) to the extent known, the name and address of any person believed to be in possession of the requested information;
 - (f) a statement that the request is in conformity with the law and administrative practices of the applicant State, that if the requested information was within the jurisdiction of the applicant State then the competent authority of the applicant State would be able to obtain the information under the laws of the applicant State or in the normal course of administrative practice and that it is in conformity with this Convention;
 - (g) a statement that the applicant State has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

3. As to paragraph 2 it is understood that these procedural requirements will be evaluated after a period of two years in the light of the internationally agreed standard on exchange of information for tax purposes.

If the foregoing understandings meet with the approval of the Government of the Netherlands, I have the further honour to propose that this Note and your affirmative Note in reply will constitute a covenant between our Governments and will come into effect on the date of entry into force of the Protocol'

Accept, Your Excellency, the expression of my highest considerations.'

I have further the honour to inform you that the above-mentioned proposals are acceptable to the Government of the Netherlands and to agree that your Excellency's Letter and this Letter in reply shall together be regarded as constituting a covenant between the two Governments, which will come into effect on the date of entry into force of the Protocol.