Oral Statement

of

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on behalf of

Tax Executives Institute, Inc.

on

The Protocol
Between the United States and the Netherlands
and
The Second Protocol
Between the United States and Barbados

before the

Committee on Foreign Relations
United States Senate

September 24, 2004

Good afternoon. I am Judy Zelisko, Vice President-Tax for Brunswick Corporation. I am here today as President of Tax Executives Institute, whose 5,400 members work for 2,800 of the largest companies in North America and

Europe. TEI appreciates the opportunity to present its views on these two important protocols.

Tax Executives Institute was established in 1944 to serve the professional needs of in-house tax practitioners. Today, the Institute has 53 chapters in the United States, Canada, and Europe. Our 5,400 members are accountants, attorneys, and other business professionals who work for 2,800 of the leading companies in North America and Europe; they are responsible for conducting the tax affairs of their companies and ensuring their compliance with the tax laws.

The majority of TEI's members work for multinational companies with substantial international operations and sales. Members of TEI are responsible for managing the tax affairs of their companies and must contend daily with the provisions of the various tax laws relating to the operation of business enterprises. Consequently, TEI members have a special interest in the tax treaty between the United States and the Netherlands, as well as the one between the United States and Barbados.

A fundamental purpose of America's income tax treaties is to eliminate double taxation, which constitutes a significant burden on international trade and investment, and hence may impede economic growth. We are pleased that the United States has sought to update the Dutch treaty, since the current treaty does not reflect recent advancements in U.S. policy. The Dutch Protocol under consideration by the Committee will eliminate barriers to trade and investment between the two countries, curtail abuse, and promote cooperation in international enforcement. Prompt ratification will promote closer ties with a longstanding ally and major trading partner, encourage growth of the U.S. economy and jobs, and enhance international tax enforcement efforts.

A principle benefit of the Dutch Protocol for business is the elimination of the withholding tax on dividends. This will encourage U.S. multinationals to bring off-shore earnings back to the United States, thereby aiding the domestic economy.

Another benefit is the article modernizing the cross-border treatment of pension funding and benefits by coordinating the two countries' rules. This will permit citizens of each country to transfer between affiliated companies without jeopardizing the status of their retirement benefits. It will also encourage investment by Dutch companies in the United States, as well as enable U.S. companies to provide their U.S. citizen employees who transfer overseas, for example, on temporary assignment, with the same pension benefits as their U.S.-based colleagues.

Finally, the Dutch Protocol will improve the exchange of information between U.S. and Dutch tax authorities. This will aid both countries' enforcement efforts against tax shelters or other abusive transactions. The new protocol will also enhance the ability of the Competent Authorities to minimize double taxation by improving the procedures for reaching mutual agreement on tax issues.

TEI therefore urges the Committee to approve the new agreement with the Netherlands.

Turning to the Second Protocol to the U.S.-Barbados treaty, we note that — like the Dutch Protocol — the Barbados agreement is designed to bring the current treaty in line with U.S. policy and put adequate safeguards in place to prevent inappropriate use of the treaty. To accomplish these objectives, the Protocol expands the existing Limitation on Benefits article to modernize the treaty's anti-treaty shopping provision. The Treasury Department believes that the more restrictive terms will address concerns about the unintended use of the treaty by companies that purport to migrate their corporate structures off-shore.

Although TEI has some reservations about the limiting effect that the Barbados Protocol may potentially have on legitimate tax planning, on balance we agree ratification is in the best interest of the country and the business community.

Tax Executives Institute commends the Foreign Relations Committee for holding this public hearing. To enable the Internal Revenue Service and U.S. taxpayers to reap the benefits of the new agreements, we urge their prompt ratification. I would be pleased to respond to any questions you may have.

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