

**CONVENTION BETWEEN THE GOVERNMENT OF THE KINGDOM OF NORWAY AND THE GOVERNMENT OF CANADA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

The Government of the Kingdom of Norway and the Government of Canada, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, have agreed as follows:

**I. SCOPE OF THE CONVENTION**

**ARTICLE 1**

**Persons Covered**

This Convention shall apply to persons who are residents of one or both of the Contracting States.

**ARTICLE 2**

**Taxes Covered**

1. The existing taxes to which this Convention shall apply are:

a) in the case of Canada, the taxes imposed by the Government of Canada under the *Income Tax Act*, (hereinafter referred to as "Canadian tax");

b) in the case of Norway:

(i) the National Tax on Income (inntektsskatt til staten);

(ii) the County Municipal Tax on Income (inntektsskatt til fylkeskommunen);

(iii) the Municipal Tax on Income (inntektsskatt til kommunen);

(iv) the National Tax on Capital (formuesskatt til staten);

(v) the Municipal Tax on Capital (formuesskatt til kommunen);

(vi) the National Tax relating to Income and Capital from the Exploration for and the Exploitation of Submarine Petroleum Resources and Activities and Work relating thereto, Including Pipeline Transport of

Petroleum Produced (skatt til staten vedrørende inntekt og formue i forbindelse med undersøkelse etter og utnyttelse av undersjøiske petroleumsforekomster og dertil knyttet virksomhet og arbeid, herunder rørledningstransport av utvunnet petroleum); and

(vii) the National Tax on Remuneration to Non-resident Artistes etc. (skatt til staten på honorarer til utenlandske artister mv.);

(hereinafter referred to as "Norwegian tax").

2. The Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their respective taxation laws.

## **II. DEFINITIONS**

### **ARTICLE 3**

#### **General Definitions**

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

a) the term "Canada", used in a geographical sense, means the territory of Canada, including any area beyond the territorial sea of Canada which, in accordance with international law and the laws of Canada, is an area within which Canada may exercise rights with respect to the seabed and subsoil and their natural resources;

b) the term "Norway" means the Kingdom of Norway, including any area outside the territorial waters of the Kingdom of Norway where the Kingdom of Norway, according to Norwegian legislation and in accordance with international law, may exercise her rights with respect to the seabed and subsoil and their natural resources; the term does not comprise Svalbard, Jan Mayen and the Norwegian dependencies ("biland");

c) the term "person" includes an individual, a trust, a company, a partnership and any other body of persons;

d) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

e) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

f) the term "competent authority" means:

(i) in the case of Canada, the Minister of National Revenue or the Minister's authorized representative,

(ii) in the case of Norway, the Minister of Finance or the Minister's authorized representative;

g) the term "tax" means Canadian tax or Norwegian tax, as the context requires;

h) the term "national" means:

(i) any individual possessing the nationality of a Contracting State;

(ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;

i) the term "international traffic" means any voyage by a ship, vessel or aircraft operated by an enterprise of a Contracting State, except when the ship, vessel or aircraft is operated principally between places within the other Contracting State.

2. As regards the application of the Convention at any time by a Contracting State, 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 State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

#### **ARTICLE 4**

##### **Resident**

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of the person's domicile, residence, place of management or any other criterion of a similar nature and also includes that State or a political subdivision or local authority thereof or any agency or instrumentality of any such State, subdivision or authority. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then the individual's status shall be determined as follows:

a) the individual shall be deemed to be a resident only of the State in which the individual has a permanent home available; if the individual has a permanent home available in both States, the individual shall be deemed to be a resident only of the State with which the individual's personal and economic relations are closer (centre of vital interests);

*b)* if the State in which the individual's centre of vital interests is situated cannot be determined, or if there is not a permanent home available to the individual in either State, the individual shall be deemed to be a resident only of the State in which the individual has an habitual abode;

*c)* if the individual has an habitual abode in both States or in neither of them, the individual shall be deemed to be a resident only of the State of which the individual is a national;

*d)* if the individual is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall by mutual agreement endeavour to settle the question and to determine the mode of application of the Convention to such person.

## **ARTICLE 5**

### **Permanent Establishment**

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

*a)* a place of management;

*b)* a branch;

*c)* an office;

*d)* a factory;

*e)* a workshop; and

*f)* a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site, construction, assembly or installation project, or supervisory or consultancy activities connected therewith, constitute a permanent establishment only if such site, project or activities are continued for a period of more than 12 months.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 6 applies – is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts on behalf of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

### **III. TAXATION OF INCOME**

#### **ARTICLE 6**

### **Income from Immovable Property**

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
2. For the purposes of this Convention, the term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights with respect to the exploitation of, the right to exploit, the exploration for or the right to explore for, mineral deposits, sources and other natural resources. A ship or an aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property and to profits or income from the alienation of such property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

### **ARTICLE 7**

#### **Business Profits**

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on or has carried on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment and with all other persons.
3. In the determination of the profits of a permanent establishment, there shall be allowed those deductible expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses, whether incurred in the State in which the permanent establishment is situated or elsewhere.

4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

5. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

6. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

## **ARTICLE 8**

### **Shipping, Air Transport and Containers**

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1 and Article 7, profits derived by an enterprise of a Contracting State from a voyage of a ship where the principal purpose of the voyage is to transport passengers or goods exclusively between places in the other Contracting State may be taxed in that other State. However, this paragraph shall not apply to coastal traffic which is incidental or supplementary to international traffic.

3. The provisions of paragraphs 1 and 2 shall also apply to profits referred to in those paragraphs derived by an enterprise of a Contracting State from its participation in a pool, a joint business or an international operating agency.

4. Profits derived by an enterprise of a Contracting State from the use, maintenance or rental of containers (including trailers and related equipment for the transportation of containers) used for the transport of goods or merchandise in international traffic shall be taxable only in that Contracting State except insofar as those containers or trailers and related equipment are used for transport principally between places within the other Contracting State.

5. The provisions of paragraphs 1, 2, 3 and 4 shall apply to profits derived by the joint Norwegian, Danish and Swedish air transport consortium, Scandinavian Airlines System (SAS), but only in respect of the share thereof that is derived by SAS Norge ASA, the Norwegian partner of the Scandinavian Airlines System (SAS).

## **ARTICLE 9**

### **Associated Enterprises**

Where

a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any income which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the income of that enterprise and taxed accordingly.

## **ARTICLE 10**

### **Dividends**

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:

a) except in the case of dividends paid by a non-resident owned investment corporation that is a resident of Canada, 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 10 per cent of the voting power in the company paying the dividends;

b) 15 per cent of the gross amount of the dividends in all other cases.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. Notwithstanding the provisions of paragraph 2, dividends arising in a Contracting State and paid to the other Contracting State or a political subdivision or local authority thereof or to any wholly-owned agency or instrumentality of that State, political subdivision or local authority, shall be taxable only in that other State. However, this provision shall only apply in circumstances as may be agreed from time to time between the competent authorities of the Contracting States.

4. The term "dividends" as used in this Article means income from shares, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income subjected to the same taxation

treatment as income from shares by the taxation laws of the State of which the company making the distribution is a resident.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

## **ARTICLE 11**

### **Interest**

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2,

a) interest arising in a Contracting State and paid in respect of a bond, debenture or other similar obligation of the government of that Contracting State or of a political subdivision or local authority thereof shall, provided that the interest is beneficially owned by a resident of the other Contracting State, be taxable only in that other State;

b) interest arising in Norway and paid to a resident of Canada shall be taxable only in Canada if it is paid in respect of a loan made, guaranteed or insured, or a credit extended, guaranteed or insured by the Export Development Canada;

c) interest arising in Canada and paid to a resident of Norway shall be taxable only in Norway if the interest is received by, or the loan for which the interest is accrued, is made, insured or guaranteed by the Norwegian

Guarantee Institute for Export Credits (GIEK) or AS Eksportfinans, or any similar institution financed or established by the Government of Norway, as may be agreed from time to time between the competent authorities of the Contracting States; and

d) interest arising in a Contracting State and paid to the other Contracting State or a political subdivision or local authority thereof or to any wholly-owned agency or instrumentality of that State, political subdivision or local authority, shall be taxable only in that other State. However, this provision shall only apply in circumstances as may be agreed from time to time between the competent authorities of the Contracting States.

4. The term "interest" for Canadian tax purposes includes any item which under the law of Canada is treated as interest and for Norwegian tax purposes includes any item which under the law of Norway is treated as interest. However, this term does not include any item which is treated as a dividend under the provisions of Article 10.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether the payer is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

## **ARTICLE 12**

### **Royalties**

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3. Notwithstanding the provisions of paragraph 2,

a) copyright royalties and other like payments in respect of the production or reproduction of any cultural, dramatic, musical or other artistic work (but not including royalties in respect of motion picture films nor royalties in respect of works on film or videotape or other means of reproduction for use in connection with television broadcasting), and

b) royalties for the use of, or the right to use, computer software or any patent or for information concerning industrial, commercial or scientific experience (but not including any such royalty in connection with a rental or franchise agreement),

arising in a Contracting State and paid to a resident of the other Contracting State who is the beneficial owner of the royalties shall be taxable only in that other State.

4. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright, patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience, and includes payments of any kind in respect of motion picture films and works on film or videotape for use in connection with television.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether the payer is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for

which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

## **ARTICLE 13**

### **Capital Gains**

1. Gains derived by a resident of a Contracting State from the alienation of immovable property situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic, or movable property pertaining to the operation of such ships or aircraft shall be taxable only in that State.

4. Gains derived by an enterprise of a Contracting State from the alienation of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise shall be taxable only in that Contracting State, except insofar as those containers or trailers and related equipment are used for transport principally between places within the other Contracting State.

5. Gains from the alienation of:

a) shares of a company, the value of which is derived primarily from immovable property situated in a Contracting State, or

b) an interest in a partnership or a trust, the value of which is derived primarily from immovable property situated in a Contracting State,

may be taxed in that State. For the purposes of this paragraph, the term "immovable property" shall not include property, other than rental property, in which the business of the company, partnership or trust is carried on.

6. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3, 4 and 5 shall be taxable only in the Contracting State of which the alienator is a resident.

7. The provisions of paragraph 6 shall not affect the right of either of the Contracting States to levy, according to its law, a tax on gains from the alienation of any property (other than property to which the provisions of paragraph 8 apply) derived by an individual who is a resident of the other Contracting State and has been a resident of the first-mentioned State at any time during the six years immediately preceding the alienation of the property.

8. Where an individual who ceases to be a resident of a Contracting State, and immediately thereafter becomes a resident of the other Contracting State, is treated for the purposes of taxation in the first-mentioned State as having alienated a property and is taxed in that State by reason thereof, the individual may elect to be treated for purposes of taxation in the other State as if the individual had, immediately before becoming a resident of that State, sold and repurchased the property for an amount equal to the lesser of its fair market value at that time and the proceeds of disposition considered to have been realized by the individual in the first-mentioned State under that alienation. However, this provision shall not apply to property, any gain from which that other State could have taxed in accordance with the provisions of this Article, other than this paragraph, if the individual had realized the gain before becoming a resident of that other State.

9. Where a resident of a Contracting State alienates property in the course of an organization, reorganization, amalgamation, division or similar transaction and profit, gain or income with respect to such alienation is not recognized for the purpose of taxation in that State, if requested to do so by the person who acquires the property, the competent authority of the other State may agree, subject to terms and conditions satisfactory to such competent authority, to defer the recognition of the profit, gain or income with respect to such property for the purpose of taxation in that other State until such time and in such manner as may be stipulated in the agreement.

## **ARTICLE 14**

### **Independent Personal Services**

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State. However, such income may also be taxed in the other Contracting State if:

a) the individual is present in the other State for a period or periods exceeding in the aggregate 183 days in any period of twelve months commencing or ending in the fiscal year concerned, but only so much thereof as is attributable to services performed in that other State; or

b) the individual has or had a fixed base regularly available in that other State for the purpose of performing the activities, but only so much thereof as is attributable to that fixed base.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

## **ARTICLE 15**

### **Dependent Personal Services**

1. Subject to the provisions of Articles 16,18 and 19, salaries, wages and other remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

a) the recipient is present in that other State for a period or periods not exceeding in the aggregate 183 days in any period of twelve months commencing or ending in the fiscal year concerned;

b) the remuneration is paid by, or on behalf of, an employer who is a resident of the State of which the recipient is a resident, and whose activity does not consist of the hiring out of labour; and

c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in that other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State.

4. Where a resident of a Contracting State derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the Scandinavian Airlines System (SAS) consortium, such remuneration shall be taxable only in the Contracting State of which the recipient is a resident.

## **ARTICLE 16**

### **Directors' Fees**

Directors' fees and other similar payments derived by a resident of a Contracting State in the capacity as a member of the board of directors or a similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

## **ARTICLE 17**

### **Artistes and Sportspersons**

1. Notwithstanding the provisions of Articles 7, 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from that individual's personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in that individual's capacity as such accrues not to the entertainer or sportsperson personally but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.
3. The provisions of paragraphs 1 and 2 shall not apply to income derived by an entertainer or sportsperson from activities performed in a Contracting State if the visit to that State is substantially supported by public funds of the other Contracting State or a political subdivision or a local authority thereof. In such case, the income shall be taxable only in the State of which the entertainer or sportsperson is a resident.

## **ARTICLE 18**

### **Pensions, Annuities and Alimony**

1. Pensions, including social security payments, and annuities arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. Pensions, including social security payments, arising in a Contracting State and paid to a resident of the other Contracting State may also be taxed in the State in which they arise, and according to the laws of that State. However, in the case of periodic pension payments including social security payments, the tax so charged shall not exceed 15 per cent of the gross amount of the payment.
3. Annuities arising in a Contracting State and paid to a resident of the other Contracting State may also be taxed in the State in which they arise, and according to the laws of that State, but the tax so charged shall not exceed 15 per cent of the portion thereof that is subject to tax in that State. However, this limitation does not apply to lump-sum payments arising on the surrender, cancellation, redemption, sale or other alienation of an annuity, or to payments of any kind under an annuity contract the cost of which was deductible, in whole or in part, in computing the income of any person who acquired the contract.
4. Notwithstanding anything in this Convention:

a) war veterans pensions and similar allowances arising in Canada and paid to a resident of Norway shall be exempt from tax in Norway so long as they are not subject to Canadian tax; and

b) alimony and other maintenance payments paid to a resident of a Contracting State shall be taxable only in that State. However, any alimony or other maintenance payment paid by a resident of one of the Contracting States to a resident of the other Contracting State, shall, to the extent it is not allowable as a relief to the payer, be taxable only in the first-mentioned State.

## **ARTICLE 19**

### **Government Service**

1.

a) Salaries, wages, and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

b) However, such salaries, wages, and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

2. The provisions of paragraph 1 shall not apply to remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

## **ARTICLE 20**

### **Students**

Payments which a student, apprentice or business trainee who is, or was immediately before visiting a Contracting State, a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of that individual's education or training receives for the purpose of that individual's maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

## **ARTICLE 21**

## **Offshore Activities**

1. The provisions of this Article shall apply notwithstanding any other provision of this Convention.

2. A person who is a resident of a Contracting State and carries on activities in the other Contracting State in connection with the exploration or exploitation of the seabed and subsoil and their natural resources situated in that other State shall, subject to paragraphs 3 and 4, be deemed in relation to those activities to be carrying on a business in that other State through a permanent establishment or fixed base situated therein.

3. The provisions of paragraph 2 and subparagraph b) of paragraph 6 shall not apply where the activities referred to therein are carried on for a period or periods not exceeding in the aggregate 30 days in any 12-month period. However, for the purposes of this paragraph:

a) where an enterprise of a Contracting State carrying on offshore activities in the other Contracting State is associated with another enterprise carrying on substantially similar offshore activities there, the former enterprise shall be deemed to be carrying on all such activities of the latter enterprise, with the exception of activities which are carried on at the same time as its own activities; and

b) two enterprises shall be deemed to be associated if one participates directly or indirectly in the management or control of the other, or if the same persons participate directly or indirectly in the management or control of both enterprises.

4. Profits derived by an enterprise of a Contracting State from the transportation of supplies or personnel by ship or aircraft to a location, or between locations, where activities in connection with the exploration or exploitation of the seabed and subsoil and their natural resources are being carried on in a Contracting State, or from the operation of tugboats and other vessels auxiliary to such activities, shall be taxable only in the first-mentioned State. The provisions of this paragraph shall apply only when such ships, vessels or aircraft are operated in international traffic.

5.

a) Subject to subparagraph b) of this paragraph, salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment connected with the exploration or exploitation of the seabed and subsoil and their natural resources situated in the other Contracting State may, to the extent that the duties are performed offshore in that other State, be taxed in that other State. However, such remuneration shall be taxable only in the first-mentioned State if the employment is carried on offshore for an employer who is not a resident of the other State and for a period or periods not exceeding in the aggregate 30 days in any 12-month period; and

b) Salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft engaged in the transportation of supplies or personnel to a location, or between locations, where activities connected with the exploration or exploitation of the seabed and subsoil and their natural resources are being carried on in the other Contracting State, or in respect of an

employment exercised aboard a tugboat and other vessels operated auxiliary to such activities, may be taxed in the Contracting State of which the enterprise carrying on the activities is a resident. The provisions of this subparagraph shall apply only when such ships, vessels or aircraft are operated in international traffic.

6. Gains derived by a resident of a Contracting State from the alienation of:

a) exploration or exploitation rights; or

b) property situated in the other State and used in connection with the exploration or exploitation of the seabed and subsoil and their natural resources situated in that other State; or

c) shares of a company or an interest in a partnership or a trust deriving their value or the greater part of their value directly or indirectly from such rights or such property or from such rights and such property taken together,

may be taxed in that other State. In this paragraph, the term "exploration or exploitation rights" means rights to assets to be produced by the exploration or exploitation of the seabed and subsoil and their natural resources in the other Contracting State, including rights to interests in or to the benefit of such assets.

7. For the purposes of this Article, the term "Canada" and "Norway", as the case may be, includes the sea or airspace above the area within which Canada or Norway, as the case may be, in accordance with international law and its national law, may exercise rights with respect to the seabed and subsoil and their natural resources.

## **ARTICLE 22**

### **Other Income**

1. Subject to the provisions of paragraph 2, items of income of a resident of a Contracting State which are not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

2. However, if such income is derived by a resident of a Contracting State from sources in the other Contracting State, such income may also be taxed in the State in which it arises, and according to the laws of that State. Where such income is income from a trust, other than a trust to which contributions were deductible, the tax so charged shall, provided that the income is taxable in the Contracting State in which the beneficial owner is a resident, not exceed 15 per cent of the gross amount of the income.

## **IV. TAXATION OF CAPITAL**

## **ARTICLE 23**

### **Capital**

1. Capital represented by immovable property owned by a resident of a Contracting State and situated in the other Contracting State may be taxed in that other State.

2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.

3. Capital of an enterprise of a Contracting State represented by ships or aircraft operated in international traffic and by movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.

4. Capital of an enterprise of a Contracting State represented by containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise shall be taxable only in that State, except insofar as those containers or trailers and related equipment are used for transport principally between places within the other Contracting State.

5. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

## **V. METHODS FOR AVOIDANCE OF DOUBLE TAXATION**

## **ARTICLE 24**

### **Avoidance of Double Taxation**

1. In the case of Canada, double taxation shall be avoided as follows:

a) Subject to the existing provisions of the law of Canada regarding the deduction from tax payable in Canada of tax paid in a territory outside Canada and to any subsequent modification of those provisions -- which shall not affect the general principle hereof -- and unless a greater deduction or relief is provided under the laws of Canada, tax payable in Norway on profits, income or gains arising in Norway shall be deducted from any Canadian tax payable in respect of such profits, income or gains; and

b) where, in accordance with any provision of the Convention, income derived or capital owned by a resident of Canada is exempt from tax in Canada, Canada may nevertheless, in calculating the amount of tax on other income or capital, take into account the exempted income or capital.

2. Subject to the provisions of the laws of Norway regarding the allowance as a credit against Norwegian tax of tax payable in a territory outside Norway (which shall not affect the general principle hereof);

a) Where a resident of Norway derives income or owns elements of capital which, in accordance with the provisions of this Convention, may be taxed in Canada, Norway shall allow:

i) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Canada; and

ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in Canada.

Such deduction in either case shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or same elements of capital which may be taxed in Canada.

b) Where in accordance with any provision of the Convention income derived or capital owned by a resident of Norway is exempt from tax in Norway, Norway may nevertheless include such income or capital in the tax base, but shall allow as a deduction from the Norwegian tax on income or capital that part of the income tax or capital tax, as the case may be, which is attributable to the income derived from Canada, or the capital owned in Canada.

3. For the purposes of this Article, profits, income or gains of a resident of a Contracting State which are taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources in that other State.

## **VI. SPECIAL PROVISIONS**

### **ARTICLE 25**

#### **Non-Discrimination**

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, that is more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

3. Nothing in this Article shall be construed as obliging a Contracting State to grant to persons being resident in the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities or any other personal circumstances which it grants to its own residents or to grant reliefs with respect to dividends or other payments to a company resident in the other Contracting State.

4. Except where the provisions of Article 9, paragraph 7 of Article 11 or paragraph 7 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

5. The provisions of paragraph 4 shall not affect the operation of any provision of the taxation laws of a Contracting State:

a) relating to the deductibility of interest and which is in force on the date of signature of this Convention (including any subsequent modification of such provisions that does not change the general nature thereof); or

b) adopted after such date by a Contracting State and which is designed to ensure that a person who is not a resident of that State does not enjoy, under the laws of that State, a tax treatment that is more favourable than that enjoyed by residents of that State.

6. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned state, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of a third state, are or may be subjected.

7. Nothing in this Convention shall be construed as preventing a Contracting State from imposing on the earnings attributable to permanent establishments in that State of a company which is a resident of the other Contracting State or on the earnings attributable to the alienation of immovable property situated in that State of a company which is a resident of the other Contracting State carrying on a trade in immovable property, tax in addition to the tax which would be chargeable on the earnings of a company which is a resident of the first-mentioned State, provided that the rate of any additional tax so imposed shall not exceed 5 per cent of the amount of such earnings which have not been subjected to such additional tax in previous taxation years.

8. For the purpose of paragraph 7, the term "earnings" means:

a) the earnings attributable to the alienation of such immovable property situated in a Contracting State as may be taxed by that State pursuant to the provisions of Article 6 or of paragraph 1 of Article 13; and

b. the profits attributable to permanent establishments in a Contracting State (including gains from the alienation of property forming part of the business property of such permanent establishments) in a year and previous years after deducting therefrom:

i) business losses attributable to such permanent establishments (including losses from the alienation of property forming part of the business property of such permanent establishments) in such year and previous years; and

ii) all taxes, other than the additional tax referred to in paragraph 6, imposed on such profits in that State; and

iii) the profits reinvested in that State, provided that where that State is Canada, the amount of such deduction shall be determined in accordance with the existing provisions of the law of Canada regarding the computation of the allowance in respect of investment in property in Canada, and any subsequent modification of those provisions which shall not affect the general principle thereof; and

iv) five hundred thousand Canadian dollars (\$500,000), or its equivalent in Norwegian currency, less any amount deducted in that State under this subparagraph by the company or a company associated therewith with respect to the same or a similar business; for the purposes of this subparagraph a company is associated with another company if either company participates directly or indirectly in the management or control of the other company or if the same persons participate directly or indirectly in the management or control of both companies.

9. In this Article, the term "taxation" means taxes which are the subject of this Convention.

## **ARTICLE 26**

### **Mutual Agreement Procedure**

1. Where a person considers that the actions of one or both of the Contracting States result or will result for that person in taxation not in accordance with the provisions of this Convention, that person may, irrespective of the remedies provided by the domestic law of those States, address to the competent authority of the Contracting State of which the person is a resident an application in writing stating the grounds for claiming the revision of such taxation. To be admissible, the said application must be submitted within two years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent

authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

## **ARTICLE 27**

### **Exchange of Information**

1. The competent authorities of the Contracting States shall exchange such information as is relevant for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes imposed by that State insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement in respect of, or the determination of appeals in relation to, taxes in that State. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

3. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall endeavour to obtain the information to which the request relates in the same way as if its own taxation was involved notwithstanding the fact that the other State does not, at that time, need such information. If specifically requested by the competent authority of a Contracting State, the competent authority of the other Contracting State shall endeavour to provide information under this Article in the form requested, such as depositions of witnesses and copies of unedited original documents (including books, papers, statements, records, accounts or writings), to the same extent such depositions and documents can be obtained under the laws and administrative practices of that other State with respect to its own taxes.

## **ARTICLE 28**

### **Assistance in Collection**

1. The Contracting States undertake to lend assistance to each other in the collection of taxes referred to in paragraph 8, together with interest, costs, additions to such taxes and civil penalties, referred to in this Article as a "revenue claim". The provisions of this Article are not restricted by Article 1.

2. An application for assistance in the collection of a revenue claim shall include a certification by the competent authority of the applicant State that, under the laws of that State, the revenue claim has been finally determined. For the purposes of this Article, a revenue claim is finally determined when the applicant State has the right under its internal law to collect the revenue claim and all administrative and judicial rights of the taxpayer to restrain collection in the applicant State have lapsed or been exhausted.

3. A revenue claim of the applicant State may be accepted for collection by the competent authority of the requested State only if it is finally determined by the applicant State after the date that is 10 years before the date on which the Convention enters into force. Subject to the provisions of paragraph 7, a revenue claim that is accepted shall be collected by the requested State as though it were the requested State's own revenue claim finally determined in accordance with the laws applicable to the collection of the requested State's own taxes.

4. Where an application for collection of a revenue claim in respect of a taxpayer is accepted by Canada or Norway, the revenue claim shall be treated, if that State is Canada, as an amount payable under the *Income Tax Act* of Canada, or if that State is Norway, as an amount payable under Norwegian law, the collection of which is not subject to any restriction.

5. Nothing in this Article shall be construed as creating or providing any rights of administrative or judicial review of the applicant State's finally determined revenue claim by the requested State, based on any such rights that may be available under the laws of either State. If, at any time pending execution of a request for assistance under this Article, the applicant State loses the right under its internal law to collect the revenue claim, the competent authority of the applicant State shall promptly withdraw the request for assistance in collection.

6. Unless the competent authorities of the States otherwise agree, the ordinary costs incurred in providing collection assistance shall be borne by the requested State and any extraordinary costs so incurred shall be borne by the applicant State.

7. A revenue claim of the applicant State accepted for collection shall not have in the requested State any priority accorded to the revenue claims of the requested State even if the recovery procedure used is the one applicable to its own revenue claims. A revenue claim of the applicant State shall not be recovered by imprisonment for debt of the debtor in the requested State.

8. Notwithstanding the provisions of Article 2, the provisions of this Article shall apply to all categories of taxes collected by or on behalf of the Government of a Contracting State.

9. Nothing in this Article shall be construed as imposing on either Contracting State the obligation to carry out administrative measures at variance with its laws or administrative practice or that would be contrary to its fundamental principles of tax policy or its public policy (ordre public).

10. The competent authorities of the States shall agree upon the mode of application of this Article, including agreement to ensure comparable levels of assistance to each of the States.

## **ARTICLE 29**

### **Members of Diplomatic Missions and Consular Posts**

1. Nothing in this Convention shall affect the fiscal privileges of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

2. The Convention shall not apply to international organizations, to organs or officials thereof and to persons who are members of a diplomatic mission, consular post or permanent mission of a third State or group of States, being present in a Contracting State and who are not liable in either Contracting State to the same obligations in relation to tax on their total income as are residents thereof.

## **ARTICLE 30**

### **Miscellaneous Rules**

1. The provisions of this Convention shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit, or other allowance now or hereafter accorded by the laws of a Contracting State in the determination of the tax imposed by that State.

2. Nothing in the Convention shall be construed as preventing a Contracting State from imposing a tax on amounts included in the income of a resident of that State with respect to a partnership, trust or company, in which the resident has an interest.

3. The Convention shall not apply to any company, trust or other entity that is a resident of a Contracting State and is beneficially owned or controlled, directly or indirectly, by one or more persons who are not residents of that State, if the amount of the tax imposed on the income or capital of the company, trust or other entity by that State is substantially lower than the amount that would be imposed by that State (after taking into account any reduction or offset of the amount of tax in any manner, including a refund, reimbursement, contribution, credit, allowance to the company, trust or partnership, or to any other person)

if all of the shares of the capital stock of the company or all of the interests in the trust or other entity, as the case may be, were beneficially owned by one or more individuals who were residents of that State.

4. For the purposes of paragraph 3 of Article XXII (Consultation) of the General Agreement on Trade in Services, the Contracting States agree that, notwithstanding that paragraph, any dispute between them as to whether a measure falls within the scope of the convention may be brought before the Council for Trade in Services, as provided by that paragraph, only with the consent of both Contracting States. Any doubt as to the interpretation of this paragraph shall be resolved under paragraph 3 of Article 26 or, failing agreement under that procedure, pursuant to any other procedure agreed to by both Contracting States.

## **VII. FINAL PROVISIONS**

### **ARTICLE 31**

#### **Entry into Force**

1. This Convention shall enter into force upon the later of the dates on which the respective Governments have notified each other in writing through diplomatic channels that the formalities constitutionally required in their respective States have been complied with, and its provisions shall have effect:

a) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of January in the calendar year next following that in which the Convention enters into force, and

b) in respect of any other tax for any taxation or income year beginning on or after the first day of January in the calendar year next following that in which the Convention enters into force.

2. The 1966 Convention shall cease to have effect with respect to taxes to which this Convention applies in accordance with the provisions of paragraph 1.

3. The 1966 Convention shall terminate on the last date on which it has effect in accordance with the foregoing provisions of this Article.

4. The termination of the 1966 Convention as provided in paragraph 3 shall not revive the Agreement between the Government of Canada and the Government of the Kingdom of Norway constituted by the Exchange of Notes concerning reciprocal exemption from income tax on profits accruing from the operation of ships, dated May 2nd, 1929. Upon the entry into force of this Convention the last-mentioned Agreement shall terminate.

5. In this Article the term "the 1966 Convention" means the Convention between the Government of Canada and the Government of the Kingdom of Norway for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed at Ottawa on November 23, 1966.

**ARTICLE 32**

**Termination**

This Convention shall continue in effect indefinitely but either Contracting State may, on or before June 30 in any calendar year after the year of its entry into force, give to the other Contracting State a notice of termination in writing through diplomatic channels; in such event, the Convention shall cease to have effect:

a) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of January of the next following calendar year; and

b) in respect of any other tax for any taxation or income year beginning on or after the first day of January of the next following calendar year.

**IN WITNESS WHEREOF** the undersigned, duly authorized to that effect, have signed this Convention.

**DONE** in duplicate at this day of 2002, in the Norwegian, English and French languages, each version being equally authentic.

FOR THE GOVERNMENT OF THE KINGDOM OF NORWAY	FOR THE GOVERNMENT OF CANADA
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