

Convention between the Kingdom of Norway and Jamaica for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income

The Government of the Kingdom of Norway and the Government of Jamaica desiring to conclude a Convention 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 convention

Article 1

PERSONAL SCOPE

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

Article 2

TAXES COVERED

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State 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, as well as taxes on the total amounts of wages or salaries paid by enterprises.

3. The existing taxes to which the Convention shall apply are in particular:

a) In 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 contributions to the Tax Equalisation Fund (fellesskatt til Skattefordelingsfondet);

(v) the national tax relating to income 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 i forbindelse med undersøkelse etter og utnyttelse av undersjøiske

petroleumsforekomster og dertil knyttet virksomhet og arbeid, herunder rørledningstransport av utvunnet petroleum);

(vi)the national dues on remuneration to non-resident artistes (avgift til staten av honorarer som tilfaller kunstnere bosatt i utlandet);

(vii)the seamen's tax (sjømannsskatt);

(hereinafter referred to as "Norwegian tax").

b)In Jamaica:

(i)the income tax;

(ii)the transfer tax;

(hereinafter referred to as "Jamaican tax").

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

Chapter II

Definitions

Article 3

GENERAL DEFINITIONS

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

a)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");

b)the term "Jamaica" means the island of Jamaica, the Morant Cays, the Pedro Cays and their dependencies and when used in a geographical sense includes the territorial waters of Jamaica and any area outside such territorial waters which in accordance with international law and the laws of Jamaica is an area within which the rights of Jamaica with respect to the natural resources of the seabed and subsoil and any objects thereon may be exercised;

c)the term "national" means:

(i) any individual who is a citizen of a Contracting State;

(ii) any legal person, association or other entity deriving its status as such from the laws of a Contracting State;

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

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

f) the terms "a Contracting State" and "the other Contracting State" mean Norway or Jamaica as the context requires;

g) 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;

h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

i) the term "competent authority" means:

(i) in Norway, the Minister of Finance and Customs or his authorised representative;

(ii) in Jamaica, the Minister responsible for finance or his authorised representative.

2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

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 his domicile, residence, place of management or any other criterion of a similar nature. But this term 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 his status shall be determined as follows:

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

b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;

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

d) if he 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, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

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;

f) a store or premises used as a sales outlet;

g) a warehouse, in relation to a person providing storage facilities for others;

h) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;

i) a building site, or construction, assembly, installation or dredging project within a Contracting State, but only if such site or project continues within that State for a period or periods aggregating more than 183 days in any period of twelve months, including the period of any supervisory activity connected therewith.

3. 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.

4. Notwithstanding the provisions of paragraphs 1 and 2, where a person -- other than an agent of an independent status to whom paragraph 5 applies -- is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:

a) has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 3 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; or

b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other 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. However, when the activities of such an agent are devoted wholly or almost

wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph, if it is shown that the transactions between the agent and the enterprise were not arm's length transactions. In such case, the provisions of paragraph 4 of this Article shall apply.

6.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.

Chapter 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.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 to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and 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.

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 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. Notwithstanding the provisions of paragraph 1 where an enterprise of a Contracting State which has a permanent establishment in the other Contracting State carries on business activities in that other State otherwise than through the permanent establishment, of the same or similar kind as the business activities carried on by the permanent establishment, then the profits of such activities may be attributable to the permanent establishment unless the enterprise shows that such activities could not have been reasonably undertaken by the permanent establishment.

3. Subject to the provisions of paragraph 4, 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.

4. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether incurred in the State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, except where the enterprise shows that such activities could not have been reasonably undertaken entirely by the permanent establishment.

5. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 3 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

6. 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.

7. 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.

8. 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 AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

3. The provisions of paragraph 1 shall also apply to profits derived from the participation in a pool, a joint business or in an international operating agency.

4. Profits from the use or rental of containers (including trailers and related equipment for the transport of containers) used in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

5. Notwithstanding the preceding provisions of this Article, where ships or aircraft are operated in international traffic by a partnership which includes one or more partners resident in a Contracting State and one or more partners resident in the other Contracting State profits shall be taxable, in proportion to the share of the said partners, only in the State of which each such partner is a resident.

6. With respect to profits derived by the air transport consortium Scandinavian Airlines System (SAS) the provisions of paragraph 1 shall apply, but only to such part of the profits as corresponds to the participation held in that consortium by Det Norske Luftfartsselskap A/S (DNL), the Norwegian partner of 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 profits 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 profits 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 recipient is the beneficial owner of the dividends the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

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

3.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 from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident. In the case of Jamaica, the term "dividends" also includes profits remitted by branches situated therein of an enterprise of the other Contracting State to its head office.

4.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 15, as the case may be, shall apply.

5.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 the company's 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 recipient is the beneficial owner of the interest the tax so charged shall not exceed 12.5 per cent of the gross amount of the interest.

3.Notwithstanding the provisions of paragraph 2, interest shall be exempt from tax in the Contracting State in which it arises if:

a)the interest is beneficially owned by a Contracting State, a political subdivision, or local authority thereof or an instrumentality, subdivision or authority of a Contracting State which is not subject to tax by that State; or

b)the interest is beneficially owned by a resident of a Contracting State with respect to debt obligations guaranteed or insured by that State, or which is guaranteed or insured by a political subdivision or local authority thereof or an instrumentality, subdivision or authority of such State which is not subject to tax by that State.

The instrumentalities referred to hereunder include -

(i)in the case of Norway -

the Central Bank of Norway

the Norwegian Guarantee Institute for Export Credits

(ii)in the case of Jamaica -

the Bank of Jamaica

the National Development Bank

the Agricultural Credit Bank

the Jamaica Mortgage Bank

and any institution wholly or mainly owned by the Government of either Contracting State or a local authority thereof as may be agreed from time to time by the competent authorities of each Contracting State.

4.The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5.The provisions of paragraphs 1, 2 and 3 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

a)such permanent establishment or fixed base, or

b)business activities referred to in paragraph 2 of Article 7.

In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he 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 recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3. 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 of literary, artistic or scientific work including cinematograph films, and films or tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 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

a) such permanent establishment or fixed base, or

b) business activities referred to in paragraph 2 of Article 7.

In such a case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he 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 liability 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.

6. 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 a 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

MANAGEMENT FEES

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

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

3. The term "management fees" as used in this Article means payments of any kind to any person, other than to an employee of the person making the payments for, or in respect of, the provision of industrial or commercial advice, or management or technical services, or similar services or facilities, but it does not include payments for professional services mentioned in Article 15.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the management fees, being a resident of a Contracting State, carries on business in the other Contracting State in which the management fees arise, through a permanent establishment situated therein, and the obligation to pay the management fees is effectively connected with

a) such permanent establishment, or

b) business activities referred to in paragraph 2 of Article 7.

In such a case, the provisions of Article 7 shall apply.

5. Management fees shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that Contracting State. Where, however, the person paying the management fees, whether he is a resident of a Contracting State or not, has in a Contracting

State a permanent establishment in connection with which the obligation to pay the management fees was incurred, and the management fees are borne by that permanent establishment, then the management fees shall be deemed to arise in the State in which the permanent establishment is situated.

6. Where, owing to a special relationship between the payer and the beneficial owner of the management fees or between both of them and some other person the amount of the management fees paid, having regard to the advice, services or use 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 that 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.

7. If a resident of a Contracting State who is the beneficial owner of management fees which arise in the other Contracting State so elects, the tax chargeable in respect of those management fees in the Contracting State in which they arise shall be calculated as if he had a permanent establishment in that State and as if those management fees were taxable in accordance with Article 7; such election must be notified within three years of the receipt of the management fees.

Article 14

CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and 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 from the alienation of ships or aircraft operated or containers used in international traffic, or movable property pertaining to the operation of such ships or aircraft or use of containers, shall be taxable only in the Contracting State in which the profits of the enterprise are taxable according to Article 8 of this Convention.

4. Gains from the alienation of shares in a company which is a resident of a Contracting State may be taxed in that State, but only if the shares alienated form part of an interest of at least 30 per cent in the company.

5. Gains from the alienation of any property other than those referred to in the preceding paragraphs shall be taxable only in the Contracting State of which the alienator is a resident.

Article 15

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 90 days in any period of twelve months; or

b) the individual has a fixed base regularly available to him in that other State for the purpose of performing his activities;

but only so much thereof as is attributable to services performed in that other State.

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 16

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 17, 18, 19 and 20, salaries, wages and other similar 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; and

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 may be taxed in the Contracting State in which the place of effective management of the enterprise is situated. Where, however, the provisions of

paragraph 5 of Article 8 apply, such remuneration shall be taxable only in the Contracting State of which the recipient is a resident.

4. Where a resident of Norway 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 Norway.

Where a resident of Jamaica derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by Air Jamaica, such remuneration shall be taxable only in Jamaica.

Article 17

DIRECTORS' FEES

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

Article 18

ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 15 and 16, 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 an athlete, from his 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 an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply:

a) to income derived from activities performed in a Contracting State by entertainers or athletes if the visit to that Contracting State is substantially supported by public funds of the other Contracting State, including any political subdivision, local authority or statutory body thereof;

b) to a non-profit organisation, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof;

c) to an entertainer or athlete in respect of services provided to an organisation referred to in sub-paragraph b).

In such cases the income shall be taxable only in the State of which the entertainer or athlete is a resident.

Article 19

PENSIONS, ANNUITIES, PAYMENTS UNDER A SOCIAL SECURITY SYSTEM AND ALIMONY

1. Pensions (including Government pensions and payments under a social security system) and annuities arising in a Contracting State may be taxed in that State.

2. 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 20

GOVERNMENT SERVICE

1. a) 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 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 Articles 16 and 17 shall apply to remuneration other than pensions 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 21

STUDENTS

1. Payments which a student or business apprentice 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 his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State provided that such payments arise from sources outside that State.

2. In respect of remuneration from employment, a student or business apprentice described in paragraph 1 shall be entitled during such education or training to the same exemptions, reliefs or reductions in respect of taxes available to residents of the State which he is visiting.

Article 22

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 offshore 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 of this Article, be deemed in relation to those activities to be carrying on business in that other State through a permanent establishment or fixed base situated therein.

3. The provisions of paragraph 2 shall not apply where the activities are carried on for a period not exceeding 30 days in the aggregate in any period of twelve months. However, for the purposes of this paragraph:

a) activities carried on by an enterprise associated with another enterprise shall be regarded as carried on by the enterprise with which it is associated if the activities in question are substantially the same as those carried on by the last-mentioned enterprise;

b) two enterprises shall be deemed to be associated if one is controlled directly or indirectly by the other, or both are controlled directly or indirectly by a third person or persons.

4. Profits derived by a resident of a Contracting State from the transportation of supplies or personnel 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 Contracting State in which the place of effective management of the enterprise is situated.

5. a) Subject to sub-paragraph 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 provided that the employment offshore is carried on for a period exceeding 30 days in the aggregate in any period of twelve months.

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 a Contracting State, or in respect of an employment exercised aboard tugboats or other vessels operated auxiliary to such activities, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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 Contracting 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 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 "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.

Article 23

OTHER INCOME

1.Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

2.The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State 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 income is paid is effectively connected with such permanent establishment or fixed base. In such a case the provisions of Article 7 or Article 15, as the case may be, shall apply.

3.Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention and arising in the other Contracting State may be taxed in that other State.

Chapter IV

Methods for elimination of double taxation

Article 24

ELIMINATION OF DOUBLE TAXATION

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

Subject to the provisions of the law of Jamaica regarding the allowance as a credit against Jamaican tax of tax paid in a territory outside of Jamaica (which shall not affect the general principles thereof), where a resident of Jamaica derives income which, in accordance with the provisions of this Convention may be taxed in Norway, Jamaica shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in Norway and where a company which is a resident of Norway pays a dividend to a company resident in Jamaica, which controls directly or indirectly at least 10 per cent of the voting power in

the first-mentioned company, the deduction shall take into account the tax payable in Norway by that first-mentioned company in respect of the profits out of which such dividend is paid.

2. In the case of Norway, double taxation shall be avoided as follows:

a) Where a resident of Norway derives income which, in accordance with the provisions of this Convention, may be taxed in Jamaica, Norway shall, subject to the provisions of sub-paragraph b), exempt such income from tax but may, in calculating tax on the remaining income of that person, apply the rate of tax which would have been applicable if the exempted income had not been so exempted.

b) Where a resident of Norway derives items of income which, in accordance with the provisions of Articles 10, 11, 12, 13, paragraph 4 of Article 14 and Articles 17, 19, 22 and 23 may be taxed in Jamaica, Norway shall allow as a deduction from the tax on the income of that person an amount equal to the tax paid in Jamaica. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to the income derived from Jamaica.

3. For the purposes of paragraph 2, income tax paid in Jamaica by a resident of Norway on dividends, interest or royalties received from a company which is a resident of Jamaica shall include any amount which would have been payable as Jamaican tax for any year of assessment, but for an exemption from, or a reduction of, tax granted for that year or any part thereof under:

a) any of the following provisions, that is to say:

Section 10 (4) of the Motion Picture Industry (Encouragement) Act;

Parts II and VI of the Industrial Incentives Act;

Sections 10 and 11 of the Export Industry (Encouragement) Act;

The Industrial Incentives (Regional Harmonization) Act, 1974;

Section 10 (1) (a) of the Petroleum Refining Industry (Encouragement) Act;

Section 36D of the Income Tax Act;

Part V of the First Schedule to the Income Tax Act;

Sections 7 and 8 of the Resort Cottages (Incentives) Act;

Sections 9 and 10 of the Hotels (Incentives) Act;

so far as they were in force on, and have not been modified since the date of signature of this Convention, or have been modified only in minor respects so as not to affect their general character;

b) any other provision granting exemption or reduction of tax which is agreed by the competent authorities of the Contracting States to be of a substantially similar character, if it had not been modified thereafter or has been modified only in minor respects so as not to affect its general character.

The provisions of this paragraph shall apply for the first ten years for which the convention is effective but the competent authorities of the Contracting States may consult each other to determine whether this period shall be extended.

Chapter V

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, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

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.

This provision shall not be construed -

a) as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents,

b) as preventing Jamaica from charging a higher rate of income tax under Section 48 (5) of the Income Tax Act of Jamaica on a life insurance company which is a resident of Norway than on a regionalised life insurance company.

If a company of a Contracting State has a permanent establishment in the other Contracting State, that other State may tax the permanent establishment at the rate applying to non-distributed profits of a company resident in that other State.

3. Except where the provisions of Article 9, paragraph 7 of Article 11, paragraph 6 of Article 12 or paragraph 6 of Article 13 apply, interest, royalties, management fees 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.

4. 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 are or may be subjected.

5. The provisions of this Article shall apply to taxes of every kind and description.

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 him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the Contracting State of which he is a national. The case must be presented within three years from the receipt of 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. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States, provided that the taxpayer or the competent authority of either Contracting State gives notice to the competent authority of the other Contracting State within the time limits in the domestic law of that other State that there may be a claim for tax adjustment.

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.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 27

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention and of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1 or Article 29. 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 or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. 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).

Article 28

DIPLOMATIC AND CONSULAR OFFICERS

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

Article 29

EXCLUDED COMPANIES

This Convention shall not apply to companies entitled to any special tax benefit under the International Finance Companies (Income Tax Relief) Act. This Convention shall also not apply to companies entitled to any special tax benefit under any substantially similar Act subsequently enacted by Jamaica in addition to or in place of the above-mentioned Act.

Chapter VI

Final provisions

Article 30

ENTRY INTO FORCE

1. Each of the Contracting States shall notify the other of the completion of the procedures required by its law for the bringing into force of this Convention.

2. The Convention shall enter into force on the date of receipt of the later of these notifications and shall thereupon have effect:

a) in Norway:

in respect of taxes on income relating to the calendar year (including accounting periods beginning in any such year) next following that in which the Convention enters into force and subsequent years;

b) in Jamaica:

(i) in respect of taxes withheld at source, on amounts paid or credited to non-residents on or after the first day of the second month next following the date on which the Convention enters into force;

(ii) in respect of other taxes, for taxable periods beginning on or after the first day of January next following the date on which the Convention enters into force.

3. The extension to Jamaica, by notification dated 18th May 1955, of the Convention between the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed at London on the 2nd May 1951 shall terminate upon the entry into force of this Convention and thereupon cease to have effect in respect of income to which this Convention applies in accordance with the provisions of paragraph 2 of this Article.

Article 31

TERMINATION

This Convention shall remain in force indefinitely, but either of the Contracting States may, on or before 30th June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through the diplomatic channels, written notice of termination. In such event, the Convention shall cease to have effect:

a) in Norway:

in respect of taxes on income relating to the calendar year (including accounting periods beginning in such year) next following that in which the notice is given;

b) in Jamaica:

(i) in respect of taxes withheld at source, on amounts paid or credited on or after the first day of January next following the year in which the notice is given;

(ii) in respect of other taxes, for taxable periods beginning on or after the first day of January next following the year in which the notice is given.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Convention.

Done in Duplicate at London this 30 day

of September 1992, in the Norwegian and English languages, both texts being equally authoritative.

For the Government For the Government

of the Kingdom of of Jamaica

Norway

Kjell Eliassen Ellen G. Bogle

(sign.)(sign)