

**Convention between the Kingdom of Norway and the Republic of The Gambia 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 the Republic of The Gambia 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:

**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 and on capital 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 and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which 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 on capital (formuesskatt til staten);

(vi) the municipal tax on capital (formuesskatt til kommunen);

(vii)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 petroleumforekomster og dertil knyttet virksomhet og arbeid, herunder ledningstransport av utvunnet petroleum); and

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

(hereinafter referred to as "Norwegian tax");

(b)in The Gambia:

(i)income tax (company and personal); and

(ii)capital gains tax;

(hereinafter referred to as "Gambian tax").

4.The Convention shall apply also 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 substantial 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 "The Gambia" means the territory of The Gambia including any area outside the territorial waters of The Gambia which under international law and the laws of The Gambia is an area within which the rights of The Gambia with respect to the seabed and subsoil and their natural resources may be exercised;

(c)the term "nationals" means:

(i)all individuals possessing the nationality of a Contracting State;

(ii) all legal persons, partnerships and associations deriving their status as such from the laws in force in 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 The Gambia 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 The Gambia, the Minister of Finance and Economic Affairs or his competent 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 laws 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.

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 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 "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, a construction, assembly or installation project or supervisory or consultancy activities connected therewith constitute a permanent establishment only if such site, project or activities last for a period of more than six 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 or display 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 or display;

(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 enterprises and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name 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. 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 shows that the transactions between the agent and the enterprise were not arms-length transactions. In such case the provisions of paragraph 5 of this Article shall apply.

7. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to reinsurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 6 refers.

8. 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 shall be taxable only 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, boats 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. 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.

3. 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 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, or,

except in the case of a banking enterprise, by way of interest on money lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (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, or, except in the case of a banking enterprise by way of interest on money lent to the head office of the enterprise or any of its other offices.

4. 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 2 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.

5. 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.

6. 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.

7. 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, inland waterways transport, air transport and containers

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. If this State cannot tax the total profits of the enterprise such profits may be taxed in the State of which the operator is a resident.

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. Notwithstanding the provisions of Article 7 of this Convention profits of an enterprise of a Contracting State from the use, maintenance or rental 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 the Contracting State in which the place of effective management of that enterprise is situated except insofar as those containers or trailers and related equipment are used for transport solely between places within the other Contracting State.

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, and provided that the effective management of the enterprise is not carried on solely in one of the Contracting States, 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. The provisions of paragraphs 1 and 3 shall apply to profits derived by the joint Norwegian, Danish and Swedish air transport consortium Scandinavian Airlines System (SAS), but only insofar as profits derived by Det Norske Luftfartsselskap A/S (DNL), the Norwegian partner of the Scandinavian Airlines System (SAS), are in proportion to its share in that organisation.

7. Profits from the operation of boats or ships engaged in inland waterways transport shall be taxable only in the Contracting State in which the operation takes place.

## 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 Norway to a resident of The Gambia may be taxed in The Gambia. However, such dividends may also be taxed in Norway and according to the laws of Norway, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

(a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 25 per cent of the capital of 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.

2.Dividends paid by a company which is a resident of The Gambia to a resident of Norway may be taxed in Norway. If the recipient of such dividends is subject to tax in Norway in respect thereof the dividends shall be exempt from any tax in The Gambia which is chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company.

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.

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 15 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;

(b)the interest is beneficially owned by a resident of a Contracting State with respect to debt obligations guaranteed or insured by that State, 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.

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 such permanent establishment or fixed base. 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 12,5 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 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 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.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 lastmentioned 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 the Convention.

## Article 13

### 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 shall be taxable only 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 in international traffic, boats or ships engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft or boats, 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 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 the Contracting State in which the place of effective management of that enterprise is situated except insofar as those containers or trailers and related equipment are used for transport solely between places within the other Contracting State.

5. Gains from the alienation of shares in a company which is a resident of a Contracting State may be taxed in that State.

6. 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 14

##### Management fees

1. Management fees arising in a Contracting State and paid to an individual who is 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 12,5 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 individual, other than to an employee of the person making the payments, 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 such permanent establishment. 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 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 183 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; or

(c)the income is not subject to tax in the first-mentioned State;

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 and dentists.

## Article 16

### Dependent personal services

1.Subject to the provisions of Articles 17, 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 provisions of paragraph 1 and 2 of this Article, remuneration derived in respect of an employment exercised aboard:

(a) a ship operated in international traffic; or

(b) an airplane operated in international traffic;

may be taxed in the Contracting State in which the profits of the enterprise are taxable according to Article 8 of this Convention. 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.

## 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

### Income of artists 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 artist, 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 to income derived from activities performed in a Contracting State by entertainers or athletes 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 a case 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

Remuneration in respect of 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

Payments received by students and apprentices

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.

## 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 paragraph 3 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 or periods not exceeding 30 days in the aggregate in any twelve month period. 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. 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 or periods exceeding 30 days in the aggregate in any twelve month period.

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

## **Chapter IV TAXATION OF CAPITAL**

### Article 24

#### Capital

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State shall be taxable only 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 represented by ships and aircraft operated in international traffic or by boats or ships engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft and boats, 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. 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 the Contracting State in which the place of effective management of that enterprise is situated except insofar as those containers or trailers and related equipment are used for transport solely 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.

## **Chapter V METHODS FOR ELIMINATION OF DOUBLE TAXATION**

### Article 25

#### Elimination of double taxation

1. 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 capital which, in accordance with the provisions of this Convention, may be taxed in The Gambia, 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 The Gambia;

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

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 capital which may be taxed in The Gambia.

(b) Where in accordance with any provision of this Convention income derived or capital owned by a resident of Norway is exempt from tax in Norway, Norway may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

(c) Notwithstanding the provisions of sub-paragraphs (a) and (b), and with reference to Article 10:

(i) Where a company resident in The Gambia has been granted a substantial reduction in Gambian company tax according to the provisions of Chapter 77 of the laws of The Gambia, "The Development Act" of 23rd May 1988 as they were in force on that date or as they may be modified from time to time in minor respects but so as not to affect their general character, distributes dividends to a resident of Norway, such dividends shall be exempt from tax in Norway.

(ii) The provision of this sub-paragraph shall apply for the first ten years for which this Convention is effective, but the competent authorities may consult each other to determine whether this period shall be extended.

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

(a) Norwegian tax payable under the laws of Norway and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Norway shall be allowed as a credit against any Gambian tax computed by reference to the same profits, income or chargeable gains by reference to which the Norwegian tax is computed.

Provided that in the case of a dividend the credit shall only take into account such tax in respect thereof as is additional to any tax payable by the company on the profits out of which the dividend is paid and is ultimately borne by the recipient without reference to any tax so payable.

(b) In the case of a dividend paid by a company which is a resident of Norway to a company which is a resident of The Gambia and which controls directly or indirectly at least 10 per cent of the voting power in the Norwegian company, the credit shall take into account (in addition to any Norwegian tax creditable under the provisions of sub-paragraph (a) of this paragraph) Norwegian tax payable by the company in respect of the profits out of which such dividend is paid.

(c) For the purposes of this paragraph, profits, income and capital gains owned by a resident of The Gambia which may be taxed in Norway in accordance with this Convention shall be deemed to arise from sources in Norway.

## **Chapter VI SPECIAL PROVISIONS**

### Article 26

#### Limitation of relief

Where, under any provision of this Convention, income or gains is or are wholly or partly relieved from tax in a Contracting State and, under the laws in force in the other Contracting State, a person, in respect of the said income or gains is subject to tax by reference to the amount thereof which is remitted to, or received in, that other State, and not by reference to the full amount thereof, then the relief to be allowed under this Convention in the first-mentioned State shall apply only to so much of the income or gains as is remitted to, or received in, that other State.

### Article 27

#### 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. Stateless persons who are residents 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.

3. 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 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.

4. Except where the provisions of Article 9, paragraph 7 of Article 11, paragraph 6 of Article 12 or paragraph 6 of Article 14 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. 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. 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.

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

## Article 28

### 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 laws 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 27, 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 laws of the Contracting States.

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 29

## 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. 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 30

### Diplomatic and consular officers

1. 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.

2. Notwithstanding the provisions of Article 4, any individual who is a member of a diplomatic or consular mission or permanent delegation of a Contracting State which is situated in the other Contracting State or a third State is considered to be a resident of the first-mentioned State, on conditions:

(a) that in accordance with the rules of international law, he shall not be subject to tax in the other Contracting State on income from sources outside that State or on capital situated outside that State, and

(b) that he in the first-mentioned State shall be subject to the same obligations with respect to taxes as residents of that State.

## **Chapter VII FINAL PROVISIONS**

## Article 31

### Entry into force

1. Each of the Contracting States shall notify to the other 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 or on capital 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 The Gambia:

in respect of income tax and capital gains tax, for any year of assessment beginning on or after 1st January in the calendar year next following that in which the Convention enters into force and subsequent years.

3. The extension to The Gambia, by notification dated 18th May 1955, of the Convention between the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Norway 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 from the date on which the provisions of this Convention become effective in accordance with the provisions of paragraph 2 of this Article.

## Article 32

### Termination

1. 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 or on capital relating to the calendar year (including accounting periods beginning in such year) next following that in which the notice is given.

(b) in The Gambia:

in respect of income tax and capital gains tax for any year of assessment beginning on or after 1st January in the calendar year next following that in which such notice is given.

2.The termination of this Convention shall not have the effect of reviving any agreement or arrangement terminated by this Convention.

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

Done in duplicate at London this twenty-seventh day of April 1994, in the English Language.