

Agreement between The Kingdom of Norway and The Kingdom of Nepal 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 his Majesty's Government of Nepal

desiring to conclude an Agreement 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:

Article 1

PERSONAL SCOPE

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

Article 2

TAXES COVERED

1. 1.

This Agreement shall apply to taxes on income and on capital imposed by a Contracting State.

2. 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 the amounts of wages or salaries paid by enterprises as well as taxes on capital appreciation.

3. 3.

The existing taxes to which the Agreement shall apply are in particular:

a. A)

in Norway:

i. (I)

the national tax on income (inntektsskatt til staten);

ii. (II)

the county municipal tax on income (inntektsskatt til fylkeskommunen);

iii. (III)

the municipal tax on income (inntektsskatt til kommunen);

iv. (IV)

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

v. (V)

the national tax on capital (formuesskatt til staten);

vi. (VI)

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

vii. (VII)

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

(hereinafter referred to as «Norwegian tax»);

a. B)

in Nepal:

i. (I)

Income tax imposed under The Income tax Act; and

ii. (II)

Property tax imposed under The Property tax Act;

(hereinafter referred to as «Nepalese Tax»).

1. 4.

The Agreement shall apply also to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of the Agreement in addition to, or in place of, the existing taxes.

Article 3

GENERAL DEFINITIONS

1. 1.

For the purposes of this Agreement, unless the context otherwise requires:

a. A)

the term «Norway» means the Kingdom of Norway, the term does not comprise Svalbard, Jan Mayen and the Norwegian dependencies («biland»);

b. B)

the term «Nepal» means the Kingdom of Nepal;

c. C)

the term «nationals» means:

i. (I)

all individuals possessing the nationality of a Contracting State;

ii. (II)

all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State;

a. D)

the term «person» includes an individual, a company and any other body of persons;

b. E)

the term «company» means any body corporate or any entity which is treated as a body corporate for tax purposes;

c. F)

the terms «a Contracting State» and «the other Contracting State» mean Norway (excluding dependencies) or Nepal as the context requires;

d. 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;

e. H)

the term «international traffic» means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

f. I)

the «competent authority» means:

i. (I)

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

ii. (II)

in Nepal, the Minister of Finance or his authorised representative.

1. 2.

As regards the application of the Agreement 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 Agreement applies.

Article 4

RESIDENT

1. 1.

For the purposes of this Agreement, 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 or capital situated therein.

2. 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. 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. 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. 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. 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.

1. 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. 1.

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

2. 2.

The term «permanent establishment» includes especially:

a. A)

a place of management;

b. B)

a branch;

c. C)

an office;

d. D)

a factory;

e. E)

a workshop;

f. F)

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

g. G)

a warehouse.

1. 3.

A building site, a construction, assembly or installation project or a supervisory or consultancy activity connected therewith constitutes a permanent establishment only if such site, project or activity lasts for a period of more than 6 months.

2. 4.

The term «permanent establishment» also includes the furnishing of services by an enterprise through employees or other personnel, where activities continue within the country for a period or periods aggregating more than 183 days in any period of twelve months.

3. 5.

Notwithstanding the preceding provisions of this Article, the term «permanent establishment» shall be deemed not to include:

a. A)

the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;

b. B)

the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;

c. C)

the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

d. 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. 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. F)

the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs 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.

1. 6.

Notwithstanding the provisions of paragraphs 1 and 2, where a person-other than an agent of an independent status to whom paragraph 8 applies is acting on behalf of an enterprise 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 5 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.

2. 7.

Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, 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 8 applies.

3. 8.

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.

4. 9.

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.

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. 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. 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. 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. 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. 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. 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.

a. 3. A)

In determining the profits of a permanent establishment, there shall be allowed as deductions expenses allowed under the provisions of domestic law 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.

b. B)

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 monies 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 monies lent to the head office of the enterprise or any of its other offices.

1. 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.

2. 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.

3. 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.

4. 7.

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

Article 8

SHIPPING, AIR TRANSPORT AND CONTAINERS

1. 1.

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

2. 2.

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 that Contracting State, except insofar as those containers or trailers and related equipment are used for transport solely between places within the other Contracting State.

3. 3.

The provisions of paragraphs 1 and 2 shall also apply to profits derived from the participation in a pool, a joint business or in an international operating agency.

4. 4.

The provisions of paragraphs 1, 2 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.

Article 9

ASSOCIATED ENTERPRISES

Where

a. 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. 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. 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. 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:

a. A)

5 percent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 25 percent of the shares of the company paying the dividends;

b. B)

10 percent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 10 percent of the shares of the company paying the dividends;

c. C)

15 percent 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.

1. 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.

2. 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 resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent

establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

3. 5.

Where a company which is 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. 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. 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 percent of the gross amount of the interest.

Provided, however, that where the interest is paid to a bank carrying on bonafide banking business, which is a resident of the other Contracting State and is the beneficial owner of the interest, the tax charged in the Contracting State in which the interest arises shall not exceed 10 percent of the gross amount of the interest.

1. 3.

Notwithstanding the provisions of paragraph 2,

a. A)

interest arising in Nepal shall be taxable only in Norway if the interest is paid to:

i. (I)

the State of Norway, a political subdivision, a local authority or a statutory body thereof;

ii. (II)

the Central Bank of Norway;

iii. (III)

the Norwegian Guarantee Institute for Export Credits;

iv. (IV)

A/S Eksportfinans; or

v. (V)

any other institution, similar to those mentioned in subdivision (iii)-(iv), as may be agreed from time to time between the competent authorities of the Contracting States;

a. B)

interest arising in Norway shall be taxable only in Nepal if the interest is paid to:

i. (I)

the State of Nepal, a political subdivision, a local authority or a statutory body thereof;

ii. (II)

Central Bank of Nepal;

iii. (III)

any organisation established in the State of Nepal after the date of signature of this Agreement and which is of a similar nature as any organisation established in Norway and referred to in subdivision a) (iii)-(iv) (the competent authorities of the Contracting States shall by mutual agreement determine whether such organisations are of a similar nature); or

iv. (IV)

any institution similar to any of those referred to in subdivision a) (v), as may be agreed from time to time between the competent authorities of the Contracting States;

a. C)

interest arising in a Contracting State on a loan guaranteed by any of the bodies mentioned or referred to in sub-paragraph a) or sub-paragraph b) and paid to a resident of the other Contracting State shall be taxable only in that other State.

1. 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.

2. 5.

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

3. 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.

4. 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 Agreement.

Article 12

ROYALTIES

1. 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. 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 15 percent of the gross amount of the royalties. For the purposes of this paragraph, if a lower rate of Nepalese tax is agreed upon with any other State than Norway after the entry into force of this Agreement such rate shall be applied.

3. 3.

The term «royalties» as used in this Article means payments of any kind received as consideration for the use of or the right to use, any copyright of literary, artistic or scientific work including cinematograph 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. 4.

The provisions of paragraph 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 14, as the case may be shall apply.

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

Article 13

CAPITAL GAINS

1. 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. 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. 3.

Gains from the alienation of ships or aircraft operated in international traffic, or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the profits of the enterprise are taxable according to Article 8 of this Agreement.

4. 4.

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

5. 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 14

INDEPENDENT PERSONAL SERVICES

1. 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. 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. 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.

1. 2.

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

Article 15

DEPENDENT PERSONAL SERVICES

1. 1.

Subject to the provisions of Articles 16, 17, 18 and 19, 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. 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. 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. 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. C)

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

1. 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 profits of the enterprise are taxable according to Article 8 of this Agreement. However, where remuneration is derived in respect of an employment exercised aboard a ship registered in the Norwegian International Ships' register (N.I.S.), such remuneration shall be taxable only in the Contracting State of which the recipient is a resident.

2. 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 16

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 17

ARTISTES AND SPORTSMEN

1. 1.

Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. 2.

Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Article 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. 3.

The provisions of paragraphs 1 and 2 shall not apply to income derived from activities performed in a Contracting State by entertainers or sportsmen if the visit to that State is substantially supported by public funds of the other Contracting State or a political subdivision or local authority thereof. In such a case the income shall be taxable only in the State of which the entertainer or sportsman is a resident.

Article 18

PENSIONS, ANNUITIES AND PAYMENTS UNDER A SOCIAL SECURITY SYSTEM

Pensions (including Government pensions and payments under a social security system) and annuities paid to a resident of a Contracting State shall be taxable only in that State.

Article 19

GOVERNMENT SERVICE

a. 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. 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. (I)

is a national of that State; or

ii. (II)

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

1. 2.

The provisions of Articles 15 and 16 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 20

STUDENTS

1. 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 the first-mentioned State provided that such payments arise from sources outside that State.

2. 2.

In respect of grants, scholarships and remuneration from employment not covered by paragraph 1, a student or business apprentice described in paragraph 1 shall, in addition, 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. However, if such exemption, relief or reduction is subject to limitations under domestic law based on the length of the stay, these limitations shall apply.

Article 21

OTHER INCOME

1. 1.

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

2. 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 14, as the case may be, shall apply.

Article 22

CAPITAL

1. 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 may be taxed in that other State.

2. 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. 3.

Capital represented by ships or aircraft operated in international traffic, and by movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the profits of the enterprise are taxable according to Article 8 of this Agreement.

4. 4.

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

5. 5.

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

Article 23

ELIMINATION OF DOUBLE TAXATION

1. 1.

In Norway double taxation shall be avoided as follows:

a. A)

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

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

i. (I)

as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Nepal;

ii. (II)

as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in Nepal on elements of capital;

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 the same elements of capital which may be taxed in Nepal.

a. B)

Where in accordance with any provision of the Agreement 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.

b. C)

Where exemption from or reduction of Nepalese tax, payable in accordance with the provisions of Article 7 in respect of profits derived by a Norwegian enterprise from a permanent establishment situated in Nepal, has been granted under Nepalese law designed to extend time limited tax incentive to promote foreign investment for the purpose of the economic development of Nepal, then, for the purposes of subparagraph a) (i) deduction from Norwegian tax for Nepalese tax shall be allowed as if no such exemption or reduction had been granted, provided that the permanent establishment is engaged in business activities (other than business activities in the financial sector)

and that no more than 25 percent of such profits consist of interest and gains from the alienation of shares or bonds, or consist of profits derived from third states. The provisions of this sub-paragraph shall apply for the first 10 years for which the Agreement is effective. The competent authorities shall consult each other in order to determine whether this period shall be extended.

c. D)

In case Nepal introduces a withholding tax on dividends to which the provisions of Article 10 apply, then the provisions of subparagraph c) shall be applied correspondingly to any exemption or reduction of Nepalese withholding tax on such dividends below the rates stated in paragraph 2 of Article 10.

1. 2.

In Nepal double taxation shall be avoided as follows:

a. A)

Subject to the provisions of the law of Nepal regarding the allowance as a credit against Nepalese tax of tax payable in a territory outside Nepal (which shall not affect the general principle hereof) Norwegian tax payable under the law of Norway and in accordance with the provisions of this Agreement, whether directly or by deduction, on income from sources within Norway shall be allowed as a credit against any Nepalese tax computed by reference to the same items of income by reference to which the Norwegian tax is computed.

b. B)

Where under the Agreement a resident of Nepal is exempt from tax in Nepal in respect of income derived from Norway, then Nepal may, in calculating tax on the remaining income of that person, apply the rate of tax which would have been applicable if the income exempted from tax in accordance with the Agreement had not been so exempted.

Article 24

NON-DISCRIMINATION

1. 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. 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. 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. 4.

Except where the provisions of Article 9, paragraph 7 of Article 11 or paragraph 6 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

5. 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. 6.

The provisions of this Article shall apply to taxes covered by the Agreement.

Article 25

MUTUAL AGREEMENT PROCEDURE

1. 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 Agreement, 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 24, 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 Agreement.

2. 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 Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. 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 Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. 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 Contracting States.

Article 26

EXCHANGE OF INFORMATION

1. 1.

The competent authorities of the Contracting States shall exchange such information as is relevant for carrying out the provisions of this Agreement and of the domestic laws of the Contracting States concerning taxes covered by the Agreement insofar as taxation thereunder is not contrary to the Agreement. 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 Agreement. 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. 2.

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

a. A)

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

b. 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. 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 27

DIPLOMATIC AND CONSULAR OFFICERS

Nothing in this Agreement 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 28

ENTRY INTO FORCE

1. 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 Agreement.

2. 2.

The Agreement shall enter into force on the date of receipt of the later of these notifications and shall thereupon have effect in respect of taxes on income or on capital relating to the fiscal year (including accounting periods beginning in any such year) next following that in which the Agreement enters into force and subsequent years.

Article 29

TERMINATION

This Agreement 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 Agreement shall cease to have effect in respect of taxes on income or on capital relating to the fiscal year (including accounting periods beginning in such year) next following that in which the notice is given.

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

Done in Duplicate at Kathmandu this 13th day of May 1996, in the English language.

For the Government of the Kingdom of Norway.

Asbjørn Mathisen

For His Majesty's Government of Nepal.

Chin Kaji Shrestha