

1986 Income and Capital Tax Convention and Final Protocol

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CONVENTION BETWEEN THE GOVERNMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA AND THE KINGDOM OF NORWAY 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 Democratic Socialist Republic of Sri Lanka and the Kingdom of Norway, 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:

Article 1 Personal Scope

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

Article 2 Personal Scope

1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political sub-division 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 enterprise, as well as taxes on capital appreciation.

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

(a) in Sri Lanka--

(i) the income tax, including the income tax based on the turnover of enterprises licensed by the Greater Colombo Economic Commission,

(ii) the wealth tax,

(hereinafter referred to as "Sri Lanka tax");

(b) 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 (fellesakatt til Skattfordelingsfondet),

(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 rorledningstransport av utvunnet petroleum),

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

(ix) the seamen's tax (sjomannsskatt),

(hereinafter referred to as "Norwegian tax").

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

Article 3 General Definitions

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

(a) the term "Sri Lanka" means the Democratic Socialist Republic of Sri Lanka, including any area outside the territorial sea of Sri Lanka which in accordance with international law has been or may hereafter be designated, under the laws of Sri Lanka concerning the Continental Shelf, as an area

within which the rights of Sri Lanka with respect to the waters, sea-bed and subsoil and the natural resources may be exercised;

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

(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 Sri Lanka 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 the case of Sri Lanka, the Commissioner-General of Inland Revenue,

(ii) in the case of Norway, the Minister of Finance and Customs or his authorized representative.

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

Article 4 Resident

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

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

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

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

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

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

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting 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 the enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

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

3. The term "permanent establishment" likewise encompasses:

(a) a building site or construction or installation project or an installation or drilling rig or ship used in connection with the exploration or development of natural resources, only if it lasts more than 6 months;

(b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than 183 days within any 12 month period.

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

(a) the use of facilities solely for the purpose of storage, display or occasional delivery of goods or merchandise belonging to the enterprise;

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or occasional delivery;

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

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in 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.

5. Notwithstanding the provisions of paragraph 1 and 2 where a person--other than an agent of an independent status to whom paragraph 7 applies--is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:

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

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

6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a 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 Contracting State or insures risks situated therein through a person other than an agent of an independent Status to whom paragraph 7 applies.

7. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, where 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 shall not be considered an agent of an independent status within the meaning of this paragraph, if it is shown that the transactions between the agent and the enterprise were not made under arms length conditions.

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.

Article 6 Income From Immovable Property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable Property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, 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 (a) that permanent establishment (b) sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment or (c) other business activities carried on in that other State of the same or similar kind as those effected through that permanent establishment. The provisions of sub-paragraphs (b) and (c) above shall not apply if the enterprise proves that such sales or activities are not attributable to the 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 the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business 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 moneys 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 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 moneys 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 shall, however, be such that the result will 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 and Transport

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

2. Notwithstanding the provisions of paragraph 1 profits derived from the operation of ships in international traffic may be taxed in the Contracting State in which such operation is carried on but the tax so charged shall not exceed 50 per cent of the tax otherwise imposed by the internal law of that State. For purposes of this paragraph, the amount of such profits subject to tax in Sri Lanka shall not exceed 6 per cent of the sums receivable in respect of the carriage of passengers or freight embarked in Sri Lanka.

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

4. 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.

5. 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 in so far as profits derived by Det Norske Luftfartaselskap 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

1. Where:

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

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

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

Article 10 Dividends

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

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State but the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

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 taxation law 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 a case the provisions of Article 7 or Article 14, 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 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 10 per cent of the gross amount of the interest. 3. Notwithstanding the provisions of paragraph 2 interest arising in a Contracting State shall be exempt from tax in that State if:

(a) the payer of the interest is the Government of that State, a political subdivision or a local authority thereof; or

(b) the interest is derived and beneficially owned by the Government or an agency of the government of the other Contracting State or by any government sponsored lending institution of that State established for development purposes and not for commercial profit; or

(c) the interest is paid--

(i) in the case of Norway to the Bank of Norway (norges Bank);

(ii) in the case of Sri Lanka to the Central Bank of Ceylon.

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 14, 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 or administrative 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 Contracting State in which the permanent establishment or fixed base is situated.

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

Article 12 Royalties

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

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

3. The term "royalties" as used in this Article means payment 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 film or tapes for television or radio broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraph 1 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. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a statutory body, a political sub-division, a local authority or a resident of that State, where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated. 6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last mentioned amount. In such case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13 Capital Gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated 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 place of effective management of the enterprise is situated.
4. Gains from the alienation of any property other than that referred to in paragraphs 1 to 3 shall be taxable only in the Contracting State of which the alienator is a resident.
5. The provisions of paragraph 4 shall not affect the right of each of the States to levy according to its own law a tax on gains from the alienation of shares representing a participation of 25 per cent or more in a company, the capital of which is wholly or partly divided into shares and which is a resident of that State.

Article 14 Independent Personal Services

1. Income derived by 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 except in the following circumstances, when such income may also be taxed in the other Contracting State.
 - (a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities, in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or
 - (b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days within any twelve month period in that case, only so much of the income as is derived from his activities performed in the other State may be taxed in that other State.
2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15 Dependent Personal Services

1. Subject to the provisions of Articles 16, 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 the other State for a period or periods not exceeding in the aggregate 183 days within any twelve month period; and
 - (b) the remuneration is borne by an employer who is a resident of the State of which the recipient is a resident; and
 - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding royalties of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated. 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 Director's Fees

1. Director's 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.
2. Salaries, wages and other similar remuneration derived by a resident of a Contracting State in his capacity as an official in a top level managerial position of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17 Artistes and Athletes

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 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, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from such activities as defined in paragraph 1 performed within the framework of cultural exchange between the two Contracting States, shall be taxable only in the State of which the entertainer or athlete is a resident.

Article 18 Pensions and Social Security Payments

1. Subject to the provisions of paragraph 2 of Article 18 pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment may be taxed in that State.

2. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under a public scheme which is part of the social security system of a Contracting State shall be taxable only in that State.

However, to the extent such payments are not taxed in that State they may be taxed in the other Contracting State.

Article 19 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 thereof in the discharge of functions of a governmental nature 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. Any pension paid by, or out of funds created 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 of authority shall be taxable only in that State.

However, to the extent such payments are not taxed in that State they may be taxed in the other Contracting State.

3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State, a political subdivision or a local authority thereof.

Article 20 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;

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.

Article 21 Other Income

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Convention in respect of which he is subject to tax in that State shall be taxable only in that State.

Article 22 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 may be taxed in that other State.

2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other

Contracting State for the purpose of performing independent personal services, may be taxed in that other State.

3. Notwithstanding the provisions of paragraph 2, ships and aircrafts operated in international traffic and movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. 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. The laws in force in either of the Contracting States shall continue to govern the taxation of income in the respective Contracting State except when express provision to the contrary is made in this Convention.

2. In Sri Lanka:

Norwegian tax payable in respect of income derived from Norway or capital owned in Norway shall be allowed as a credit against Sri Lanka tax payable in respect of that income or that capital. The credit shall not, however, exceed that part of the Sri Lanka tax, as computed before the credit is given, which is appropriate to such item of income or capital.

3. In Norway:

(a) Where a resident of Norway derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Sri Lanka, Norway shall, subject to the provisions of paragraphs (b) and (c) exempt such income or capital from tax;

(b) Where a resident of Norway derives items of income which, in accordance with the provisions of paragraph 2 of Article 8 or paragraph 2 of Articles 10, 11 and 12 may be taxed in Sri Lanka, Norway shall allow as a deduction from the tax on the income of that person an amount equal to the tax paid in Sri Lanka. Such deduction shall not, however, exceed that part of the tax as computed before the deduction is given, which is attributable to such items of income derived from Sri Lanka.

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

4. For the purpose of allowance as a credit in a Contracting State, the tax paid in the other Contracting State shall be deemed to include the tax which is deducted or waived by that State under its legal provisions for tax incentives for the economic progress and development of that State. This provision shall apply for the first ten years for which the Convention is effective but the competent authorities of the Contracting States may consult each other to determine whether this period shall be extended.

Article 24 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. If a company of a Contracting State has a permanent establishment in the other Contracting State, that other State may tax the permanent establishment at the rate applying to non-distributed profits of a company resident of that other State.

4. Except where the provisions of paragraph 3 of Article 7, 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. 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 not be construed as obliging a Contracting State to grant to nationals of the other Contracting State not being nationals of the first Contracting State any exceptional tax relief accorded to repatriating nationals of this Contracting State.

7. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 25 Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States present his case to the competent authority or 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 first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of Contracting States.

3. The competent authorities of the Contracting States shall endeavor 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.

Article 26 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 or of the domestic laws of the Contracting States concerning taxes covered by this Convention in so far as the taxation thereunder is not contrary to the Convention, as well as to prevent fiscal evasion. 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 (order public).

Article 27 Diplomatic Agents and Consular Officials

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

Article 28 Entry Into Force

1. The Contracting States shall notify each other that the constitutional requirements for the entry into force of this Convention have been complied with.

2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect--

(a) In Sri Lanka:

(i) in respect of income derived on or after 1st April in the second calendar year following that in which the Convention enters into force;

(ii) in respect of capital assessed on or after 1st April in the second calendar year next following that in which the Convention enters into force.

(b) In Norway:

(i) in respect of income derived on or after 1st January in the calendar year next following that in which the Convention enters into force;

(ii) in respect of capital assessed on or after 1st January in the second calendar year next following that in which the Convention enters into force.

3. The Convention signed at Colombo on 11 June, 1964, between the Government of Norway and the Government of Ceylon for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and property shall terminate and cease to have effect with respect to income and capital to which this Convention shall be effective.

Article 29 Termination

This Convention shall remain in force until terminated by one of the Contracting States, either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year beginning after the expiration of the period of five years from the date of the entry into force.

In such event, the Convention shall cease to have effect:

(a) In Sri Lanka:

(i) in respect of income derived on or after 1st April in the calendar year next following that in which such notice is given;

(ii) in respect of capital assessed on or after 1st April in the second calendar year next following that in which such notice is given.

(b) In Norway:

(i) in respect of income derived on or after 1st January in the calendar year next following that in which such notice is given;

(ii) in respect of capital assessed on or after 1st January in the second calendar year next following that in which such notice is given.

In witness whereof the undersigned, duly authorised thereto, have signed this Convention.

Done in duplicate at Colombo the 04th day of December, 1986, in the Sinhala, Norwegian and English languages, all texts being equally authentic. In the case of divergence of interpretation the English text shall prevail.

FOR THE KINGDOM OF NORWAY

Kaare Daehlen

FOR THE GOVERNMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

Hugh Molagoda

Final Protocol

At the signing today of the Convention between the Democratic Socialist Republic of Sri Lanka and the Kingdom of Norway for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, the undersigned, being duly authorised thereto by their respective Governments, have agreed on the following:

(1) Article 8, paragraph 2 provides for right of taxation by the Contracting State not being the State of effective management of the shipping enterprise. It is understood that in the event of Sri Lanka agreeing to provisions in a double taxation convention with another State with significant shipping operations in Sri Lanka which provides for a more favourable taxation of such operations in Sri Lanka, the competent authorities of the two Contracting States shall take steps to open negotiations with a view to introducing similar tax treatment of Norwegian shipping operations through Sri Lanka.

(2) For the application of sub-paragraph (b) of paragraph 3 of Article 11, it is understood that the competent authorities of the two Contracting States shall agree in each case on what constitutes a government sponsored lending institution.

(3) It is understood that should Sri Lanka in a double taxation convention with any member country of the Organization for Economic Co-operation and Development (OECD) introduce a lower or no withholding tax on royalties (Article 12), the competent authorities of the two Contracting States shall

take steps with a view to opening negotiations for introducing similar tax treatment of royalties paid to a resident of Norway.

(4) It is understood that any reduction or waiver of tax by a Contracting State referred to in paragraph (4) of Article 23 shall be certified by the competent authority of that State as being for the purposes stated therein, in order that a full allowance as a credit be given in the other Contracting State.

In witness whereof the undersigned have signed this Protocol. Done in duplicate at Colombo the 4th day of December, 1986, in the Sinhala, Norwegian and English languages, all texts being equally authentic. In the case of divergence of interpretation the English text shall prevail.

FOR THE KINGDOM OF NORWAY

Kaare Daehlen

FOR THE GOVERNMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

Hugh Molagoda