

Vedlegg. Om samtykke til ratifikasjon av en overenskomst med tilhørende protokoll mellom Norge og Brasil til unngåelse av dobbeltbeskatning og forebyggelse av skatteunndragelse med hensyn til skatter av inntekt og formue.

Convention between the Government of the Kingdom of Norway and the Government of the Federative Republic of Brazil for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital.

The Government of the Kingdom of Norway and the Government of the Federative Republic of Brazil, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and 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

Taxes covered

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

a) in the case of Brazil:

— the federal income tax, excluding the tax on excess remittances and on activities of minor importance; (hereinafter referred to as «Brazilian tax»);

b) in the case of Norway:

(i) the national, the county («Fylkeskommune») and municipal taxes on income (including the tax on income from petroleum exploitation and pipeline transportation),

(ii) the national and municipal taxes on capital,

(iii) the national dues on the profits of non-resident artistes,

(iv) the national contributions to the tax equalization fund,

(v) the seamen's tax,

(hereinafter referred to as «Norwegian tax»).

2. This Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the above-mentioned taxes. The competent authorities of the Contracting States shall notify to each other any substantial changes which have been made in their respective taxation laws.

Article 3

General definitions

1. In this Convention, unless the context otherwise requires:

a) the term «Brazil» means the Federative Republic of Brazil;

b) the term «Norway» means the Kingdom of Norway, including, when used in a geographical sense, its territorial sea and the seabed and subsoil of the submarine areas adjacent to the territorial sea, over which Norway exercises sovereign rights, in accordance with international law, for the purpose

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of exploring these areas and exploiting their natural resources, but excluding Svalbard, Jan Mayen and the Norwegian dependencies («biland») outside Europe;

- 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 law in force in a Contracting State;
- d) the terms «a Contracting State» and «the other Contracting State» mean Brazil or Norway as the context requires;
- e) the term «person» comprises an individual, a company and any other body of persons;
- f) the term «company» means any body corporate or any entity which is treated as a body corporate for tax purposes;
- 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 «tax» means Brazilian tax or Norwegian tax, as the context requires;
- j) the term «competent authority» means:
 - (i) in Brazil: the Minister of Finance, the Secretary of Federal Revenue or their authorized representatives;
 - (ii) in Norway: the Minister of Finance and Customs or this authorized representative.

2. As regards the application of this Convention by a Contracting State any term not otherwise defined 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

Fiscal domicile

1. For the purposes of this Convention, the term «resident of a Contracting State» means any person who, under the law of that State, is liable to taxation 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 in accordance with the following rules:

- a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting

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States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);

- b) if the Contracting 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- d) if he is a national of both Contracting 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 purpose of this Convention, the term «permanent establishment» means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

2. The term «permanent establishment» shall include 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, quarry or any other place of extraction of natural resources;
- g) a building site or construction or assembly project, which exists for more than six months.

3. The term «permanent establishment» shall not be deemed to include:

- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for

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scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State — other than an agent of independent status to whom paragraph 5 applies — shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

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

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

Article 6

Income from immovable property

1. Income from immovable property including income from agriculture or forestry may be taxed in the Contracting State in which such property is situated.

2. a) Subject to the provisions of sub-paragraphs b) and c) the term «immovable property» shall be defined in accordance with the law of the Contracting State in which the property in question is situated;

b) 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;

c) 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 professional 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 afore-

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said, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purpose of the permanent establishment including executive and general administrative expenses so incurred.

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

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

Article 8

Shipping and air transport

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

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

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

4. Where the enterprise is carried on by one or more partners jointly and severally responsible and resident in one of the Contracting States and by one or more partners jointly and severally responsible and resident in the other Contracting State and the competent authorities of both States agree that it is not feasible to determine that the place of effective management is situated in one of the States only, profits as mentioned in paragraph 1 of this Article, gains as mentioned in paragraph 2 of Article 13 and capital as mentioned in paragraph 3 of Article 23 shall be taxable, in proportion to the share which each of the partners jointly and severally responsible is holding, only in the Contracting State of which that partner is a resident.

5. The provisions of paragraph 1 shall apply to profits derived by the joint Norwegian, Danish and Swedish air transport consortium, Scandinavian Airlines System (SAS), but only in so far profits so 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 organization.

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Article 9

Associated enterprises

Where

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

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

Article 19

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 be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

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

3. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of Article 7 shall apply.

4. The term «dividends» as used in this Article means income from shares, «jouissance» shares or «jouissance» rights, mining shares, founders' shares or other rights not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident.

5. Where a resident of Contracting State has a permanent establishment in the other Contracting State, this permanent establishment may be subject to a tax withheld at source in accordance with the law of the other Contracting State. However, such a tax cannot exceed 15 per cent of the gross amount of the profits of that permanent establishment determined after the payment of the corporate tax related to such profits.

6. Where a company is a resident of a Contracting State, the other Contracting 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 per-

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manent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to any tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

7. The tax rate limitations provided for in paragraph 2 shall not apply to dividends or profits paid or remitted before the expiration of the third calendar year following the year in which the Convention enters into force.

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 be taxed in the Contracting State in which it arises, and according to the law of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 15 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraphs 1 and 2:

- a) interest arising in a Contracting State, and paid to the Government of the other Contracting State, a political subdivision thereof or any agency (including a financial institution) wholly owned by that Government, or political subdivision shall be exempt from tax in the first-mentioned Contracting State;
- b) interest arising from securities, bonds or debentures issued by the Government of a Contracting State, a political subdivision thereof or by any agency (including a financial institution) owned by that Government shall be taxable only in that State.

4. The term «interest» as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the Contracting State in which the income arises.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the provisions of Article 7 shall apply.

6. The limitation established in paragraph 2 shall not apply to interest arising in a Contracting State and paid to a permanent establishment of an enterprise of the other Contracting State which is situated in a third State.

7. Interest shall be deemed to arise in a Contracting State when the payer is that Contracting 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 in connection with which the indebtedness on which the inte-

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rest is paid was incurred and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

8. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law 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 be taxed in the Contracting State in which they arise, and according to the law of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed:

- a) 25 per cent of the gross amount of royalties arising from the use of, or the right to use, trade marks, cinematograph films and films or tapes for television or radio broadcasting;
- b) 15 per cent in all other cases.

3. The term «royalties» as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films, films or tapes for television or radio broadcasting), any patent, trade mark, design or model, plan, secret formula or process, as well as for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. 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 in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by the permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise, a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of Article 7 shall apply.

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6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, the right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the lastmentioned amount. In that 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 from the alienation of immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which the immovable property is situated.

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 professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State. However, gains from the alienation of ships and aircraft 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.

3. Gains from the alienation of any property or right other than those mentioned in paragraphs 1 and 2 may be taxed in both Contracting States.

Article 14

Independent personal services

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar nature shall be taxable only in that State, unless the payment of such activities and services is borne by a permanent establishment situated in the other Contracting State or a company resident therein. In such a case, the income may be taxed in that other State.

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

Article 15

Dependent personal services

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21, 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.

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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 in the fiscal year concerned, and
- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, 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 provisions of this Article, remuneration in respect of an employment exercised aboard a ship in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated. When it is not feasible to determine that the place of effective management is in one of the Contracting States alone, and when a shipping enterprise is carried on by one or more partners jointly and severally responsible and resident in the other Contracting State, remuneration for such services may be taxed in the Contracting State in which the ship is registered.

The provisions of the present paragraph shall likewise apply to remuneration derived by a resident of one of the Contracting States in respect of an employment exercised aboard a fishing, sealing or whaling vessel, also if the remuneration is paid to him in the form of a certain lay or share of the proceeds of the fishing, sealing or whaling activity.

4. In cases where the employment wholly or mainly is exercised aboard a Brazilian or a Norwegian aircraft (including aircraft belonging to or chartered by the Scandinavian Airlines System) remuneration as referred to in paragraph 1 of this Article is taxable only in the Contracting State of which the recipient is a resident.

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 any council 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 entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which those activities are exercised.

2. Where the services mentioned in paragraph 1 of this Article are provided in a Contracting State by an enterprise of the other Contracting State, then the income derived from providing those services by such an enterprise may, notwithstanding any other provision of this Convention, be taxed in the first-mentioned Contracting State.

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Article 18

Payments made under the Social Security Scheme, pensions, alimony and annuities

1. Subject to the provisions of Article 19, payments made under the Social Security Scheme, pensions and other similar remuneration, alimony and annuities paid to a resident of a Contracting State may be taxed in the State where it arises.

2. As used in this Article:

- a) the term «pensions and other similar remuneration» means periodic payments made after retirement in consideration of past employment or by way of compensation for injuries received, in connection with past employment;
- b) the term «annuity» means a stated sum payable periodically at stated times during life, or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth (other than services rendered).

Article 19

Governmental payments

1. Remuneration, not including pensions, paid by a Contracting State, a political subdivision or a local authority thereof to any individual in respect of services rendered to that State, to a political subdivision or local authority shall be taxable only in that State.

However, such remuneration shall be taxable only in the Contracting State of which the recipient is a resident if the services are rendered in that State and the recipient of the remuneration is a resident of that State who

- a) is a national of that State, or
- b) did not become a resident of that State solely for the purpose of performing the services.

2. Pensions paid by, or out of funds created by, a Contracting State, a political subdivision or a local authority thereof to any individual in respect of services rendered to that State, to a political subdivision or a local authority thereof may be taxed in that State.

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

Article 20

Teachers or researchers

An individual who is, or was immediately before visiting a Contracting State, a resident of the other Contracting State and who, at the invitation of the first-mentioned Contracting State or of a university, college, school, museum or other cultural institution in that first-mentioned Contracting State or under an official programme of cultural exchange, is present in that State for a period not exceeding two years solely for the purpose of teaching, giving lectures or carrying out research at such institution shall be exempt from tax in that State on his remuneration for such activity, provided he is subject to tax thereon in the other Contracting State.

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Article 21

Students

1. An individual who is, or was immediately before visiting a Contracting State, a resident of the other Contracting State and who is temporarily present in the first-mentioned Contracting State solely

- a) as a trainee, or a student at a university, college or school in that first-mentioned Contracting State,
- b) as the recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific or educational organisation,

shall be exempt from tax in that first-mentioned Contracting State in respect of remittances from abroad for the purpose of his maintenance, education or training.

2. An individual 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 Contracting State solely for the purposes of his education or training shall be exempt for tax in that first-mentioned Contracting State for a period not exceeding five consecutive fiscal years in respect of remuneration from employment in that State, for an amount not exceeding in the calendar year the equivalent to US dollars 3 000.

Article 22

Other income

Items of income of a resident of a Contracting State not dealt with in the foregoing articles and arising in the other Contracting State may be taxed in that other State.

Article 23

Capital

1. Capital represented by immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.

2. Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise or by movable property pertaining to a fixed base used for the performance of professional services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.

3. Ships and aircraft 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 24

Methods for the elimination of double taxation

1. Where a resident of Brazil derives income which, in accordance with the provisions of this Convention may be taxed in Norway, Brazil shall allow as a deduction from the tax on the income of that person, an amount equal to the income tax paid in Norway.

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The deduction shall not, however, exceed that part of the income tax as computed before the deduction is given, which is appropriate to the income which may be taxed in Norway.

2. Where a resident of Norway derives income not mentioned in paragraph 3 which, in accordance with the provisions of this Convention, may be taxed in Brazil, the first-mentioned State shall exempt such income from tax, but may, in calculating tax on the remaining income or capital of that person, apply the rate of tax which would have been applicable if the exempted income or capital had not been so exempted.

3. Where a resident of Norway derives income which, in accordance with the provisions of paragraph 2 of Article 10, Article 11, Article 12, paragraph 3 of Article 13, Article 14, Article 22 and items 5 and 11 of the Protocol may be taxed in Brazil, Norway shall allow as a deduction from the tax on the income of that person an amount equal to the tax paid in Brazil.

Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is appropriate to the income derived from Brazil.

4. For the deduction indicated in paragraph 3 Brazilian tax on dividends, interest and royalties shall always be considered as having been paid at a rate of 25 per cent.

5. Non-distributed profits of a corporation 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 taxable in the last-mentioned State.

6. The value of the shares issued by a corporation 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 subject to income tax in the last-mentioned State.

7. The provisions of paragraphs 1 and 3 shall apply to the determination of the profits of a permanent establishment of a resident of a Contracting State situated in the other State.

Article 25

Non-discrimination

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirements 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.

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

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account of civil status or family responsibilities which it grants to its own residents.

The provisions of this paragraph shall not be construed as preventing a Contracting State from taxing profits derived by a permanent establishment of a company which is a resident of the other Contracting State at a rate at which the undistributed profits of a company which is a resident of that State may be taxed.

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

4. In this Article, the term «taxation» means taxes which are the subject of this Convention.

5. The provisions of this Article shall not be construed as obliging Norway to grant to nationals of Brazil the exceptional tax relief which is accorded to Norwegians and persons born of parents having Norwegian nationality pursuant to Section 22 of the Norwegian Tax Law.

Article 26

Mutual agreement procedure

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

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 an appropriate 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 not in accordance with the Convention.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purposes of reaching an agreement in the sense of the preceding paragraphs.

Article 27

Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons, authorities or courts other than those concerned with the assessment or collection of the

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taxes which are the subject of this Convention or the determination of appeals or the prosecution of offences in relation thereto.

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

- a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;
- b) to supply particulars which are 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.

Article 28

Diplomatic and consular officials

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

Article 29

Territorial extension

1. This Convention may be extended, either in its entirety, or with modifications, to any territory for whose international relations either Contracting State is responsible and which imposes taxes substantially similar in character to those which this Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels.

2. Unless otherwise agreed by both Contracting States, the termination of this Convention shall terminate the application of this Convention to any territory to which it has been extended under the provisions of this Article.

Article 30

Entry into force

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Oslo.

2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect for the first time:

In the case of Brazil:

- (i) as respects taxes withheld at source to amounts paid or remitted on or after January 1st of the calendar year immediately following that in which the Convention enters into force;
- (ii) as respects other taxes covered by this Convention to taxable year beginning on or after January 1st of the calendar year immediately following that in which the Convention enters into force.

Vedlegg. Om samtykke til ratifikasjon av en overenskomst med tilhørende protokoll mellom Norge og Brasil til unngåelse av dobbeltbeskatning og forebygging av skatteundragelse med hensyn til skatter av inntekt og formue.

In the case of Norway:

- (i) in respect of taxes on income, as to income acquired on or after January 1st in the calendar year following that in which the Convention enters into force;
- (ii) in respect of taxes on capital, as to the capital existing at the end of the calendar year following that in which the Convention enters into force.

3. The Convention between Norway and Brazil for the avoidance of double taxation with respect to taxes on income and capital, signed at Rio de Janeiro on 20th October 1967, shall cease to have effect as regards taxes on income and on capital, from the date on which the present Convention becomes effective in accordance with paragraph 2 of this Article.

Article 31

Termination

Either Contracting State may terminate this Convention after a period of three years from the date on which this Convention enters into force by giving to the other Contracting State, through diplomatic channels, a written notice of termination, provided that any such notice shall be given only on or before the thirtieth day of June in any calendar year.

In such a case this Convention shall apply for the last time:

In the case of Brazil:

- (i) as respects taxes withheld at source, to amounts paid or remitted before the expiration of the calendar year in which the notice of termination is given;
- (ii) as respects other taxes covered by this Convention, to amounts received during the taxable year beginning in the calendar year in which the notice of termination is given.

In the case of Norway:

- (i) as respects taxes on income, for the income of the taxable year or accounting period beginning in the calendar year in which the notice of termination is given;
- (ii) as respects taxes on capital, for the tax the payment of which is required in the calendar year in which the notice of termination is given.

IN WITNESS WHEREOF the Plenipotentiaries of the States have signed the Convention and have affixed thereto their seals.

DONE in the city of Brasilia, this 21. august, 1980, in duplicate, in the English, Norwegian and Portuguese languages, all three texts being equally authentic. In case of any divergence of interpretation the English text shall prevail.

For the Government of the
Kingdom of Norway
Per M. Ølberg

For the Government of the
Federative Republic of Brazil
R. S. Guerreiro

Vedlegg. Om samtykke til ratifikasjon av en overenskomst med tilhørende protokoll mellom Norge og Brasil til unngåelse av dobbeltbeskatning og forebyggelse av skatteunndragelse med hensyn til skatter av inntekt og formue.

PROTOCOL

At the moment of the signature of the Convention between the Government of the Kingdom of Norway and the Government of the Federative Republic of Brazil for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital, the undersigned, being duly authorized thereto by their respective Governments, have agreed upon the following provisions which constitute an integral part of the Convention.

1. With reference to Article 7, paragraph 3:

It is understood that the provisions of paragraph 3 of Article 7 shall apply only if the expenses can be attributed to the permanent establishment in accordance with the provisions of the tax legislation of the Contracting State in which the permanent establishment is situated.

2. With reference to Article 10, paragraph 4:

It is understood that the term «dividends», as defined in paragraph 4 of Article 10, also includes any other item of income which, under the law of the Contracting State of which the company paying the dividends is a resident, is treated as a dividend or distribution of a person.

3. With reference to Article 10, paragraph 2 and 5, Article 11, paragraph 2 and 3, Article 12, paragraph 2 b) and Article 24, paragraph 4:

It is understood that:

- a) the provisions of paragraph 4 of Article 24 shall apply only for the first ten years during which the Convention is effective;
- b) the tax rate limitations foreseen in paragraphs 2 and 5 of Article 10, paragraphs 2 and 3 of Article 11 and paragraph 2 b) of Article 12 shall apply only for the first ten years during which the Convention is effective;
- c) one year before the expiration of the period of ten years mentioned in sub-paragraphs a) and b) above, the competent authorities may consult each other in order to determine whether this period shall be extended.

4. With reference to Article 10, paragraph 5 and Article 25, paragraph 2:

It is understood that the provisions of paragraph 5 of Article 10 are not in conflict with the provisions of paragraph 2 of Article 25.

5. With reference to Article 11 and Article 24, paragraph 3:

It is understood that the commissions paid by a resident of Brazil to a Bank or a financial institution in connection with services rendered by such bank or financial institution are considered to be interest and subject to the provision of Article 11 and paragraph 3 of Article 24.

6. With reference to Article 12, paragraph 3:

It is understood that the expression «for information concerning industrial, commercial or scientific experience» mentioned in paragraph 3 of Article 12 includes income derived from the rendering of technical assistance and technical services.

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7. *With reference to Article 14:*

- a) Notwithstanding the provisions of Article 14, income arising in Brazil and paid to a resident of Norway in respect of contracts signed on or before 22 August, 1979 shall be taxable only in Norway.
- b) It is understood that the provisions of Article 14 shall apply even if the activities are exercised by a partnership or a «sociedade civil».

8. *With reference to Article 23:*

Whenever Brazil establishes a tax on capital both Contracting States will renegotiate all the dispositions related to the taxation of capital.

9. *With reference to Article 25, paragraph 3:*

It is understood that:

- a) the provisions of the Brazilian law which do not allow that royalties as defined in paragraph 3 of Article 12, paid by a company resident of Brazil to a resident of Norway which holds at least 50 per cent of the voting capital of that company, be deductible at the moment of the determination of the taxable income of the company resident of Brazil, are not in conflict with the provisions of paragraph 3 of Article 25 of the present Convention;
- b) in the event that Brazil, after the signature of the present Convention, would allow, either by internal law or by a tax Convention, that royalties paid by an enterprise which is a resident of Brazil to an enterprise which is a resident of a third State not located in Latin-America, and which holds at least 50 per cent of the capital of the enterprise which is a resident of Brazil to an enterprise which is a resident of Brazil, be deductible at the moment of the determination of the taxable profits of this enterprise, an equal deduction will be automatically applicable, under similar conditions to an enterprise which is a resident of Brazil paying royalties to an enterprise which is resident of Norway.

10. It is understood that for the determination of the income tax payable by a resident of a Contracting State in respect of income derived from the other Contracting State, the first mentioned State, subject to the provisions of Article 9, shall not consider in any event that such an income is higher than the gross amount of the income paid in the other Contracting State.

11. Income arising in a Contracting State and paid to a resident of the other Contracting State from the use of any floating structure in the exploration of natural resources on the continental shelf or in the servicing of such exploratory structures or production platforms such as construction and hotel rigs and any kind of boats, except for supply-boats, may be taxed in the first mentioned State only if operated for more than six months in that first State.

12. Capital gains arising from the alienation of the items mentioned in number 11 above and derived by a resident of Norway are covered by paragraph 3 of Article 24. Norway may impose a tax on capital of such items.

Vedlegg. Om samtykke til ratifikasjon av en overenskomst med tilhørende protokoll mellom Norge og Brasil til unngåelse av dobbeltbeskatning og forebyggelse av skatteunndragelse med hensyn til skatter av inntekt og formue.

DONE in the city of Brazil, this 21. August, 1980, in duplicate, in the English, Norwegian and Portuguese languages, all three texts being equally authentic. In case of any divergence of interpretation the English text shall prevail.

For the Government of the
Kingdom of Norway:
Per M. Ølberg

For the Government of the
Federative Republic of Brazil:
R. S. Guerreiro
