Vedlegg.

Agreement between The Kingdom of Norway and the Republic of Malta for the avoidance of double taxation.

The Government of the Kingdom of Norway and The Government of the Republic of Malta

Desiring to conclude an Agreement for the Avoidance of Double taxation

HAVE AGREED AS FOLLOWS:

CHAPTER I
SCOPE OF THE AGREEMENT

Article 1.

Personal Scope.

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

Article 2.

Taxes Covered.

1. This Agreement shall apply to taxes on income and on capital imposed on behalf of each Contracting State or its political subdivisions or local authorities, irrespective of the manner in which they are levied.

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

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

(a) in Norway:
  (i) the national and municipal taxes on income and capital;
  (ii) the national dues on the profits of non-resident artistes;
  (iii) the seamen's tax
  (hereinafter referred to as «Norwegian tax»)

(b) in Malta:
  the income tax and surtax, including prepayments of tax whether made by deduction at source or otherwise
  (hereinafter referred to as «Malta tax»).

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

5. Where the Agreement provides that income arising in a Contracting State shall be relieved from tax in that State, either

in full or in part, and, under the law in force in the other Contracting State, such income is subject to tax by reference to the amount thereof which is remitted to or received in that other State and not by reference to the full amount thereof, then the relief to be allowed in the first-mentioned State shall apply only to so much of the income as is remitted to or received in the other State.

CHAPTER II

DEFINITIONS

Article 3.

General Definitions.

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

(a) the term «Norway», when used in a geographical sense, means the Kingdom of Norway, including any area outside the territorial waters of Norway where 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 outside Europe;

(b) the term «Malta», when used in a geographical sense, means the Republic of Malta, including the island of Malta, the Island of Gozo, the other islands of the Maltese Archepelago, together with the territorial waters thereof, and any area outside the territorial sea of Malta which, in accordance with international law, has been or may hereafter be designated, under the laws of Malta concerning the Continental Shelf, as an area within which the rights of Malta with respect to the sea-bed and sub-soil and their natural resources may be exercised;

(c) the terms «a Contracting State» and «the other Contracting State» mean Norway or Malta as the context requires;

(d) the term «person» comprises 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 «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;

(g) the term «nationals» means:

(i) in relation to Norway, all citizens of Norway and all legal persons, partnerships and associations deriving their status as such from the law in force in Norway;

(ii) in relation to Malta, all citizens of Malta as provided for in Chapter III of the Constitution of Malta and in the Maltese Citizenship Act, 1965, and all legal persons, partnerships and associations deriving their status as such from the law in force in Malta;

(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 Norway, the Minister of Finance and Customs or his authorised representative;
  (ii) in the case of Malta, the Minister responsible for finance or his authorised representative.

2. In the application of this Agreement by a Contracting State, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Agreement.

Article 4.

Fiscal Domicile.

1. For the purposes of this Agreement, 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. The term does not include any person who is liable to tax in that Contracting State in respect only of income from sources therein or capital situated in that State.

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

(a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting 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 no 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 provision 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.

4. For the purposes of taxation in Norway, an estate of a deceased person shall be deemed to be a resident of the Contracting State of which the deceased was a resident at the time of his death, in accordance with the provisions of paragraphs (1) and (2).

Article 5.

Permanent Establishment.

1. For the purposes of this Agreement 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, quarry or other place of extraction of natural resources;

(g) a building site or construction or assembly project which exists for more than twelve months.

3. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on supervisory activities in that other State for more than twelve months in connection with a construction or assembly project.

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

5. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State — other than an agent of an independent status to whom paragraph (6) applies — shall be deemed to be a permanent establishment in the firstmentioned 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.

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

7. 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 make either company a permanent establishment of the other.

CHAPTER III

TAXATION OF INCOME

Article 6.

Income from Immovable Property.

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.

2. The term «immovable property» shall be defined in accordance with 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, rights to which the provisions of general law respecting immovable 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. In the determination of the income from immovable property which a resident of a Contracting State has in the other Contracting State expenses (including interest on debt claims) which are incurred for the purposes of such property shall be allowed as deductions on the same conditions as are provided for residents of that other State.

5. 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 carried on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph (3), where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment he 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 independantly 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 permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph (2) shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles embodied 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. The provisions of this Article shall not affect the provisions of the law of a Contracting State regarding the taxation of profits from the business of insurance.

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

Article 8.

Shipping and Air Transport.

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

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

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 organisation.

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

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.

2. Where profits on which an enterprise of a Contracting State has been charged to tax in that State are also included in the profits of an enterprise of the other Contracting State and taxed accordingly, and the profits so included are profits which would have accrued to that enterprise of the other State if the conditions made between the enterprises had been those which would have been made between independent enterprises, then the first-mentioned State shall make an appropriate adjustment to the amount of tax charged on those profits in the first-mentioned State. In determining such an adjustment due regard shall be had to the other provisions of this Agreement in relation to the nature of the income, and for this purpose the competent authorities of the Contracting States shall if necessary consult each other.

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 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:

(a) where the dividends are paid by a company resident of Norway to a resident of Malta who is the beneficial owner thereof, the Norwegian tax so charged shall not exceed 15 per cent of the gross amount of the dividends;
(b) where the dividends are paid by a company resident of Malta to a resident of Norway who is the beneficial owner thereof:

(i) Malta tax shall not exceed that chargeable on the company paying the dividends in respect of the profits so distributed;
(ii) notwithstanding the provisions of sub-paragraph (i), Malta tax shall not exceed 15 per cent of the gross amount of the dividends if such dividends are paid out of gains or profits earned in any year in respect of which the company is in receipt of any benefit under the provisions regulating aids to industries in Malta, and the shareholder submits, returns and accounts to the taxation authorities of Malta in respect of his income liable to Malta tax for the relative year of assessment.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

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

3. The term «dividends» as used in this Article means income from shares, mining shares, founders shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation

treatment as income from shares by the 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 recipient 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 professional 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 dividends paid by the company to residents of the first-mentioned State or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State. The provisions of this paragraph shall not prevent that other State from taxing dividends paid to residents of that State or dividends relating to a holding which is effectively connected with a permanent establishment or fixed base maintained in that other State by a resident of the first-mentioned State.

Article 11.

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 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph (2):
(a) interest arising in Malta and paid to the Government of Norway or to the Norges Bank shall be exempt from Malta tax;

(b) interest arising in Norway and paid to the Malta Government, the Central Bank of Malta or the Malta Development Corporation shall be exempt from Norwegian tax;
(c) the exemptions granted by this paragraph shall also apply to any other Statutory body of a public character of either Contracting State if such body possesses a distinct legal personality.

4. The term «interest» as used in this Article means income from debt claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and, in particular, income from Government securities and income from bonds or debentures, including premiums and prizes attaching to 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) and (2) shall not apply if the recipient 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 professional 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 a 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 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 interest 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.

7. 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 to the last-mentioned amount. In that case, the excces 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 Agreement.

Article 12.

Royalties.

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if such resident is the beneficial owner of the royalties and the royalties consist of payments of any kind received as consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematographic films or tapes for television or broadcasting.

2. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State if the royalties consist of payment of any kind received as a consideration for the use of, or the right to use, any patent, trade mark, design, model, plan, secret formula or process, industrial, commercial or scientific equipment, or information concerning industrial, commercial or scientific experience. However, such royalties may also 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 10 per cent of the gross amount of such royalties.

3. The provisions of paragraphs (1) and (2) shall not apply if the recipient 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 professional 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 a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

5. 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, 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 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 Agreement.

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 such 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 movable property of the kind referred to in paragraph (4) of Article 23 shall be taxable only in the Contracting State in which such movable property is taxable according to the said Article.

3. Gains from the alienation of any property other than those mentioned in paragraphs (1) and (2) shall be taxable only in the Contracting State of which the alienator is a resident.

4. Notwithstanding the provisions of paragraph (3), gains derived by a resident of Malta from the alienation of shares in a company which is a resident of Norway may be taxed in the latter State unless the said gains are subject to tax in Malta.

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 character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting State, but only so much of it as is attributable to that fixed base.

(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, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph (1), remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar 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.

Notwithstanding the preceding provisions 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 employment exercised aboard an aircraft operated in international traffic by the Swedish, Danish and Norwegian Air Traffic Consortium, known as Scandinavian Airlines System (SAS), such remuneration shall be taxable only in Norway.

Article 16.

Directors' Fees.

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

Article 17.

Artistes and Athletes.

1. Notwithstanding the provisions of Articles 14 and 15, income derived by public 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 these activities are exercised.

2. Where income in respect of personal activities as such of an entertainer or athlete accrues not to that entertainer or athlete

himself but to another person, that income may, notwithstanding the provisions of Article 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

Article 18.

Pensions and Annuities.

1. Subject to the provisions of paragraph (1) of Article 19, pensions and other similar remuneration, and annuities, paid to a resident of a Contracting State shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph (1), payments made under a social security or a national insurance scheme of a Contracting State may be taxed in that State.

3. 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 paid periodically 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 er money's worth.

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 any individual in respect of services rendered to that State, or subdivision or local authority thereof shall be taxed 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 recipient is a resident of that other Contracting State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of performing the services.

2.

(a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof shall be taxable only in that State.

(b) However, such pension shall be taxable only in the other Contracting State if the recipient is a national of and a resident of that State.

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

4. The provisions of paragraph (1) (a) shall likewise apply in respect of remuneration paid, under a development assistance programme of a Contracting State, a political subdivision or a

local authority thereof, out of funds exclusively supplied by that State, those political subdivisions or local authorities thereof, to a specialist or volunteer seconded to the other Contracting State with the consent of that other State.

Article 20.

Teachers, Students and Trainees.

1. Remuneration which a professor or teacher who is, or immediately before was, a resident of a Contracting State and who visits the other Contracting State for a period not exceeding two years for the purpose of carrying out advanced study or research or for teaching at a university, college, school or other educational institution receives for such work shall not be taxed in that other State, provided that such remuneration is derived by him from outside that other State.

2. An individual who was a resident of a Contracting State immediately before visiting the other Contracting State and is temporarily present in that other State solely as a student at a university, college, school or other similar educational institution in that other State or as a business apprentice shall, from the date of his first arrival in that other State in connection with that visit, be exempt from tax in that other State:

(a) on all remittances from abroad for purposes of his maintenance, education or training; and
(b) for a period not exceeding in the aggregate three years, on any remuneration not exceeding 20,000 Norwegian kroner or the equivalent in Malta currency, for each calendar year for personal services rendered in that other Contracting State with a view to supplementing the resources available to him for such purposes.

3. An individual who was a resident of a Contracting State immediately before visiting the other Contracting State and is temporarily present in that other State solely for the purpose of study, research or training as a recipient of a grant, allowance or award from a scientific, educational, religious or charitable organisation or under a technical assistance programme entered into by the Government of a Contracting State shall, from the date of his first arrival in that other State in connection with that visit, be exempt from tax in that other State:

(a) on the amount of such grant, allowance or award; and

(b) on all remittances from abroad for the purposes of his maintenance, education or training.

Article 21.

Estates of Deceased Persons.

1. Income or capital of an estate of a deceased person which, according to the law of Norway, is deemed to be a resident of Norway and is there treated as a juridical entity may be taxed in Norway, whether or not one or more of the beneficiaries are resident in that State.

2. However, the beneficiaries from the estate may be taxed in Malta on their relative share of the income arising from the estate according to the law of Malta if they are resident in that

State. In such a case, the appropriate part of the tax paid by the estate in Norway shall be deemed to be the tax paid on the relative share of the said estate which is charged in the hands of the beneficiaries in Malta.

Article 22.

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

2. The provisions of paragraph (1) shall not apply if the recipient of the income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State professional services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

CHAPTER IV

TAXATION OF CAPITAL

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. Debts contracted for the purposes of immovable property situated in a Contracting State and owned by a resident of the other Contracting State, shall be allowed as deductions when assessing the net value of the property.

3 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.

4. 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.

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

Article 24.

Elimination of Double Taxation.

1. In the case of Norway, double taxation shall be eliminated as follows:

(a) Where a resident of Norway derives income from Malta which may be taxed in Malta in accordance with the provisions of this Agreement, Norway shall, subject to the provisions of sub-paragraph (b), exempt such income from tax but may, in

calculating tax on the remaining income of that person, apply the rate of tax which would have been applicable if the exempted income had not been so exempted.

(b) Where a resident of Norway derives income from Malta which may be taxed in Malta in accordance with the provisions of Articles 10, 11 or 12, the amount of the Maltese tax payable in respect of that income shall be allowed as a credit against Norwegian tax imposed on that resident. The amount of credit, however, shall not exceed that part of the Norwegian tax which is appropriate to that income, before allowing the credit.

(c) The provisions of sub-paragraphs (a) and (b) shall also apply when the Malta tax has been wholly relieved or reduced for a limited period of time as if no such relief had been given or no such reduction had been allowed.

(d) Dividends distributed by a company which is a resident of Malta to a company which is a resident of Norway shall be exempt from Norwegian tax to the extent that the dividends would have been exempt from tax under Norwegian law if both companies had been residents of Norway.

(e) For the purposes of sub-paragraph (b), Malta tax paid in respect of interest and royalties shall be deemed to have been paid at a minimum rate of 25 per cent of the amount of the net income charged with tax in Norway.

2. In the case of Malta, double taxation shall be eliminated as follows:

Subject to the provisions of the law of Malta regarding the allowance of a credit against Malta tax in respect of foreign tax, where, in accordance with the provisions of this Agreement, there is included in a Malta assessment income from sources within Norway or elements of capital situated in Norway, the Norwegian tax on such income, or elements of capital, as the case may be, shall be allowed as a credit against the relative Malta tax payable thereon.

CHAPTER VI

SPECIAL PROVISIONS

Article 25.

Non-discrimination.

1. Notwithstanding the provisions of Article 1, the nationals of a Contracting State, wether or not they are residents of one of the Contracting States, 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.

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

This provision shall not be construed 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 or any other personal circumstances which it grants to its own residents.

3. Except where the provisions of paragraph (1) of Article 9, paragraph (7) of Article 11, or paragraph (5) 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 as if they had been contracted to a resident of the first-mentioned State.

4. The provisions of this Article shall not be construed as obliging Norway to grant to nationals of Malta not being nationals of Norway, the exceptional tax relief which is accorded to Norwegian nationals and individuals born in Norway of parents having Norwegian nationality pursuant to Section 22 of the Norwegian Taxation Act.

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 Contracting 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 that first-mentioned State are or may be subjected.

6. In this Article the term «taxation» means taxes of every kind and discription.

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 Agreement, 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. This case must be presented within three years from the first notification of the actions which give rise to taxation not in accordance with the Agreement.

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 Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the national laws of the Contracting State.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. 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 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 Agreement and of the domestic laws of the Contracting States concerning taxes covered by this Agreement insofar as the taxation thereunder is in accordance with this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities including courts, other than those concerned with the assesment or collection of the taxes which are the subject of the Agreement, or with the prosecution of offences in relation thereto.

2. In no case shall the provisions of paragraph (1) be construed so as to 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.

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

2. Insofar as, due to privileges granted to diplomatic or consular officials under the general rules of international law or under the provisions of special international treaties, income or capital are not subject to tax in the receiving State, the right to tax shall be reserved to the sending State.

3. Notwithstanding the provisions of Article 4, an individual who is a member of a diplomatic or consular or permanent mission of a Contracting State which is situated in the other Contracting State or in a third State, shall be deemed for the purposes of this Agreement to be a resident of the sending State if:

(a) in accordance with international law he is not taxable in the receiving State on income from sources outside that State; and
(b) he is liable in the sending State to the same obligations in relation to tax on his total world income as are residents of that sending State.

Article 29.

Territorial Extension.

1. This Agreement may be extended, either in its entirety or with modifications, to any territory which is excluded from the

application of this Agreement under the provisions of paragraph (1) (a) of Article 3, and in which taxes are imposed which are substantially similar in character to those to which this Agreement 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, in case this Agreement shall terminate according to Article 31 it shall cease to have effect to any territory to which it has been extended under provisions of this Article.

CHAPTER VII

FINAL PROVISIONS

Article 30.

Entry into Force.

1. This Agreement shall be ratified and the instruments of ratification shall be exchanged at Valletta as soon as possible.

2. This Agreement shall enter into force upon the exchange of instruments of ratification, and its provisions shall have effect:

(a) in respect of taxes on income derived on or after the 1st January next following such exchange, and
(b) in respect of taxes on capital levied during any year commencing with the second calendar year following such exchange.

Article 31.

Termination.

This Agreement shall remain in force indefinitely but either of the Contracting States may, on or before the thirteth day of June in any calendar year beginning after the expiration of a period of three years from the date of its entry into force, give to the other Contracting State, through diplomatic channels, written notice of termination, and, in such event, the Agreement shall cease to be effective:

(a) in respect of taxes on income derived on or after the 1st January immediately following such notification, and
(b) in respect of taxes on capital levied during any year commencing with the second calendar year following such notification.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

DONE at Oslo this 2nd day of June 1975 in duplicate in the English language.

For the Government of Norway

Knut Frydenlund

For the Government of Malta

Joseph A. Kingswell

PROTOCOL

At the signing of the Agreement between the Kingdom of Norway and the Republic of Malta for the Avoidance of double Taxation

the undersigned have agreed that the following shall form an integral part of the Agreement:

1. Notwithstanding the provisions of the Agreement, the Contracting States retain the right to levy taxes on enterprises engaged in the exploration for, or the exploitation of petroleum and allied natural resources according to their appropriate respective domestic laws. The Contracting States will in due course consult each other to determine whether, and if so how, this rule should be modified in the light of further developments in this connection.

2. Notwithstanding paragraph (1) of this Protokol, in the case of any joint venture undertaken by Norwegian and Maltese interests, either alone or in conjunction with other interests, for the purpose of holding and operating or leasing drilling rigs, platforms or other similar structures engaged in oil exploration, profits referred to in Article 7, capital gains referred to in Article 13 and capital referred to in Article 23 of the said joint venture, shall, in principle, be taxable in the Contracting States in proportion to the share in the said partnership, or of the equity capital thereof, which is owned by Norwegian and Maltese interests, or to the extent to which the said interests are entitled to a share of the profits thereof, in those cases where profits are not divisible in accordance with the proportionate share of the capital or equity owned by such interests. The Contracting States shall agree the application of these provisions in the case of each particular rig, platform or other similar structure.

3. Notwithstanding the provisions of the Agreement, profits derived from the operation of a ship in international traffic derived by a company which is a resident of Malta but which has more than 25 per cent of its capital owned directly or indirectly by persons resident in Norway, may be taxed in Norway unless the company proves that the profits derived from the operation of such a ship are subject to Malta tax without any relief therefrom as provided for in section 86 of the Merchant Shipping Act, 1973, or in any identical or similar provision. Where Norway may levy tax as aforesaid, that part of the company's profits which bears the same proportion to its total profits as the shareholding owned by Maltese residents, if any, bears to its total shareholdning, shall nonetheless be exempt from Norwegian tax.

4. The Contracting States agree that sub-paragraphs (a) and (b) of paragraph (1) of Article 24 shall be replaced by the following text at the request of Norway which shall be forwarded through diplomatic channels. The new text set out below shall thereupon become effective in a manner similar to that set out in sub-paragraphs (a) and (b) of paragraph (2) of Article 30 of the Agree ment:

«(a) Where a resident of Norway derives income or owns capital which in accordance with the provisions of this Agreement may be taxed in Malta, Norway shall allow as a deduction from the income tax or capital tax of that person an amount equal to the income tax or capital tax paid in Malta. Such deduction shall not, however, exceed that part of the Nor-

wegian tax, as computed before the deduction is given, which is appropriate to the income derived from or capital owned in Malta».

DONE at Oslo this 2nd day of June 1975 in duplicate in the English language.

For the Government of Norway	For the Government of Malta
Knut Frydenlund	Joseph A. Kingswell