

Overenskomst mellom Kongeriket Norge og Kongeriket Nederland forsåvidt angår  
De Nederlandske Antiller til unngåelse av dobbeltbeskatning

**Vedlegg**

**Convention between  
The Kingdom of Norway and The Kingdom of The  
Netherlands in respect of The Netherlands Antilles  
for the avoidance of double taxation and the  
prevention of fiscal evasion with respect to  
taxes on income and on capital**

The Government of the Kingdom of Norway and the Government of the Kingdom of the Netherlands in respect of the Netherlands Antilles desiring to conclude a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on income and on capital, have agreed as follows:

CHAPTER I

**Scope of the convention**

Article 1

**PERSONAL SCOPE**

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

Article 2

**TAXES COVERED**

1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Convention shall apply are in particular:
  - a) in Norway:
    - (i) the national tax on income (inntektsskatt til staten);
    - (ii) the county municipal tax on income (inntektsskatt til fylkeskommunen);
    - (iii) the municipal tax on income (inntektsskatt til kommunen);
    - (iv) the national contributions to the Tax Equalisation Fund (fellesskatt til Skattefordelingsfondet);
    - (v) the national tax on capital (formuesskatt til staten);
    - (vi) the municipal tax on capital (formuesskatt til kommunen);
    - (vii) the national tax relating to income and capital from the exploration for and the exploitation of submarine petroleum resources and activities and work relating thereto, including pipeline transport of petroleum produced (skatt til staten vedrørende inntekt og formue i forbindelse med undersøkelse etter og utnyttelse av undersjøiske petroleumforekomster og dertil knyttet virksomhet og arbeid, herunder rørledningstransport av utvunnet petroleum);

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- (viii) the national dues on remuneration to non-resident artistes (avgift til staten av honorarer som tilfaller kunstnere bosatt i utlandet);
- (hereinafter referred to as «Norwegian tax»);
- b) in the Netherlands Antilles:
  - (i) the income tax (inkomstenbelasting);
  - (ii) the wages tax (loonbelasting);
  - (iii) the profit tax (winstbelasting); and
  - (iv) the surtaxes (opcenten) on the income and profit taxes; (hereinafter referred to as «Netherlands Antillean tax»).
- 4. The Convention shall apply also to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of the Convention in addition to, or in place of, the existing taxes.

## CHAPTER II

### Definitions

#### Article 3

#### GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:
  - a) the term «Norway» means the Kingdom of Norway, including any area outside the territorial waters of the Kingdom of Norway where the Kingdom of Norway, according to Norwegian legislation and in accordance with international law, may exercise her rights with respect to the seabed and subsoil and their natural resources; the term does not comprise Svalbard, Jan Mayen and the Norwegian dependencies («biland»);
  - b) the term «Netherlands Antilles» means that part of the Kingdom of the Netherlands that is situated in the Caribbean area and consisting of the Island Territories of Bonaire, Curacao, Saba, St. Eustatius and St. Maarten (Dutch part) including the territorial waters thereof and the part of the seabed and its subsoil under the Caribbean sea over which the Kingdom of the Netherlands has sovereign rights in accordance with international law but excluding the part thereof relating to Aruba;
  - c) the term «nationals» means:
    - (i) in relation to Norway, all individuals possessing the Norwegian nationality; and all legal persons, partnerships and associations deriving their status as such from the laws in force in Norway;
    - (ii) in relation to the Netherlands Antilles, an individual who has Dutch nationality and who would be eligible to vote in the Netherlands Antilles if he were of age and present in the Netherlands Antilles, provided however, if an individual is not resident in the Netherlands Antilles, he must either have been born in the Netherlands Antilles or have been a resident thereof for at least five years; and any legal person, partnership or association deriving its status as such from the law in force in the Netherlands Antilles;
  - d) the term «person» includes an individual, a company and any other body of persons;
  - e) the term «company» means any body corporate or any entity which is treated as a body corporate for tax purposes;

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- f) the terms «a Contracting State» and «the other Contracting State» mean Norway or the Netherlands Antilles as the context requires;
  - g) the terms «enterprise of a Contracting State» and «enterprise of the other Contracting State» mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
  - h) the term «international traffic» means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
  - i) the term «competent authority» means:
    - (i) in Norway, the Minister of Finance and Customs or his authorised representative;
    - (ii) in the Netherlands Antilles, the Minister of Finance or his authorised representative.
2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

#### Article 4

#### RESIDENT

1. For the purposes of this Convention, the term «resident of a Contracting State» means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:
  - a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
  - b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
  - c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
  - d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1, a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

## Article 5

**PERMANENT ESTABLISHMENT**

1. For the purposes of this Convention, the term «permanent establishment» means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term «permanent establishment» includes especially:
  - a) a place of management;
  - b) a branch;
  - c) an office;
  - d) a factory;
  - e) a workshop, and
  - f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. A building site, a construction, assembly or installation project or supervisory or consultancy activities connected therewith constitute a permanent establishment only if such site, project or activities last for a period of more than twelve months.
4. Notwithstanding the preceding provisions of this Article, the term «permanent establishment» shall be deemed not to include:
  - a) the use of facilities solely for the purpose of storage, 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 of collecting information, for the enterprise;
  - e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
  - f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.
6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.
7. Without prejudice to paragraph 4, where an enterprise of a Contracting State carries on business in the other Contracting State in coordinated joint business operations therein, with an enterprise which is a resident of or has a permanent establishment in that other

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Contracting State, the first-mentioned enterprise shall in respect of those business operations be deemed to have a permanent establishment in that other State.

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

### CHAPTER III

## **Taxation of income**

### Article 6

#### **INCOME FROM IMMOVABLE PROPERTY**

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
2. The term «immovable property» shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

### Article 7

#### **BUSINESS PROFITS**

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar

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activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

#### Article 8

#### **SHIPPING, AIR TRANSPORT AND CONTAINERS**

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. If this State cannot tax the total profits of the enterprise such profits may be taxed in the State where the recipient is a resident.
2. If the place of effective management of a shipping enterprise is aboard a ship then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.
3. The provisions of paragraph 1 shall also apply to profits derived from the participation in a pool, a joint business or in an international operating agency.
4. Notwithstanding the provisions of Article 7 of this Convention profits of an enterprise of a Contracting State from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise shall be taxable only in the Contracting State in which the place of effective management of that enterprise is situated except insofar as those containers or trailers and related equipment are used for transport solely between places within the other Contracting State.
5. Notwithstanding the preceding provisions of this Article, where ships or aircraft are operated in international traffic by a partnership which includes one or more partners resident in a Contracting State

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and one or more partners resident in the other Contracting State, and provided that the effective management of the enterprise is not carried on solely in one of the Contracting States, profits shall be taxable, in proportion to the share of the said partners, only in the State of which each such partner is a resident.

6. The provisions of paragraphs 1 and 3 shall apply to profits derived by the joint Norwegian, Danish and Swedish air transport consortium Scandinavian Airlines System (SAS), but only insofar as profits derived by Det Norske Luftfartsselskap A/S (DNL), the Norwegian partner of the Scandinavian Airlines System (SAS), are in proportion to its share in that organisation.

#### Article 9

#### **ASSOCIATED ENTERPRISES**

Where

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

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

#### Article 10

#### **DIVIDENDS**

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:
  - a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 25 per cent of the capital of the company paying the dividends;
  - b) 15 per cent of the gross amount of the dividends in all other cases.

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

3. Notwithstanding the provisions of paragraph 2 dividends derived from a company which is a resident of Norway by a resident of the Netherlands Antilles may be taxed in Norway at a rate not exceeding 15 per cent as long as dividends paid by Norwegian companies are allowed as deductions from their profits for the purpose of computing their liability to Norwegian national tax.
4. The term «dividends» as used in this Article means income from shares, mining shares, founders' shares or other rights, not being

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debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State, of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
6. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

#### Article 11

#### **INTEREST**

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State.
2. The term «interest» as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
4. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.



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

#### Article 12

#### ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State.
2. The term «royalties» as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, and films or tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.
3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.
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 or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State; due regard being had to the other provisions of the Convention.

## Article 13

**CAPITAL GAINS**

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic, or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the profits of the enterprise are taxable according to Article 8 of this Convention.
4. Gains derived by an enterprise of a Contracting State from the alienation of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise shall be taxable only in the Contracting State in which the place of effective management of that enterprise is situated except insofar as those containers or trailers and related equipment are used for transport solely between places within the other Contracting State.
5. Gains from the alienation of shares in a company which is a resident of a Contracting State may be taxed in that State, but only if the shares alienated form part of an interest of at least 30 per cent of the shares in the company.
6. Gains from the alienation of any property other than those referred to in the preceding paragraphs shall be taxable only in the Contracting State of which the alienator is a resident.

## Article 14

**INDEPENDENT PERSONAL SERVICES**

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, when such income may be taxed in the other Contracting State:
  - a) the individual is present in the other State for a period or periods exceeding in the aggregate 183 days in any period of twelve months; or
  - b) the individual has a fixed base regularly available to him in that other State for the purpose of performing his activities; but only so much thereof as is attributable to services performed in that other State.
2. The term «professional services» includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

## Article 15

**DEPENDENT PERSONAL SERVICES**

1. Subject to the provisions of Articles 16, 17, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
  - a) the recipient is present in that other State for a period or periods not exceeding in the aggregate 183 days in any period of twelve months; and
  - b) the remuneration is paid by, or on behalf of, an employer who is a resident of the State of which the recipient is a resident, and whose activity does not consist of the hiring out of labour; and
  - c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in that other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the profits of the enterprise are taxable according to Article 8 of this Convention. Where, however, the provisions of paragraph 5 of Article 8 apply, such remuneration shall be taxable only in the Contracting State of which the recipient is a resident.
4. Where a resident of Norway derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the Scandinavian Airlines System (SAS) consortium, such remuneration shall be taxable only in Norway.

## Article 16

**DIRECTORS' FEES**

1. Directors' fees and similar payments derived by a resident of the Netherlands Antilles in his capacity as a member of the board of directors or of a similar organ of a company which is a resident of Norway may be taxed in Norway.
2. Directors' fees and similar payments derived by a resident of Norway in his capacity as a «bestuurder» or a «commissaris» of a company which is a resident of the Netherlands Antilles may be taxed in the Netherlands Antilles.

## Article 17

**ARTISTES AND ATHLETES**

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

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2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Article 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.
3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities performed in a Contracting State by entertainers or athletes if the visit to that State is substantially supported by public funds of the other Contracting State or a political subdivision or a local authority thereof. In such a case the income shall be taxable only in the State of which the entertainer or athlete is a resident.

#### Article 18

##### **PENSIONS, ANNUITIES, PAYMENTS UNDER A SOCIAL SECURITY SYSTEM AND ALIMONY**

1. Pensions (including Government pensions and payments under a social security system) and annuities arising in a Contracting State may be taxed in that State.
2. Alimony and other maintenance payments paid to a resident of a Contracting State shall be taxable only in that State. However, any alimony or other maintenance payment paid by a resident of one of the Contracting States to a resident of the other Contracting State, shall, to the extent it is not allowable as a relief to the payer, be taxable only in the first-mentioned State.

#### Article 19

##### **GOVERNMENT SERVICE**

1. a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
  - b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
    - (i) is a national of that State; or
    - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2. The provisions of Articles 15 and 16 shall apply to remuneration other than pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof, other than those businesses referred to in paragraph 3 below.
3. For the purpose of this Article services rendered to a Contracting State or to a political subdivision or local authority thereof shall include public postal, telecommunication, power and water supply services including such services rendered to a company wholly or almost wholly owned by that Contracting State.

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Article 20

**STUDENTS**

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State provided that such payments arise from sources outside that State.

Article 21

**OFFSHORE ACTIVITIES**

1. The provisions of this Article shall apply notwithstanding any other provision of this Convention.
2. A person who is a resident of a Contracting State and carries on activities offshore in the other Contracting State in connection with the exploration or exploitation of the seabed and subsoil and their natural resources situated in that other State shall, subject to paragraphs 3 and 4 of this Article, be deemed in relation to those activities to be carrying on business in that other State through a permanent establishment or fixed base situated therein.
3. The provisions of paragraph 2 shall not apply where the activities are carried on for a period not exceeding 30 days in the aggregate in any twelve months period. However, for the purposes of this paragraph:
  - a) activities carried on by an enterprise associated with another enterprise shall be regarded as carried on by the enterprise with which it is associated if the activities in question are substantially the same as those carried on by the last-mentioned enterprise;
  - b) two enterprises shall be deemed to be associated if one is controlled directly or indirectly by the other, or both are controlled directly or indirectly by a third person or persons.
4. Profits derived by a resident of a Contracting State from the transportation of supplies or personnel to a location, or between locations, where activities in connection with the exploration or exploitation of the seabed and subsoil and their natural resources are being carried on in a Contracting State, or from the operation of tugboats and other vessels auxiliary to such activities, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
5.
  - a) Subject to sub-paragraph b) of this paragraph, salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment connected with the exploration or exploitation of the seabed and subsoil and their natural resources situated in the other Contracting State may, to the extent that the duties are performed offshore in that other State, be taxed in that other State provided that the employment offshore is carried on for a period exceeding 30 days in the aggregate in any twelve months period.
  - b) Salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft engaged in the transportation of supplies or personnel to a location, or between locations, where

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activities connected with the exploration or exploitation of the seabed and subsoil and their natural resources are being carried on in a Contracting State, or in respect of an employment exercised aboard tugboats or other vessels operated auxiliary to such activities, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

6. Gains derived by a resident of a Contracting State from the alienation of:
  - a) exploration or exploitation rights; or
  - b) property situated in the other Contracting State and used in connection with the exploration or exploitation of the seabed and subsoil and their natural resources situated in that other State; or
  - c) shares deriving their value or the greater part of their value directly or indirectly from such rights or such property or from such rights and such property taken together
 may be taxed in that other State.

In this paragraph «exploration or exploitation rights» means rights to assets to be produced by the exploration or exploitation of the seabed and subsoil and their natural resources in the other Contracting State, including rights to interests in or to the benefit of such assets.

#### Article 22

#### **OTHER INCOME**

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

#### CHAPTER IV

### **Taxation of capital**

#### Article 23

#### **CAPITAL**

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State may be taxed in that other State.
2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, or by

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movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.

3. Capital represented by ships or aircraft operated in international traffic, and by movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the profits of the enterprise are taxable according to Article 8 of this Convention.
4. Capital of an enterprise of a Contracting State represented by containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise shall be taxable only in the Contracting State in which the place of effective management of that enterprise is situated except insofar as those containers or trailers and related equipment are used for transport solely between places within the other Contracting State.
5. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

#### CHAPTER V

### Methods for elimination of double taxation

#### Article 24

#### ELIMINATION OF DOUBLE TAXATION

1. In Norway double taxation shall be avoided as follows:
  - a) Where a resident of Norway derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the Netherlands Antilles, Norway shall, subject to the provisions of sub-paragraph b), exempt such income or capital 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.
  - b) Where a resident of Norway derives items of income which, in accordance with the provisions of Article 10, paragraph 5 of Article 13 and Articles 16, 18 and 21 may be taxed in the Netherlands Antilles, Norway shall allow as a deduction from the tax on the income of that person an amount equal to the tax paid in the Netherlands Antilles. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to the income derived from the Netherlands Antilles.
2. In the Netherlands Antilles double taxation shall be avoided as follows:
 

The Netherlands Antilles, when imposing tax on its residents, may include in the basis upon which such taxes are imposed the items of income which, according to the provisions of this Convention may be taxed in Norway, provided that the Netherlands Antilles allows as a credit against the tax so computed, the amount of tax payable under the laws of Norway and in accordance with this Convention.

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The amount of the credit shall be equal to such part of that tax which bears the same proportion to the total tax, as the part of the income which is included in the basis abovementioned bears to the total income which form that basis. However the competent authority of the Netherlands Antilles may determine that either generally or in a particular case less than the full credit may be allowed.

## CHAPTER VI

### **Special provisions**

#### Article 25

#### **NON-DISCRIMINATION**

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
2. Stateless persons who are residents of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.
3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.  
If a company of a Contracting State has a permanent establishment in the other Contracting State, that other State may tax the permanent establishment at the rate applying to non-distributed profits of a company resident of that other State.
4. Except where the provisions of Article 9, paragraph 5 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 under the same conditions as if they had been contracted to a resident of the first-mentioned State.
5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected



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therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

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

#### Article 26

##### **MUTUAL AGREEMENT PROCEDURE**

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the Contracting State of which he is a national. The case must be presented within three years from the receipt of the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

#### Article 27

##### **EXCHANGE OF INFORMATION**

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention and of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts

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and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:
  - a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
  - b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
  - c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).

#### Article 28

#### LIMITATION ON BENEFITS

1. A person which is a resident of a Contracting State and which derives income from sources within the other Contracting State shall not be entitled, in that other State, to the benefits of Article 6 through Article 24 of this Convention if:
  - a) the person is a company entitled to any special Netherlands Antilles tax benefits (currently Article 14 or Article 14A of the Netherlands Antilles National Ordinance on Profit Tax of 1940), in force on the date of signature of this Convention or any substantially similar tax benefits granted under any law of the Netherlands Antilles enacted after that date in addition to, or in place of, the Articles 14 or 14A mentioned above; or
  - b) the person deriving the income is a Netherlands Antilles company and which does not have in the Netherlands Antilles a genuine business purpose; or
  - c) less than 50 percent of the beneficial interest in such person (or in the case of a company, each class of the company's voting shares) is owned, directly or indirectly, by any combination of one or more individuals resident in a Contracting State.

This subparagraph shall not apply if the income derived from the other Contracting State is derived in connection with a genuine business purpose in the first-mentioned State, or if the person deriving the income is a company which is a resident of a Contracting State in whose principal class of shares there is a substantial and regular trading on a recognised stock exchange or which is directly or indirectly wholly owned by a company in whose principal class of shares there is a substantial and regular trading on a recognised stock exchange.

For the purpose of this provision in administering the «substantially and regularly traded» requirement there shall be a presumption that the stock in a company listed on a recognised

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stock exchange is substantially and regularly traded. The presumption may be rebutted by evidence to the contrary.

- d) in subparagraph b) and c) the engaging in international finance through the issuance of public loans shall be considered a genuine business purpose in the Netherlands Antilles.
2. For the purpose of paragraph 1 the following stock exchanges are recognised;
- a) Oslo Børs
  - b) Amsterdamse Effecten Beurs
  - c) New York Stock Exchange
  - d) London Stock Exchange
  - e) Tokyo Stock Exchange
  - f) Paris Stock Exchange
  - g) Frankfurt Stock Exchange
  - h) Milano Stock Exchange
  - i) Any other Stock Exchange pursuant to mutual agreement by the competent authorities of the Contracting States consistent with the purpose of this Article.

#### Article 29

#### **DIPLOMATIC AND CONSULAR OFFICERS**

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

#### CHAPTER VII

#### **Final provisions**

#### Article 30

#### **ENTRY INTO FORCE**

1. Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Convention.
2. The Convention shall enter into force on the date of receipt of the later of these notifications and shall thereupon have effect:
  - a) in Norway:  
in respect of taxes on income or on capital relating to the calendar year (including accounting periods beginning in any such year) next following that in which the Convention enters into force and subsequent years;
  - b) in the Netherlands Antilles:  
in respect of any taxes, for taxable years and periods beginning on or after January 1 in the calendar year next following that in which the later of these notifications is given.

#### Article 31

#### **TERMINATION**

This Convention shall remain in force indefinitely, but either of the Contracting States may, on or before 30th June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through the

Vedlegg

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diplomatic channels, written notice of termination. In such event, the Convention shall cease to have effect:

- a) in Norway:  
in respect of taxes on income or on capital relating to the calendar year (including accounting periods beginning in such year) next following that in which the notice is given;
- b) in the Netherlands Antilles:  
for any taxable year or period beginning after the end of the calendar year in which the notice is given.

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

DONE in Duplicate at Willemstad this thirteenth day of November 1989, in the English language.

For the Government of  
the Kingdom of Norway

For the Government of  
the Kingdom of the  
Netherlands in respect of  
the Netherlands Antilles

Knut Berger  
(sign.)

Gilbert de Paula  
(sign.)