Vedlegg.

CONVENTION

between the Kingdom of Norway and the Republic of Korea for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on income.

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

Article 1

Personal scope

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

Article 2

Taxes covered

1. The taxes which are the subject of this Convention are:

a) In the case of Norway:
- (i) the national tax on income;
- (ii) the country municipal tax on income;
- (iii) the municipal tax on income;
- (iv) the national contributions to the Tax Equalisation Fund;
- (v) the national tax relating to income from the exploration for and the exploitation of submarine petroleum resources and activities and work relating thereto; including pipeline transport of petroleum produced;
- (vi) the national dues on remuneration to non-resident artistes; and
- (vii) the seamen's tax;

(hereinafter referred to as «Norwegian tax»);

b) In the case of Korea:
- (i) the income tax;
- (ii) the corporate tax; and
- (iii) the inhabitant tax;

(hereinafter referred to as «Korean tax»).

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

Article 3

General definitions

1. 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 sea-bed and subsoil and their natural resources; the term does not comprise Svalbard, Jan Mayen and the Norwegian dependencies («biland»);

b) the term «Korea» means the territory of the Republic of Korea including any area adjacent to the territorial sea of the Republic of Korea which, in accordance with international law, has been or may hereafter be designated under the laws of the Republic of Korea as an area within which the sovereign rights of the Republic of Korea with respect to the sea-bed and subsoil and their natural resources may be exercised;

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

d) the term «tax» means Norwegian tax or Korean tax, as the context requires;

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

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

g) the terms «enterprise of a Contracting State» and «enterprise of the other Contracting State» mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

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

i) the term «nationals» means:
   a) all individuals possessing the nationality of a Contracting State;
   b) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State;

j) the term «competent authority» means:
   (i) in Norway, the Minister of Finance and Customs or his authorized representative;
   (ii) in Korea, the Minister of Finance or his authorized 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 head or main office, 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.

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

a) he shall be deemed to be a resident of the State in which he has a permanent home available to him. If he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated. In case of doubts the competent authorities shall settle the question by mutual agreement.

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 or construction, installation or assembly project constitutes a permanent establishment only if it lasts more than 6 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 or industrial activities solely for any combination of activities mentioned in subparagraphs a) to e), provided that the overall activity of the fixed place of business activities 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. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

Income from immovable property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture and 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 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. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

5. 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.

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

Article 8

Shipping and air transport

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

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

3. The provisions of paragraph 1 shall likewise apply to profits from the operation of vessels engaged in fishing, whaling or sealing activities on the high seas.

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 15 per cent of the gross amount of the dividends.
This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

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

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

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, 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 may be taxed in that other State.

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

3. Notwithstanding the provisions of paragraph 2, interest derived from sources within one of the Contracting States by a resident of the other Contracting State shall be exempt from tax in the first-mentioned State if the interest is beneficially owned by, or paid in respect of loans guaranteed by, the Government of the other Contracting State including a political subdivision or a local authority thereof or the central bank of the other Contracting State or any agency or instrumentality (including a financial institution) wholly owned by the Government or the central bank or both.

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

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political 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.

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

Article 12
Royalties

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

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

a) 15 per cent of the gross amount of royalties as defined in paragraph 3 a); and
b) 10 per cent of the gross amount of royalties as defined in paragraph 3 b).

3. The term «royalties» as used in this Article means payments of any kind received as a consideration:

a) for the use of, or the right to use any copyright of literary, artistic or scientific work including cinematograph films; and

b) for the use of, or the right to use any patent, trade mark, design or model, plan, secret formula or process, or industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

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

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

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

Article 13
Capital gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting Ctate 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 a 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 of which the enterprise is a resident.

4. Gains from the alienation of any property other than referred to in paragraphs 1, 2 and 3 shall be taxable only in the Contracting State of which the alienator is a resident.

5. The provisions of paragraph 4 of this Article shall not affect the right of a Contracting State to levy according to its own law a tax on capital gains derived by a resident of the other Contracting State from the alienation of a substantial part of the shares in a company which is a resident of that State, provided that:

a) the assets of such company consist mainly of immovable property situated in that State, or
b) he has been a resident of that State at any time during the five years immediately preceding the alienation of such shares.

Article 14

Independent personal services

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State 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 of this Article, remuneration derived by a resident of a Contracting State in

respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned;
b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article,

a) remuneration derived in respect of an employment exercised aboard a ship operated by an enterprise of a Contracting State in international traffic may be taxed in that State;
b) remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard an aircraft operated in international traffic shall be taxable only in that State.

Article 16

Directors' fees

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

Article 17

Artistes and athletes

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

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

3. The provisions of paragraphs 1 and 2 shall not apply to remuneration or profits, salaries, wages and similar income derived from activities performed in a Contracting State by entertainers or athletes if their visit to that State is substantially supported from the public funds of either Contracting State, a political subdivision, a local authority or statutory body thereof, or if such services of public entertainer or athlete are provided by a non-profit organization of either State.

Article 18

Pensions and social security payments

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

2. Notwithstandig the provisions of paragraph 1, pensions and other payments made under the social security legislation of a Contracting State may be taxed in that 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.

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

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

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

Article 20

Students and trainees

1. An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State and is temporarily present in the other Contracting State solely as a student at a recognised university, college, school or other similar recognised educational institution in that other Contracting State or as a business or technical apprentice therein for a period not exceeding five years from the date of his first arrival in that other Contracting State in connection with that visit, shall be exempt from tax in that other Contracting State on:

a) all remittances from abroad for the purposes of his maintenance, education or training; and
b) any remuneration not exceeding 20 000 Norwegian kroner or the equivalent in Korean currency during any calender year in respect of services rendered in that other Contracting State with a view to supplementing the resources available to him for such purposes.

2. An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State and is temporarily present in the other Contracting State solely for the purposes of study, research or training as receiving a grant, allow-

ance or award from the Government of either of the Contracting States or from a scientific, educational, religious or charitable organisation or under a technical assistance programme entered into by the Government of either of the Contracting States for a period not exceeding three years from the date of his first arrival in that other Contracting State in connection with that visit, shall be exempt from tax in that other Contracting State on:

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

b) all remittances from abroad for the purposes of his maintenance, education or training; and
c) any remuneration not exceeding 20 000 Norwegian kroner or the equivalent in Korean currency during any calendar year in respect of services rendered in that other Contracting State if such services are performed in connection with his study, research, training or incidental thereto.

3. An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State and is temporarily present in that other Contracting State as an employee of, or under contract with, the Government or an enterprise of the first-mentioned Contracting State solely for the purpose of acquiring technical, professional or business experience for a period not exceeding two years from the date of his first arrival in that other Contracting State in connection with that visit, shall be exempt from tax in that other Contracting State on:

a) all remittances from abroad for the purposes of his maintenance, education or training; and
b) any remuneration not exceeding 20 000 Norwegian kroner or the equivalent in Korean currency during any calendar year in respect of services rendered in that other Contracting State if such services are performed in connection with his studies or training or incidental thereto.

Article 21
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.

Article 22
Elimination of double taxation

1. In the case of a resident of Norway, double taxation shall be avoided as follows:

a) Subject to the provisions of subparagraphs b) and c), where

a resident of Norway derives income which, in accordance with the provisions of this Convention, may be taxed in Korea, Norway shall exempt such income from tax.

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

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

d) For the purposes of subparagraph b), where Korean taxes on income have been exempted or reduced under special incentive laws (so far as it was in force on the date of signature of this Convention, or have been modified only in minor respects so as not to affect their general character), the term «the tax paid in Korea» shall be deemed to be equal to 20 per cent of the gross amount of such dividends, interest and royalties; provided that the induced capital, loan or technology in question is certified by the competent authority of Korea as being for the purpose of promoting new industrial, commercial, scientific or educational development in Korea. The provisions of this paragraph shall apply for the first ten years for which this Convention is effective, but the competent authorities of the Contracting States may consult each other to determine whether this period shall be extended.

2. In the case of a resident of Korea, double taxation shall be avoided as follows:

Subject to the provisions of Korean tax law regarding the allowance as a credit against Korean tax of tax payable in any country other than Korea (which shall not affect the general principle hereof), the Norwegian tax payable (excluding, in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) under the laws of Norway and in accordance with this Agreement, whether directly or by deduction, in respect of income from sources within Norway shall be allowed as a credit against Korean tax payable in respect of that income. The credit shall not, however, exceed that proportion of Korean tax which the income from sources within Norway bears to the entire income subject to Korean tax.

Article 23

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 either 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 the State concerned 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. 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.

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 resident.

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

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

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

Article 24

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 23, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation 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 ta 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 25

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 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 judical 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 26

Diplomatic agents and consular officers

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

Article 27
Entry into force

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Seoul as soon as possible. The Convention shall enter into force on the thirtieth day after the date of exchange of the instruments of ratification.

2. This Convention shall have effect:
a) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of January of the year in which the Convention is signed; and
b) in respect of other taxes for taxation years beginning on or after the first day of January of the year in which the Convention is signed.

Article 28
Termination

This Convention shall remain in force indefinitely but either of the Contracting States may, on or before the thirtieth day of June in any calendar year from the fifth year following that in which the instruments of ratification have been exchanged, give to the other Contracting State, through diplomatic channels, written notice of termination and, in such event, this Convention shall cease to have effect:
a) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of January in the calendar year next following that in which the notice is given; and
b) in respect of other taxes for taxation years beginning on or after the first day of January in the calender year next following that in which the notice is given.

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

Done in duplicate at Oslo this 5th day of October of the year one thousand nine hundred and eightytwo in the English language.

For the Government of
the Kingdom of Norway
Svenn Stray

For the Government of
the Republic of Korea
Suk Shin Choi

PROTOCOL

At the moment of signing the Convention between the Kingdom of Norway and the Republic of Korea for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on income, the undersigned have agreed that the following provisions shall form an integral part of the Convention:

1. To Article 2:

It is understood that the term «Korean tax» in subparagraph b) of paragraph 1 of Article 2 of the Convention includes the Korean defense surtax where charged by reference to the income tax or the corporation tax.

2. To Article 5:

It is understood that an enterprise of a Contracting State has a permanent establishment if it carries on supervisory activities in that other State for more than 6 months in connection with a building site or construction or installation or assembly project which is being undertaken in that other State.

3. To Article 8:

a) The provisions of paragraphs 1 and 2 of Article 8 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 of its share in that organisation.

b) In respect of the operation of ships or aircraft in international traffic carried on by an enterprise which is a resident of Norway, that enterprise shall be exempt from the business place tax in Korea, and in respect of the operation of ships or aircraft in international traffic carried on by an enterprise which is a resident of Korea, that enterprise shall be exempt from the capital taxes in Norway.

c) In respect of ships or aircraft in international traffic operated by an enterprise of Norway, that enterprise shall be exempt from the value added tax in Korea to the extent that similar Korean enterprises are exempt from the value added tax in Norway.

4. To Article 11:

In respect of paragraph 3 of Article 11, it is understood that «any agency or instrumentality (including a financial institution) wholly owned by the Government or the central bank or both» shall include the Export-Import Bank of Korea, in the case of Korea, the Guarantee Institute for Export Credit, in the case of Norway, and other instrumentality which is agreed from time to time by mutual agreement between the competent authorities of the Contracting States.

5. To Article 19, paragraphs 1 and 2:

In respect of Article 19, it is understood that the provisions of paragraphs 1 and 2 of the Article shall likewise apply in respect of remuneration or pensions paid, by the Bank of Korea, the Export-Import Bank of Korea, the Korea Trade Promotion Corporation and other instrumentality which is agreed from time to time by mutual agreement between the competent authorities of the Contracting States.

6. To Article 23:

The provisions of Article 23 shall not be construed as obliging a Contracting State to grant to nationals of the other Contracting State not being nationals of the first mentioned Contracting State any exceptional tax relief for repatriating nationals of the first mentioned Contracting State.

IN WITNESS WHEREOF the undersigned, being authorized thereto by their respective Governments, have signed this Protocol.

Done in duplicate at Oslo this 5th day of October of the year one thousand nine hundred and eightytwo in the English language.

For the Government of
the Kingdom of Norway
Svenn Stray

For the Government of
the Republic of Korea
Suk Shin Choi