

CONVENTION BETWEEN THE KINGDOM OF NORWAY AND THE KINGDOM OF SPAIN 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 Spain desiring to conclude a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on income and on capital, have agreed as follows:

Article 1

PERSONS COVERED

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) ; and
 - (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 Spain:

(i) the income tax on individuals (Impuesto sobre la Renta de las Personas Físicas)
;

(ii) the corporation tax (Impuesto sobre Sociedades) ;

(iii) the capital tax (Impuesto sobre el Patrimonio) ; and

(iv) local taxes on income and on capital (Impuestos locales sobre la Renta y el Patrimonio) ;

(hereinafter referred to as "Spanish 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.

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:
 - a) the term "Norway" means the territory of the Kingdom of Norway, including any area outside the territorial sea upon which, in accordance with international law an in application of its legislation, the Kingdom of Norway exercises or may in the future exercise jurisdiction or sovereign rights; the term does not comprise Svalbard, Jan Mayen and the Norwegian dependencies ("biland") ;
 - b) the term "Spain" means the territory of the Kingdom of Spain, including any area outside the territorial sea upon which, in accordance with international law and in application of its legislation, the Kingdom of Spain exercises or may in the future exercise jurisdiction or sovereign rights;
 - c) the terms "a Contracting State" and "the other Contracting State" mean Norway or Spain as the context requires;
 - d) the term "person" comprises an individual, a company and any other body of persons;
 - e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

- g) the term "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;
- h) the term "competent authority" means:
- (i) in Norway, the Minister of Finance and Customs or his authorized representative;
 - (ii) in Spain, the Minister of Economy and Finance or his authorized representative.
- i) the term "nationals" means:
- (i) all individuals possessing the nationality of a Contracting State;
 - (ii) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State;
2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

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, and also includes that State and any political subdivision or local authority thereof. This term, however, 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 only 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 only 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 only 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 only 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 12 months.
4. For the purpose of calculating the time limits in the preceding paragraph, activities carried on by an enterprise associated with another enterprise within the meaning of Article 9 shall be regarded as carried on by the last-mentioned person if the activities in question are substantially the same as those carried on by that last-mentioned person, unless they are carried on simultaneously.
5. 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, or display 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 or display;
 - 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 or industrial activities resulting from this combination is of a preparatory or auxiliary character.
6. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 7 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 5 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.
 7. 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.
 8. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise) , shall not of itself constitute either company a permanent establishment of the other.

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed

property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships 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 Contracting State.
2. 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.
3. The provisions of paragraphs 1 and 2 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) 10 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly or indirectly at least 25 per cent of the capital in the company paying the dividends;

b) in all other cases 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 subject 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 10 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 in all events be exempt from tax by the first-mentioned State if:

- a) the interest is beneficially owned by, or is paid by, a Contracting State, a political subdivision, a local authority or an instrumentality thereof;
 - b) the interest is beneficially owned by a resident of a Contracting State with respect to debt obligations guaranteed or insured by that State, a political subdivision, a local authority or an instrumentality thereof;
 - c) interest on long-term loans (5 or more years) granted by banks or other financial institutions which are residents of a Contracting State shall be taxable only in that State;
 - d) interest paid in connection with the sale on credit of any industrial, commercial, or scientific equipment, shall be taxable only in the Contracting State of which the beneficial owner of the interest is a resident.
4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as all other income assimilated to income from money lent by the taxation laws of the State in which the income arises.
5. The provisions of paragraphs 1 and 2 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 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 last-mentioned amount. In that 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. Such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.

However, royalties received in consideration for the use of, or the right to use, ships or aircraft on a bare boat basis, or containers, in international traffic, shall be taxable only in the Contracting State of which the recipient is a resident.

3. The term "royalties" in this Article means payments or credits, whether periodical or not, and however described or computed, to the extent to which they are made as consideration for:
 - a) the use of, or the right to use, any copyright, patent, design or model, plan, secret formula or process, trade mark, or other similar property or right;
 - b) the use of, or the right to use, any industrial, commercial or scientific equipment;
 - c) the supply of scientific, technical, industrial or commercial knowledge or information;
 - d) the use of, or the right to use;
 - (i) motion picture films;
 - (ii) films or video tapes for use in connection with television;
 - (iii) tapes for use in connection with radio broadcasting; or
 - (iv) software;
 - e) total or partial forbearance in respect of the use or supply of any property right referred to in this paragraph.
4. Royalties shall be deemed to arise in a Contracting State where the payer is 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 obligation to pay the royalties was incurred and the royalties are borne by that permanent establishment or fixed base, then the royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.
5. 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.

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 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 derived by an enterprise of a Contracting State 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 that State.
4. Income from the alienation of shares or comparable interest in a company, the assets of which consist wholly or principally of immovable property, may be taxed in the Contracting State in which the assets or the principal assets of the company are situated.
5. Income from the alienation of shares or comparable interests forming part of a substantial participation in the capital of an enterprise with its residence in one of the States, may be taxed in that State. A person is considered to have a substantial participation when he owns, alone or with associated persons, directly or indirectly, shares or other rights, the totality of which gives the right to 25 per cent or more of the share capital or comparable interest in that company or has the right to 25 per cent or more of the profits of that company.
6. Gains derived by an individual of a Contracting State from the alienation of shares or other rights in a company which is a resident of the other Contracting State, as well as gains from the alienation of options or other financial instruments related to such shares or rights, may be taxed in that other State, but only if the alienator has been a resident of that

other State at any time during the five years immediately preceding the alienation of the shares, rights, options or financial instruments.

7. Gains from the alienation of any property other than those mentioned 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 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. In any case such an income may also be taxed in the other Contracting State if:
 - a) he has a fixed base regularly available to him in that other State for the purpose of performing his activities, or
 - b) he is an individual who is present in the other State for a period or periods exceeding in the aggregate 183 days in any period of twelve months, commencing or ending in the fiscal year concerned;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, 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 also be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
 - a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; and

- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
 - c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State.
 4. Where a resident of a Contracting State 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 the Contracting State in which the recipient is a resident.

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 or another similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17

ARTISTES AND SPORTSMEN

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 a sportman, 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 a sportman in his capacity as such accrues not to the entertainer or sportman 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 sportman 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 sportsmen 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 sportsman is a resident.

Article 18

PENSIONS, ANNUITIES AND PAYMENTS UNDER THE SOCIAL SECURITY SYSTEM

Pensions and other similar remuneration and annuities arising in a Contracting State, as well as pensions and other payments under the Social Security System of a Contracting State which are paid to a resident of the other Contracting State shall be taxable only in that other State.

Article 19

GOVERNMENT SERVICE

1.
 - a) Salaries, wages and other similar remuneration, other than a pension as covered by Article 18, 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, 16 and 17 shall apply to salaries, wages and other similar 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.

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

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

CAPITAL

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State may be taxed in that other State.
2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.
3. Capital constituted by shares or comparable interests forming part of a substantial participation in the capital of a company which is resident in one of the States, may be taxed in that State. A person is considered to have a substantial participation when he owns, alone or with associated persons, directly or indirectly, 25 per cent or more of the share capital or comparable interests in that company or has the right to 25 per cent or more of the profits of that company.
4. Capital constituted by shares or comparable interests in a company, the assets of which consist wholly or principally of immovable property, may be taxed in the Contracting State in which the assets or the principal assets of the company are situated.
5. Capital of an enterprise of a Contracting State 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 that State.
6. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 23

ACTIVITIES RELATING TO THE EXPLORATION OR EXPLOITATION OF NATURAL RESOURCES IN THE SEABED AND ITS SUBSOIL

Notwithstanding any other provision of this Convention:

1. A person who is a resident of a Contracting State and carries on activities in the other Contracting State in connection with the exploration or exploitation of the seabed and its subsoil and their natural resources situated in that other State shall, subject to paragraphs 2 and 3 of this Article, be deemed to be carrying on a trade in that other State through a permanent establishment or fixed base situated therein.
2. The provisions of paragraph 1 shall not apply where the activities are carried on for a period not exceeding 30 days in the aggregate in any twelve months period commencing or ending in the fiscal year concerned. 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.
3. Profits derived by a resident of a Contracting State from the transportation of supplies or personnel to or between locations where activities in connection with the exploration or exploitation of the seabed and its subsoil and their natural resources are being carried on in the other Contracting State, or from the operation of tugboats or other vessels auxiliary to such activities, shall be taxable only in the Contracting State of which the enterprise is a resident.
4.
 - 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 its 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 commencing or ending in the fiscal year concerned.
 - 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 or between locations where activities connected with the exploration or exploitation of the seabed and its subsoil and their natural resources are being carried on in the other Contracting State, or in respect of an employment exercised aboard a tugboat or other vessels operated auxiliary to such activities, may be taxed in the Contracting State of which the enterprise carrying on such activities is a resident. When the enterprise is not a resident of the State where the activities are carried on, the salaries, wages and

similar remuneration shall be taxable only in the State where the recipient is a resident.

5. 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 its subsoil and their natural resources situated in that other State; or
 - c) shares in a company resident in the other Contracting State the assets of which consist wholly or principally of 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 natural resources to be produced by the exploration or exploitation of the seabed and subsoil and their natural resources in the other Contracting State, including the participation in such rights.

Article 24

ELIMINATION OF DOUBLE TAXATION

In accordance with the provisions and subject to the limitations of the laws of the Contracting States (as may be amended from time to time without changing the general principle thereof) :

- a) Where a resident of a Contracting State derives income or owns elements of capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow:
 - i) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in the other Contracting State;
 - ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in the other Contracting State on the elements of capital;
 - iii) the deduction of the underlying corporation tax shall be given in accordance with the internal legislation of each of the Contracting States.

Such deduction shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the same elements of capital which may be taxed in the other Contracting State.

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

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, in particular with respect to residence, 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. 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.
3. 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. 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.
4. 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.
5. The provisions of this Article shall, notwithstanding the provisions of Article 2, 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 this 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 relevant 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 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

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

Article 29

ENTRY INTO FORCE

1. This Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible.
2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall 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 Convention enters into force and subsequent years;
 - b) in Spain:

- i) in respect of taxes withheld at source, in relation to income derived on or after the first day of January in the calendar year next following that in which the Convention enters into force;
 - ii) in respect of other taxes, in relation to the income or capital of any tax year beginning on or after the first day of January of the Calendar year next following that in which the Convention enters into force.
3. The Convention between the Government of Norway and the Government of Spain for the avoidance of Double Taxation with respect to Taxes on Income and Capital signed in Madrid on 25. April 1963, shall terminate and cease to have effect from the date the present Convention has effect in accordance with paragraph 2 of this Article.

Article 30

TERMINATION

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting States may terminate the Convention at any time after five years from the date of which this Convention enters into force, provided that, at least six months prior written notice of termination has been given through diplomatic channels. 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 Spain:

i) in respect of taxes withheld at source, in relation to income derived on or after the first day of January in the calendar year next following that in which the notice of termination is given;

ii) in respect of other taxes, in relation to the income or capital of any tax year beginning on or after the first day of January in the calendar year next following that in which the notice of termination is given;

In witness whereof the undersigned, duly authorized thereto by their respective Governments, have signed the Convention.

Done in Duplicate at this day of 19., in the Spanish, Norwegian and English languages, all three texts being equally authentic. In case of any divergence of interpretation between the Spanish and the Norwegian texts, the English text shall prevail.

For the Government of
the Kingdom of Norway

For the Government of
the Kingdom of Spain

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PROTOCOL

At the signing today of the Convention between the Kingdom of Norway and the Kingdom of Spain for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and on capital, the undersigned have agreed upon the following provisions which shall form an integral part of the Convention:

I

To Article 8

For purposes of Article 8, "income from the operation of ships or aircraft in international traffic" will be applied in accordance with paragraph 5 through 12 of the Commentary on Article 8 (Shipping, Inland Waterways Transport and Air Transport) of the Model Convention for the Avoidance of Double Taxation with respect to Taxes on Income and on Capital of the Organization for Economic Cooperation and Development.

II

To Article 11

The word "instrumentality" which is referred in letter a) of paragraph 3 covers Central Banks.

III

To Article 12

1. Where technical assistance is supplied under or in relation with a contract the payments for which are covered by a) , b) , c) or d) of paragraph 3 of Article 12, and such assistance is furnished as a means of enabling the application or enjoyment of that contract, the payments for such assistance shall be regarded as royalties, but only where the assistance is ancillary and subordinate to such a contract and is rendered by the owner of such property or right or by such related person as is mentioned in Article 9.

2. It is understood that software payments do not constitute royalties when the consideration is paid for the transfer of the full ownership.

IV

To Article 15

In order to prevent tax avoidance and to clarify the application of paragraph 2 of Article 15, in particular in situations of hiring out of labour, the competent authorities shall, where

necessary, determine by mutual agreement whether the conditions of said paragraph are met.

A situation of hiring out of labour shall be considered to exist where an employee is put at disposal by a person (hirer) , to another person (user) to carry out work for the latter in the course of an activity the user carries on in the State where the work is performed, and where the hirer does not bear the responsibility and risk for the results produced by the employee's work.

In determining whether an employee shall be considered hired-out, a general evaluation shall be made where particular weight shall be put on whether:

- a) the authority to instruct the worker is with the user;
- b) the work is performed at a place which is under the control and responsibility of the user;
- c) the remuneration to the hirer is calculated on the basis of the time utilised, or there is in other ways a connection between this remuneration and wages received by the employee;
- d) tools and materials are essentially put at the employee's disposal by the user;
- e) the number and qualifications of the employees is not solely determined by the hirer.

V

To Article 23

For the purposes of the application of paragraph 3 of Article 23 the Competent Authorities shall, where necessary, determine by mutual agreement if the activities constitute a permanent establishment according to paragraph 1 of article 5.

VI

To Article 25

It is understood that the provisions of Article 25 shall not prevent the application by a Contracting State of its domestic law concerning thin capitalization.

VII

To Article 26

The Mutual Agreement Procedure shall apply particularly to cases where due to the application of Article 9 an economic double taxation arises.

In witness whereof the undersigned, duly authorized thereto by their respective Governments, have signed the Protocol.

Done in Duplicate at this day of 19.., in the Spanish, Norwegian and English languages, all three texts being equally authentic. In case of any divergence of interpretation between the Spanish and the Norwegian texts, the English text shall prevail.

For the Government of
the Kingdom of Norway

For the Government of
the Kingdom of Spain

.....

AGREED MINUTES

Negotiations were held from 20th May to 23th May 1996 between a Norwegian Delegation, headed by Mr Odd Hengsle, Director General, Ministry of Finance, and a Spanish Delegation headed by Mr José Ramón Fernández Pérez, Deputy Director General for International Fiscal Relations, Ministry of Economy and Finance.

A list of members of both delegations is attached as Annex I.

The conversations were held in a very friendly and cordial atmosphere and led to the conclusion of a Draft Agreement which was initialled by the head members of the two Delegations, enclosed as Annex II.

The Norwegian Delegation pointed out that they wish to consult with the Norwegian Ministry of Foreign Affairs about the definition of "Norway and Spain" contained in Article 3, 1, a) and b) .

Both Delegations agreed that if in the future Spain concludes a Convention with another OECD country, other than a member of the European Union, containing a rate for the taxation of dividends lower than that provided under Article 10, 2, a) for the cases contained therein, negotiations will be undertaken in order to adjust Article 10. 2, a) in the proper way.

Madrid, 23th May 1996

For the Spanish Delegation

For the Norwegian Delegation

José Ramón Fernández Pérez

Odd Hengsle

ANNEX I

THE NORWEGIAN DELEGATION

Mr ODD HENGSLER (Head of Delegation)

Director General

Ministry of Finance

Mr PER OLAV GJESTI

Tax Council International

Ministry of Finance

Mrs ANN BERGEBAKKEN

Legal Adviser

Ministry of Finance

THE SPANISH DELEGATION

Mr JOSÉ RAMÓN FERNÁNDEZ PÉREZ (Head of Delegation)

Deputy Director General for International Fiscal Relations

Ministry of Economy and Finance

Mr JUAN LÓPEZ RODRÍGUEZ

Coordinator for International Fiscal Relations

Ministry of Economy and Finance

Mr JOAN HORTALÁ i VALLVÉ

Coordinator for Double Taxation Agreements

Ministry of Economy and Finance

Mrs PILAR GRACIA MORALES

Chief of Service of the General Direction for International Economic Relations