

Overenskomst mellom Norge og Polen til unngåelse av dobbeltbeskatning og forebyggelse av skatteunndragelse m.h.t. skatter av inntekt og formue.

### Vedlegg.

## **Convention between the Government of the Kingdom of Norway and the Government of the Polish People's Republic for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and capital.**

The Government of the Kingdom of Norway and the Government of the Polish People's Republic, desiring to further develop and facilitate their economic relationships, have decided to conclude a Convention for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and capital, and 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. This Convention shall apply to taxes on income and on capital imposed on behalf of each Contracting State or of its regional or local authorities, irrespective 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, as well as taxes on capital appreciation.

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

#### In Norway:

- a) (i) the national, the country municipal and municipal taxes on income including the special tax on income from petroleum exploitation and transportation;
  - (ii) the national and municipal taxes on capital;
  - (iii) the national dues on the profits of non-resident artistes; and
  - (iv) the seamen's tax.
- (Hereinafter referred to as «Norwegian tax».)

#### In Poland:

- b) (i) the income tax (podatek dochodowy);
- (ii) the tax on wages or salaries (podatek od wynagrodzen); and
- (iii) the surcharge on the income tax or on the tax on wages or salaries (podatek wyrównawczy) (hereinafter referred to as «Polish tax»).

4. This Convention shall also apply to any identical or substantially similar taxes which are imposed in addition to, or in place of, the existing taxes.

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### Article 3.

#### General definitions.

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

- a) the terms «a Contracting State» and «the other Contracting State» means the Kingdom of Norway or the Polish People's Republic, as the context requires;
- b) the term «person» comprises an individual, a company and any other body of persons;
- c) the term «company» means any body corporate or any entity which is treated as a body corporate for tax purposes;
- d) 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;
- e) the term «nationals» means all individuals possessing the nationality of a Contracting State and all legal persons, partnerships, associations or other entities deriving their status as such or created under the law in force in a Contracting State;
- f) the term «international traffic» means any transport by a ship, aircraft, rail-transport vehicles or road-transport vehicles operated by an enterprise which has its place of effective management in a Contracting State, except when the ship, aircraft or vehicle is operated solely between places in the other Contracting State;
- g) the term «competent authority» means:
  - (i) in the case of Norway, the Minister of Finance and Customs or his authorized representative;
  - (ii) in the case of Poland, the Minister of Finance or his authorized representative.

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

### Article 4.

#### Fiscal domicile.

1. For the purposes of this Convention the term «resident of a Contracting State» means any persons who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:

- a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);
- b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent

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home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;

- c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- d) if the question of residence cannot be determined according to the provisions of sub-paragraph c), the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

#### Article 5.

##### Permanent establishment.

1. For the purposes of this Convention, the term «permanent establishment» means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

2. The term «permanent establishment» shall include especially:

- a) a place of management;
- b) a branch;
- c) an office;
- d) a factory;
- e) a workshop;
- f) a mine, quarry or other place of extraction of natural resources;
- g) a building site or construction or assembly project which exists for more than 18 months.

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

- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

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

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through

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a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

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

#### Article 6.

##### Income from immovable property.

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

2. The term «immovable property» shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, 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, boats, railtransport and road transport vehicles and aircraft shall not be regarded as immovable property.

3. The provision of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

#### Article 7.

##### Business profits.

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as 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 the determination of the profits of a permanent establishment, there shall be allowed as deduction expenses of the enterprise 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. Nothing in this paragraph shall, however,

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authorise a deduction for expenses which would not be deductible if the permanent establishment were a distinct and separate enterprise.

4. In so far as it has been customary in a Contracting State, according to its law, to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles embodied in this Article.

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

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. 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.

##### International transport.

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

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

3. Profits from the operation of rail-transport vehicles or road-transport vehicles in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. The provisions of paragraphs 1 and 3 shall be deemed to include:

- a) profits from the operation in international traffic of ships, aircraft, rail-transport vehicles or road-transport vehicles leased;
- b) profits from the operation in international traffic of
  - (i) containers in sea-, rail-, road- and air transport
  - (ii) lighters operated in the lighters-aboard-ship system, or
  - (iii) other equipment related to transports by ships, aircraft or rail-transport vehicles and road-transport vehicles, irrespective of whether such equipment is owned or leased by the enterprise;
- c) profits from the participation in a pool, a joint business or in an international operating agency.

#### 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

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- 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 being 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 law of that State, but the tax so charged shall not exceed:

- a) 5 per cent of the gross amount of the dividends if the recipient is a company (excluding partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;
- b) in all other cases, 15 per cent of the gross amount of the dividends.

This paragraph shall not effect 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 or other rights, not being debtclaims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the taxation law of the State of which the company making the distribution is a resident.

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

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to persons who are not residents of that other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

#### Article 11.

##### Interest.

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State.

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

3. The provisions of paragraph 1 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises, a permanent establishment or performs in that other State professional services from a fixed base situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

#### Article 12.

##### Royalties.

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

2. However, such royalties may also be taxed in the Contracting State in which they arise and in accordance with the law of that Contracting State, but the tax so charged shall not exceed 10 per cent of the amount of the royalties.

3. Notwithstanding the provisions of paragraph 2 royalties paid as a consideration for the use of or the right to use any copyright of literary, artistic and scientific work, to a resident of the other Contracting State shall be taxable only in that other State.

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

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

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6. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a regional or 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 liability to pay the royalties was incurred and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which such property is situated.

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

#### Article 13.

##### Capital gains.

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property situated.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State. However, gains from the alienation of movable property of the kind referred to in paragraph 3 of Article 23 shall be taxable only in the Contracting State in which such movable property is taxable according to the said Article.

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

4. The provisions of paragraph 3 shall not affect the right of a Contracting State to tax, according to its own laws, gains from the alienation of shares in a joint-stock company of that Contracting State when the shares are owned by an individual being a resident of the other Contracting State who has been a resident of the first-mentioned Contracting State during the last five years before the alienation of the shares took place. •

#### Article 14.

##### Independent personal services.

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such



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a fixed base, the income may be taxed in the other Contracting State but only so much of it as it 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, 20 and 21 salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

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

3. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship, aircraft, rail-transport vehicle or road-transport vehicle in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

#### Article 16.

##### Directors' fees.

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

#### Article 17.

##### Artistes and athletes.

1. Notwithstanding the provisions of Articles 14 and 15, income derived by entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

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

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from such activities as defined in paragraph 1 per-

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formed within the framework of cultural agreements concluded between the two States, shall be taxable only in the State of which the entertainer or the athlete is a resident.

#### Article 18.

##### Pensions and annuities.

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, and any annuity paid to such a resident, shall be taxable only in that State.

2. The term «annuity» means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

#### Article 19.

##### Government service.

1.

a) Remuneration, other than a pension, paid by a Contracting State or a regional or a local authority thereof to any individual in respect of services rendered to that State or regional or local authority thereof 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 recipient is a resident of that other Contracting State who:

- (i) is a national of that State; or
- (ii) did not become a resident of that State solely for the purpose of performing the services.

2.

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

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

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

#### Article 20.

##### Students.

1. 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 Contracting 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 the first-mentioned State, provided that such payments are made to him from sources outside that State.

2. An individual who, while a student at a university or other recognised educational institution in a Contracting State, is em-

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ployed in a Contracting State where he is not a resident for a period or periods not exceeding a total of 100 days during the fiscal year concerned shall not be taxed in the Contracting State where the employment is exercised in respect of this remuneration therefrom if:

- a) the employment is directly related to his studies or educational training; and
- b) he was not, immediately before the commencement of his studies at the university or institution in the first-mentioned Contracting State, a resident of the Contracting State where the employment is exercised.

#### Article 21.

##### Teachers.

1. A professor or teacher who visits a Contracting State for the purpose of teaching or conducting research at a university, college, school or other educational institution in that Contracting State, whose visit does not exceed two years and who is, or was immediately before that visit, a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State on any remuneration for such teaching or research.

2. The provisions of paragraph (1) shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

#### Article 22.

##### Other income.

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

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

#### Article 23.

##### Capital.

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

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

3. Ships, aircraft, rail-transport vehicles or road-transport vehicles operated in international traffic and movable property pertaining to the operation of such ships, aircrafts and vehicles,

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shall be taxable only in the State which according to Article 8 has the right to tax profits derived from such operations.

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

#### Article 24.

##### Elimination of double taxation.

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

2. Where a resident of a Contracting State derives income which, in accordance with the provisions of Article 10 and 12 may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax of the income of that person an amount equal to the tax paid in that other Contracting State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income derived from that other Contracting State.

#### Article 25.

##### Non-discrimination.

1. The nationals of a Contracting State whether or not they are residents of one of the Contracting States, shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

2. The taxation of a permanent establishment or a fixed base which an enterprise or a person being a resident of a Contracting State has in the other Contracting State shall not be less favourable levied in that other State than the taxation levied on enterprises or persons of that other State carrying on the same activities.

This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities or any other personal circumstances which it grants to its own residents or to grant reliefs with respect to dividends or other payments to a company being a resident of the other Contracting State.

The provisions of this paragraph shall not prevent a Contracting State from taxing profits derived by a permanent establishment according to the legislation of that State if the permanent establishment is maintained by a joint-stock company or similar company in the other Contracting State. The taxation shall, however, correspond to the taxation applied with respect to joint-stock companies or similar companies being residents of the first-mentioned Contracting State on their undistributed profits.

3. Except where the provisions of Article 9, paragraph 4 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties

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and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible as if they had been contracted to a resident of the first-mentioned State.

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

5. It is certified herewith that the diversified taxation system in respect of taxes on income, profit and capital, which is established in the Polish People's Republic for the socialist enterprise, shall not affect the provisions of this Article.

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

#### Article 26.

##### Mutual agreement procedure.

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident, or if his case comes under paragraph 1 of Article 25, to that of the Contracting States of which he is a national. This case must be presented within three years from the first notification of the action giving rise to taxation not in accordance with 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 an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the national laws 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

Vedlegg.

Overenskomst mellom Norge og Polen til unngåelse av dobbeltbeskatning og forebygging av skatteunndragelse m.h.t. skatter av inntekt og formue.

Commission consisting of representatives of the competent authorities of the Contracting States.

#### Article 27.

##### Exchange of information.

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the application of this Convention as well as information concerning the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as secret and shall be disclosed only to persons or authorities (including courts of law or administrative authorities) concerned with the assessment or collection of taxes which are the subject of this Convention, or concerned with proceedings, appeals and remedies connected with taxation cases.

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

- a) carry out administrative measures at variance with the laws or the administrative practice of that or the other Contracting State;
- b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or 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.

##### Diplomatic and consular officials.

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

#### Article 29.

##### Territorial scope and extension.

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

- a) «The term «Norway» means the Kingdom of Norway, including, when used in a geographical sense, its territorial sea and the seabed and subsoil of the submarine areas adjacent to the territorial sea, over which Norway exercises sovereign rights, in accordance with international law, for the purpose of exploring these areas and exploiting their natural resources, but excluding Svalbard, Jan Mayen and the Norwegian dependencies outside Europe.»
- b) «The term «Poland» means the Polish People's Republic, including, when used in a geographical sense, its territorial sea and the seabed and subsoil of the submarine areas adjacent to the territorial sea, over which Poland exercises sovereign rights, in accordance with international law, for the purpose of exploring these areas and exploiting their natural resources.»

Vedlegg.

Overenskomst mellom Norge og Polen til unngåelse av dobbeltbeskatning og forebygging av skatteunndragelse m.h.t. skatter av inntekt og formue.

2. This Convention may be extended, either in its entirety or with modifications, to any territory which is excluded from the application of this Convention under the provisions of this Article, and in which taxes are imposed which are substantially similar in character to those to which this Convention applies.

Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels.

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

#### Article 30.

##### Entry into force.

1. This Convention is subjected to ratification. The instruments of ratification shall be exchanged at Warsaw.

2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect in the case of income derived on or after 1st January 1976 and in the case of capital which is assessed in or after the year 1977.

#### Article 31.

##### Termination.

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

In such event the Convention shall cease to have effect, in the case of income derived on or after 1st January next following the year in which such notice is given and in the case of the capital tax which is assessed in or after the second calendar year next following that in which such notice is given.

In witness whereof the undersigned being duly authorized thereto have signed the present Convention and have affixed thereto by seals.

DONE at Oslo this 24th day of May 1977 in duplicate in the English language.

On behalf of  
the Government of  
the Kingdom of Norway  
Hallvard Bakke

On behalf of  
the Government of  
the Polish People's Republic  
Józefa Czyrka

Overenskomst mellom Norge og Polen til unngåelse av dobbeltbeskatning og forebyggelse av skatteunndragelse m.h.t. skatter av inntekt og formue.

#### PROTOCOL

At the moment of signing the Convention for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and capital, this day concluded between the Governments of the Kingdom of Norway and the Polish People's Republic, the undersigned Plenipotentiaries have agreed that the following provisions shall form an integral part of the Convention.

#### I. Ad paragraph 1 of Article 8.

The provisions of paragraph 1 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 to its share in that organization.

#### II. Ad paragraph 2 of Article 10.

Dividends paid by a Norwegian company to a Polish company (excluding partnership) which controls directly or indirectly at least 25 per cent of the capital of the Norwegian company, may in Norway be taxed at a rate not exceeding 15 per cent. This provision shall be in force as long as dividends paid by Norwegian companies are allowed as deductions from their profits for the purpose of computing their liability to Norwegian national tax.

Notwithstanding the provisions of paragraph 1 of Article 10 dividends paid by a company being a resident of Poland to a company which is a resident of Norway shall be exempt from tax in Norway to the extent that the dividends would have been exempt under Norwegian law if both companies had been Norwegian companies.

#### III. Ad paragraph 2 of Article 18.

Notwithstanding the provisions of paragraph 1 of Article 18 social security contributions arising in a Contracting State according to the legislation of that State and paid to a resident of the other Contracting State, may be taxed in the first-mentioned State.

#### IV. Ad Article 24.

The Contracting States agree that Article 24 shall be replaced by the following text at the request of Norway which shall be forwarded through diplomatic channels and shall enter into force on the 30th day upon the exchange of notes and shall apply for the first time:

- a) in respect of taxes on income derived on or after the 1st January next following such exchange and,
- b) in respect of capital taxes assessed in or after the second calendar year following such exchange:

«1. Where a resident of Poland derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Norway, Poland shall, subject to the provisions of paragraph 2 exempt such income or capital from tax but may, in calculating tax on the remaining income or capital of that person, apply the rate of tax which would have been applicable if the exempted income or capital had not been so exempted.



Vedlegg.

Overenskomst mellom Norge og Polen til unngåelse av dobbeltbeskatning og forebygging av skatteunndragelse m.h.t. skatter av inntekt og formue.

2. Where a resident of Poland derives income which, in accordance with the provisions of Articles 10 and 12 may be taxed in Norway, Poland shall allow as a deduction from the tax of the income of that person an amount equal to the tax paid in Norway. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income derived from Norway.

3. Where a resident of Norway derives income or owns capital which in accordance with the provisions of this Convention may be taxed in Poland, Norway shall allow as a deduction from the income tax or capital tax of that person an amount equal to the tax paid in Poland. Such deduction shall not, however, exceed that part of the Norwegian tax, as computed before the deduction is given, which is appropriate to the income derived from or capital owned in Poland.»

V. Ad paragraph 4 of Article 25.

The term «taxation» as used in this Article means taxes of every kind and description, except for the Polish residence-registration fees and Polish fees for the permit for opening an enterprise.

In witness whereof the undersigned, authorized in good and due form by their Governments, have signed the Protocol.

Done at Oslo this 24th day of May 1977 in duplicate in the English language.

On behalf of  
the Government of  
the Kingdom of Norway  
Hallvard Bakke

On behalf of  
the Government of  
the Polish People's Republic  
Józefa Czyrka

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