

## General disclaimer on the Synthesised text document

This document presents the synthesised text for the application of the Convention between The Kingdom of Norway and The Republic of Estonia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital signed on 14 May 1993 (the “Convention”), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by the Kingdom of Norway on 7 June 2017 and by the Republic of Estonia on 29 June 2018 (the “MLI”).

The document was prepared on the basis of the MLI position of the Kingdom of Norway submitted to the Depository upon ratification on 17 July 2019 and of the MLI position of the Republic of Estonia submitted to the Depository upon ratification on 15 January 2021. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on the Convention.

The sole purpose of this document is to facilitate the understanding of the application of the MLI to the Convention and the document does not constitute a source of law. The authentic legal texts of the Convention and the MLI take precedence and remain the legal texts applicable.

The provisions of the MLI that are applicable with respect to the provisions of the Convention are included in boxes throughout the text of this document in the context of the relevant provisions of the Convention. The boxes containing the provisions of the MLI have generally been inserted in accordance with the ordering of the provisions of the 2017 OECD Model Tax Convention.

Changes to the text of the provisions of the MLI have been made to conform the terminology used in the MLI to the terminology used in the Convention (such as “Covered Tax Agreement” and “Convention”, “Contracting Jurisdictions” and “Contracting States”), to ease the comprehension of the provisions of the MLI. The changes in terminology are intended to increase the readability of the document and are not intended to change the substance of the provisions of the MLI. Similarly, changes have been made to parts of provisions of the MLI that describe existing provisions of the Convention: descriptive language has been replaced by legal references of the existing provisions to ease the readability.

In all cases, references made to the provisions of the Convention or to the Convention must be understood as referring to the Convention as modified by the provisions of the MLI, provided such provisions of the MLI have taken effect.

## References

The authentic legal texts of the MLI and the Convention can be found on:

<https://www.regjeringen.no/no/tema/okonomi-og-budsjett/skatter-og-avgifter/skatteavtaler-mellom-norge-og-andre-stat/id417330/>.

The MLI position of the Kingdom of Norway submitted to the Depository upon ratification on 17 July 2019 and the MLI position of the Republic of Estonia submitted to the Depository upon ratification on 15 January 2021 can be found [on the MLI Depository \(OECD\) webpage](#).

## Disclaimer on the entry into effect of the provisions of the MLI

The provisions of the MLI applicable to this Convention do not take effect on the same dates as the original provisions of the Convention. Each of the provisions of the MLI could take effect on different dates, depending on the types of taxes involved (taxes withheld at source or other taxes levied) and on the choices made by the Kingdom of Norway and the Republic of Estonia in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 17 July 2019 for the Kingdom of Norway and 15 January 2021 for the Republic of Estonia.

Entry into force of the MLI: 1 November 2019 for the Kingdom of Norway and 1 May 2021 for the Republic of Estonia.

In accordance with paragraphs 1, 3 and 7 of Article 35 of the MLI the provisions of MLI shall have effect with respect to this Convention:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after the 1 January 2023; and
- b) with respect to all other taxes levied by the Contracting State, for taxes levied with respect to taxable periods beginning on or after 1 January 2023.

**Convention between The Kingdom of Norway and The Republic of Estonia 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 Republic of Estonia,

**[MODIFIED by paragraph 1 of Article 6 of the MLI]** [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,]

*The following paragraph 1 of Article 6 of the MLI is included in the preamble of this Convention:*

**ARTICLE 6 OF THE MLI – PURPOSE OF A COVERED TAX AGREEMENT**

Intending to eliminate double taxation with respect to the taxes covered by this Convention without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefit of residents of third jurisdictions),

Have agreed as follows:

Article 1  
**Personal scope**

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

Article 2  
**Taxes covered**

1. The existing taxes to which the Convention shall apply are:
  - 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 Estonia:

- (i) the personal income tax (üksikisiku tulumaks);
- (ii) the corporate income tax (ettevõtte tulumaks); and
- (iii) the licence tax (tegevusloa maks);

(hereinafter referred to as "Estonian tax").

2. Where a new tax on income or on capital is introduced in a Contracting State after the date of signature of the Convention, the Convention shall apply also to such tax. The competent authorities of the Contracting States shall by mutual agreement determine whether a tax which is introduced in either Contracting State is one to which the Convention shall apply according to the preceding sentence.

3. The Convention shall apply also to any taxes, being identical with or substantially similar to those mentioned or referred to in paragraphs 1 and 2, which are imposed after the date of signature of the Convention in addition to, or in place of, the taxes to which the Convention applies by virtue of those paragraphs. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws.

Article 3  
**General definitions**

1. For the purposes of this Convention, unless the context otherwise requires:
  - a) the term "Norway" means the Kingdom of Norway, including any area outside the territorial waters of the Kingdom of Norway where the Kingdom of Norway, according to Norwegian legislation and in accordance with international law, may exercise her rights with respect to the sea bed and its sub-soil and their natural resources; the term does not comprise Svalbard, Jan Mayen and the Norwegian dependencies ("biland");
  - b) the term "Estonia" means the Republic of Estonia and, when used in the geographic sense, means the territory of Estonia and any other area adjacent to the territorial waters of Estonia within which under the laws of Estonia and in accordance with international law, the rights of Estonia may be exercised with respect to the sea bed and its sub-soil and their natural resources;
  - c) the term "person" includes an individual, a company and any other body of persons;
  - d) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
  - e) 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;
  - f) the term "national" means:
    - (i) any individual possessing the nationality of a Contracting State;
    - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a 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 authorised representative;
- (ii) in Estonia, the Minister of Finance or his authorised representative.

2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

#### Article 4 **Residence**

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, place of incorporation or any other criterion of a similar nature. The term also includes a Contracting State itself, a political subdivision, a local authority and a statutory body thereof. The term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

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

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

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the

Contracting States shall endeavour to settle the question by mutual agreement and determine the mode of application of the Convention to such person. In the absence of such agreement, for the purposes of the Convention, the person shall in each Contracting State be deemed not to be a resident of the other Contracting State.

## 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 a supervisory or consultancy activity connected therewith constitutes a permanent establishment only if such site, project or activity lasts for a period of more than six months.
4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:
  - a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
  - b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
  - c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 6 applies – is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.

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



Article 6  
**Income from immovable property**

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture 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, buildings, any option or similar right in respect of immovable property, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property, as well as income from the alienation of immovable property.
4. Where the ownership of shares or other corporate rights in a company entitles the owner of such shares or corporate rights to the enjoyment of immovable property held by the company, the income from the direct use, letting, or use in any other form of such right to enjoyment may be taxed in the Contracting State in which the immovable property is situated.
5. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of 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:
  - a) that permanent establishment; or
  - b) sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or

- c) other business activities carried on in that other State of the same or similar kind as those effected through that permanent establishment.

The provisions of sub-paragraphs b) and c) shall not apply if the enterprise shows that such sales or activities could not reasonably have been undertaken by 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. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

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

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

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

Article 8  
**Shipping and air transport**

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.
2. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business, or an international operating agency.
3. Whenever companies from different countries have agreed to carry on an air transportation business together in the form of a consortium, the provisions of paragraphs 1 and 2 shall apply only to such part of the profits of the consortium as relates to the participation held in that consortium by a company that is a resident of a Contracting State.

Article 9  
**Associated enterprises**

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

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

2. Where a Contracting State includes in the profits of an enterprise of that State – and taxes accordingly – profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are by the first-mentioned State claimed to be profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of tax charged therein on those profits, where that other State considers the adjustment justified. In determining such adjustment, due regard shall be had to the other provisions of this Convention and

the competent authorities of the Contracting States shall if necessary consult each other.

## Article 10 Dividends

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

The competent authorities of the Contracting States may by mutual agreement settle the mode of application of these limitations.

The provisions of 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, or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a

resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

## Article 11 Interest

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

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

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

3. Notwithstanding the provisions of paragraphs 1 and 2,

- a) interest arising in Estonia shall be taxable only in Norway if the interest is paid to:
  - (i) the State of Norway, a political subdivision, a local authority or a statutory body thereof;
  - (ii) the Central Bank of Norway;
  - (iii) the Norwegian Guarantee Institute for Export Credits;
  - (iv) A/S Eksportfinans; or
  - (v) any other institution, similar to those mentioned in subdivision (iii)-(iv), as may be agreed from time to time between the competent authorities of the Contracting States;
- b) interest arising in Norway shall be taxable only in Estonia if the interest is paid to:
  - (i) the State of Estonia, a political subdivision, a local authority or a statutory body thereof;

- (ii) the Bank of Estonia;
  - (iii) any organisation established in the State of Estonia after the date of signature of this Convention and which is of a similar nature as any organisation established in Norway and referred to in subdivision a) (iii)-(iv) (the competent authorities of the Contracting States shall by mutual agreement determine whether such organisations are of a similar nature); or
  - (iv) any institution similar to any of those referred to in subdivision a) (v), as may be agreed from time to time between the competent authorities of the Contracting States.
- c) interest arising in a Contracting State on a loan guaranteed by any of the bodies mentioned or referred to in sub-paragraph a) or sub-paragraph b) and paid to a resident of the other Contracting State shall be taxable only in that other State;
- d) interest arising in a Contracting State shall be taxable only in the other Contracting State if:
  - (i) the recipient is a resident of that other State, and
  - (ii) such recipient is an enterprise of that other State and is the beneficial owner of the interest, and
  - (iii) the interest is paid with respect to indebtedness arising on the sale on credit, by that enterprise, of any merchandise or industrial, commercial or scientific equipment to an enterprise of the first-mentioned State, except where the sale or indebtedness is between related persons.

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. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1 and 2 shall not apply if the 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 such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

#### Article 12<sup>1</sup>

#### **Royalties**

1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.

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

3. The provisions of 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.

4. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether he is a

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<sup>1</sup> Pursuant to paragraph 7 of Article 12 of the Convention the withholding tax rate on royalties was modified with effect as of 1 January 2016. The new text of paragraph 1 and 2 of Article 12 which took effect 1 January 2016 is included in this version of the text. For previous versions of the text please see: [Convention Norway - Estonia - regjeringen.no](http://Convention.Norway-Estonia-regjeringen.no)

resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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

6. If in any convention for the avoidance of double taxation concluded by Estonia with a third State, being a member of the Organisation for Economic Cooperation and Development (OECD) at the date of signature of this Convention, Estonia after that date would agree to exclude any kind of rights or property from the definition contained in paragraph 3 of this Article or exempt royalties arising in Estonia from Estonian tax on royalties or to limit the rates of tax provided in paragraph 2, such definition or exemption or lower rate shall automatically apply as if it had been specified in paragraph 3 or paragraph 2, respectively.

### Article 13 **Capital gains**

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in paragraph 2 of Article 6 and situated in the other Contracting State or shares in a company the assets of which consist mainly of such property 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. Gains from the alienation of any property other than that referred to in the preceding paragraphs of this Article, shall be taxable only in the Contracting State of which the alienator is a resident.

5. With respect to gains derived by an air transport consortium formed by companies from different countries, the provisions of paragraph 3 shall apply only to such part of the gains as relate to the participation held in that consortium by a company that is a resident of a Contracting State.

6. Notwithstanding the provisions of paragraph 4, a Contracting State may tax gains derived by an individual of the other Contracting State from the alienation of shares or other corporate rights in an entity which is a resident of the first-mentioned State, and gains from the alienation of any other security which are subjected in that State to the same taxation treatment as gains from the alienation of such share or other right, but only if the alienator has been a resident of the first-mentioned State at any time during the five years immediately preceding the alienation of the shares, rights or securities.

#### Article 14

#### **Independent personal services**

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in that other State, but only so much of the income as is attributable to that fixed base. For this purpose, where an individual who is a resident of a Contracting State stays in the other Contracting State for a period or periods exceeding in the aggregate 183 days in any twelve month period commencing or ending in the tax year concerned, he shall be deemed to have a fixed base regularly available to him in that other State and the income that is derived from his activities referred to above that are performed in that other State shall be 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 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in

the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

- a) the recipient is present in 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 tax 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 a resident 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 an air transport consortium formed by companies from different countries including a company that is a resident of that State, such remuneration shall be taxable only in that State.

#### Article 16 **Directors' fees**

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

#### Article 17 **Artistes and 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 sportsman, 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 sportsman in his capacity as such accrues not to the entertainer or sportsman 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 sportsman are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Contracting State by an entertainer or a sportsman if the visit to that State is wholly or mainly supported by public funds of the other Contracting State, or a political subdivision, or a local authority thereof. In such case, the income shall be taxable in accordance with the provisions of Articles 7, 14 or 15, as the case may be.

#### Article 18

#### **Pensions, annuities and similar payments**

1. Pensions, annuities and other similar remuneration arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State.

2. The term "annuity" as used in this Article 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 (other than services rendered).

#### Article 19

#### **Government service**

1. a) Remuneration, other than a pension, paid by a Contracting State, or a political subdivision, or a local authority, or a statutory body thereof to an individual in respect of dependent personal services rendered to that State, subdivision, authority or body shall be taxable only in that State.

b) However, such remuneration shall be taxable only in the Contracting State of which the individual is a resident if the services are rendered in that State and the individual:

(i) is a national of that State; or

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

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

Article 20  
**Students**

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

Article 21  
**Offshore activities**

1. The provisions of this Article shall apply notwithstanding any other provision of this Convention.

2. A person who is a resident of a Contracting State and carries on activities offshore in the other Contracting State in connection with the exploration or exploitation of the sea bed and sub-soil and their natural resources situated in that other State shall, subject to paragraphs 3 and 4, be deemed in relation to those activities to be carrying on business in that other State through a permanent establishment or fixed base situated therein.

3. The provisions of paragraph 2 shall not apply, where the activities are carried on for a period or periods not exceeding in the aggregate 30 days in any twelve month period. However, for the purposes of this paragraph:

- a) activities carried on by a person who is associated with another person shall be regarded as carried on by the other person if the activities in question are substantially the same as those carried on by the first-mentioned person;
- b) a person shall be deemed to be associated with another person if one is controlled directly or indirectly by the other, or both are controlled directly or indirectly by a third person or third persons.

4. Profits derived by a resident of a Contracting State from the transportation of supplies or personnel to a location, or between locations, where activities in connection with the exploration or exploitation of the sea bed and sub-soil and their natural resources are being carried on in a Contracting State, or from the operation of tugboats

and other vessels auxiliary to such activities, shall be taxable only in the first-mentioned State.

5. a) Subject to sub-paragraph b) of this paragraph, salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment connected with the exploration or exploitation of the sea bed and sub-soil 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. However, such remuneration shall be taxable only in the first-mentioned State if the employment is carried on offshore for an employer who is not a resident of the other State and for a period or periods not exceeding in the aggregate 30 days in any twelve month period.

b) Salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft engaged in the transportation of supplies or personnel to a location, or between locations, where activities connected with the exploration or exploitation of the sea bed and sub-soil and their natural resources are being carried on in a Contracting State, or in respect of an employment exercised aboard tugboats or other vessels operated auxiliary to such activities, may be taxed in the Contracting State of which the employer is a resident.

6. Gains derived by a resident of a Contracting State from the alienation of:

- a) exploration or exploitation rights; or
- b) property situated in the other Contracting State and used in connection with the exploration or exploitation of the sea bed and sub-soil and their natural resources situated in that other State; or
- c) shares deriving their value or the greater part of their value directly or indirectly from such rights or such property or from such rights and such property taken together;

may be taxed in that other State.

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

Article 22  
**Other income**

1. Items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention shall be taxable only in that State. However, such items of income, arising in the other Contracting State, may also be taxed in that other 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 23  
**Capital**

1. Capital represented by immovable property referred to in paragraph 2 of Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, or by shares in a company the assets of which consist mainly of such property 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 represented by ships and aircraft operated in international traffic by an enterprise of a Contracting State, and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in that State.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.
5. With respect to capital owned by an air transport consortium formed by companies from different countries, the provisions of paragraphs 3 and 4 shall apply only to such part of the capital as relates to the participation held in that consortium by a company that is a resident of a Contracting State.

Article 24  
**Elimination of double taxation**

1. Subject to the provisions of the laws of Norway regarding the allowance as a credit against Norwegian tax of tax payable in a territory outside Norway (which shall not affect the general principle thereof):

- a) Where a resident of Norway derives income or owns elements of capital which, in accordance with the provisions of this Convention, may be taxed in Estonia, Norway shall allow:
  - (i) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Estonia;
  - (ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in Estonia on the elements of capital.

Such deduction in either case 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 Estonia.

- b) Where in accordance with any provision of the Convention income derived or capital owned by a resident of Norway is exempt from tax in Norway, Norway may nevertheless, in calculating the amount of tax on the remaining income or capital of such person, take into account the exempted income or capital.
- c) Where exemption from or reduction of Estonian tax, payable in accordance with the provisions of Article 7 in respect of profits derived by a Norwegian enterprise from a permanent establishment situated in Estonia, has been granted under Estonian law, then, for the purposes of subparagraph a) deduction from Norwegian tax for Estonian tax shall be allowed as if no such exemption or reduction had been granted, provided the permanent establishment is engaged in business activities (other than business activities in the financial sector) and that no more than 25 per cent of such profits consist of interest and gains from the alienation of shares and bonds or consist of profits derived from third States.
- d) Where dividends are paid by a company which is a resident of Estonia to a person (being a company) which is a resident of Norway, and which owns directly or indirectly not less than 25 per cent of the share capital of the first-mentioned company, then such dividends shall be exempt from tax in Norway, providing that the company paying the dividends is engaged in

business activities (other than business activities in the financial sector) and that no more than 25 per cent of the company's profits consist of interest and gains from the alienation of shares and bonds or consist of profits derived from third States.

- e) The provisions in sub-paragraphs c) and d) shall apply for the first ten years for which the Convention is effective. The competent authorities shall consult each other in order to determine whether this period shall be extended. 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 or in any other manner in accordance with their constitutional procedures.

2. In Estonia double taxation shall be eliminated as follows:

- a) Where a resident of Estonia derives income or owns capital which in accordance with this Convention, may be taxed in Norway, unless a more favourable treatment is provided in its domestic law, Estonia shall allow:
  - (i) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid thereon in Norway;
  - (ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid thereon in Norway.

Such deduction in either case shall not, however, exceed that part of the income or capital tax in Estonia as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in Norway.

- b) For the purpose of sub-paragraph a), where a company that is a resident of Estonia receives a dividend from a company that is a resident of Norway in which it owns at least 10 per cent of its shares having full voting rights, the tax paid in Norway shall include not only the tax paid on the dividend but also the tax paid on the underlying profits of the company out of which the dividend was paid.



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. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected.
3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
4. Except where the provisions of paragraph 1 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.
5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.
6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 26  
**Mutual agreement procedure**

1. ~~[REPLACED by paragraph 1 of Article 16 of the MLI] [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 first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

*The following first sentence of paragraph 1 of Article 16 of the MLI replaces the first sentence of paragraph 1 of Article 26 of this Convention:*

**ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE**

Where a person considers that the actions of one or both of the Contracting States result or will result for that person in taxation not in accordance with the provisions of this Convention, that person may, irrespective of the remedies provided by the domestic law of those Contracting States, present the case to the competent authority of either Contracting State.

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. In the event the competent authorities reach an agreement, refund or credit of taxes shall be allowed by the Contracting States in accordance with such agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

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

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 27  
**Exchange of information**

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or 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  
**Assistance in collection**

1. The Contracting States undertake to lend assistance to each other in the collection of the taxes owed by a taxpayer to the extent that the amount thereof has been finally determined according to the laws of the Contracting State making the request for assistance.

2. In the case of a request by a Contracting State for the collection of taxes which has been accepted for collection by the other Contracting State, such taxes shall be collected by that other State in accordance with the laws applicable to the collection of its own taxes and as if the taxes to be so collected were its own taxes.

3. Any request for collection by a Contracting State shall be accompanied by such certificate as is required by the laws of that State to establish that the taxes owed by the taxpayer have been finally determined.

4. Where the tax claim of a Contracting State has not been finally determined by reason of it being subject to appeal or other proceedings, that State may, in order to protect its revenues, request the other Contracting State to take such interim measures for conservancy on its behalf as are available to the other State under the laws of that other State. If such request is accepted by the other State, such interim measures shall be taken by that other State as if the taxes owed to the first-mentioned State were the own taxes of that other State.

5. A request under paragraphs 3 or 4 shall only be made by a Contracting State to the extent that sufficient property of the taxpayer owing the taxes is not available in that State for recovery of the taxes owed.

6. The Contracting State in which tax is recovered in accordance with the provisions of this Article shall forthwith remit to the Contracting State on behalf of which the tax was collected the amount so recovered minus, where appropriate, the amount of extraordinary costs referred to in sub-paragraph 7 b).

7. It is understood that unless otherwise agreed by the competent authorities of both Contracting States,

- a) ordinary costs incurred by a Contracting State in providing assistance shall be borne by that State,
- b) extraordinary costs incurred by a Contracting State in providing assistance shall be borne by the other State and shall be payable regardless of the amount collected on its behalf by that other State.

As soon as a Contracting State anticipates that extraordinary costs may be incurred, it shall so advise the other Contracting State and indicate the estimated amount of such costs.

8. In this Article, the term "taxes" means the taxes to which the Convention applies and includes any interest and penalties relating thereto.

*The following paragraph 1 of Article 7 of the MLI applies and supersedes the provisions of this Convention:*

ARTICLE 7 OF THE MLI –PREVENTION OF TREATY ABUSE  
(Principal purposes test provision)

Notwithstanding any provisions of this Convention, a benefit under this Convention shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention.

#### Article 29

#### **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 30

#### **Entry into force**

1. The Governments of the Contracting States shall notify each other that the constitutional requirements for the entry into force of this Convention have been complied with.
2. The Convention shall enter into force thirty days after the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect in both Contracting States:
  - a) in respect of taxes withheld at source, on income derived on or after 1 January in the calendar year next following the year in which the Convention enters into force;
  - b) in respect of other taxes on income, and taxes on capital, for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the Convention enters into force.

#### Article 31

#### **Termination**

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination in writing at least six months before the end of any calendar

year. In such event, the Convention shall cease to have effect in both Contracting States:

- a) in respect of taxes withheld at source, on income derived on or after 1 January in the calendar year next following the year in which the notice is given;
- b) in respect of other taxes on income, and taxes on capital, for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the notice is given.

In witness whereof the undersigned, duly authorised thereto, have signed this Convention.

Done in duplicate at Oslo this fourteenth day of May 1993, in the English language.

for the Government  
of the Kingdom of  
Norway:

for the Government  
of the Republic of  
Estonia:

## **Protocol**

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

### **1. With reference to the provisions of the Convention**

Where the term "statutory body" appears, it is understood that this term means any legal entity of a public character created by the laws of a Contracting State in which no person other than the State itself, a political subdivision or a local authority thereof, has an interest.

### **2. With reference to Article 7, paragraph 3**

It is understood that expenses to be allowed as deductions by a Contracting State include only expenses that are deductible under the domestic laws of that State.

### **3. With reference to Article 8**

It is understood that "profits of an enterprise of a Contracting State from the operation of ships in international traffic" shall be interpreted according to paragraphs 7 to 14 of the Commentary on Article 8 of the OECD Model Tax Convention on Income and on Capital (1992) and does not, in any event, include the profits from the operation or ownership of docks, warehouses, terminal facilities, stevedoring equipment or other similar property located on land, except where these profits are directly related to the operation, by the enterprise, of such ships.

### **4. With reference to Article 11, paragraph 3 d)**

It is understood that a person is related to another person, where one person, alone or together with one or more related persons, has, directly or indirectly, an interest of more than 50 per cent in the other person, or where one or more persons, alone or together with one or more related persons, have, directly or indirectly, an interest of more than 50 per cent in the two persons.

### **5. With reference to Article 12, paragraph 2**

It is understood that the term "royalties" shall be deemed not to include payments for the use of drilling rigs, or similar purpose equipment, used for the exploration for or the extraction of hydrocarbons.

### **6. With reference to Article 12, paragraph 3**

It is agreed that the income from leasing of industrial, commercial or scientific equipment shall be included in the term "royalties" as defined in Article 12, paragraph 3.

**7. With reference to Article 15, paragraph 2**

The provisions of Article 15, paragraph 2, shall not apply to an employee who is hired out. For the purposes of the preceding sentence, an employee who is a resident of a Contracting State shall be deemed to be hired out if he is placed at another person's disposal by a person (the hirer-out) to carry out work in the business of such other person (the principal) in the other Contracting State, provided that the principal is a resident of, or has a permanent establishment in, that other State, and that the hirer-out neither has any responsibility nor bears any risk in respect of the result of the work. In determining whether an employee shall be deemed to be hired out, a comprehensive review shall be carried out, with particular reference to whether:

- a) the overall supervision of the work rests with the principal;
- b) the work is carried out in a place of work which is at the disposal of the principal and for which he has responsibility;
- c) the remuneration to the hirer-out is computed according to the time spent or with reference to any other relationship between the remuneration and the wages received by the employee;
- d) the main part of the tools and materials are supplied by the principal; and
- e) the hirer-out does not decide unilaterally on the number of employees or their qualifications.

**8. Notwithstanding paragraph 3 of Article 15**

Where remuneration is derived in respect of an employment exercised aboard a ship registered in the Norwegian International Ships' register (N.I.S.) (or any other similar shipping register as may be agreed between the competent authorities of the Contracting States) such remuneration shall be taxable only in the Contracting State of which the recipient is a resident.

The present paragraph shall not apply if the recipient is taxed in his State of residence more favourably than a person who is in the same circumstances, in particular with respect to residence, but whose employment is exercised aboard a ship that is not so registered.



In witness whereof the undersigned, duly authorised thereto, have signed this Protocol.

Done in duplicate at Oslo this fourteenth day of May 1993, in the English language.

for the Government  
of the Kingdom of  
Norway:

for the Government  
of the Republic of  
Estonia: