

Overenskomst mellom Kongeriket Norge og Republikken Zimbabwe til unngåelse av dobbeltbeskatning og forebygging av skatteunndragelse med hensyn til skatter av inntekt, formue og formuesgevinst

Vedlegg I

Convention between The Kingdom of Norway and The Republic of Zimbabwe for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, capital and capital gains

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

CHAPTER 1

Scope of the convention

Article 1

PERSONAL SCOPE

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

Article 2

TAXES COVERED

- (1) This Convention shall apply to taxes on income, on capital and on capital gains imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
- (2) There shall be regarded as taxes on income, on capital and on capital gains all taxes imposed on total income, on total capital, on total capital gains or on elements of income, of capital or of capital gains including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
- (3) The existing taxes to which this Convention shall apply are in particular:
 - (a) in Zimbabwe:
 - (i) the income tax;
 - (ii) the branch profits tax;
 - (iii) the non-resident shareholders' tax;
 - (iv) the non-residents' tax on interest;
 - (v) the non-residents' tax on fees;
 - (vi) the non-residents' tax on royalties; and
 - (vii) the capital gains tax;
(hereinafter referred to as «Zimbabwean tax»);
 - (b) in Norway:
 - (i) the national tax on income (inntektsskatt til staten);
 - (ii) the county municipal tax on income (inntektsskatt til fylkeskommunen);

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- (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 dues on remuneration to non-resident artists (avgift til staten av honorarer som tilfaller kunstnere bosatt i utlandet);
 - (viii) the seamen's tax (sjømannsskatt);
- (hereinafter referred to as «Norwegian tax»).
- (4) This Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of this Convention in addition to, or in place of, the existing taxes. At the end of each year, the competent authorities of the Contracting States shall notify each other of substantial changes which have been made in their respective taxation laws.

CHAPTER II Definitions

Article 3

GENERAL DEFINITIONS

- (1) For the purposes of this Convention, unless the context otherwise requires:
- (a) the term «Zimbabwe» means the Republic of Zimbabwe;
 - (b) the term «Norway» means the Kingdom of Norway; the term does not comprise Svalbard, Jan Mayen and the Norwegian dependencies («biland»);
 - (c) the terms «a Contracting State» and «the other Contracting State» mean Zimbabwe or Norway as the context requires;
 - (d) the term «person» includes an individual, a company, an estate, a trust and any other body of persons;
 - (e) the term «company» means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - (f) the terms «enterprise of a Contracting State» and «enterprise of the other Contracting State» mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
 - (g) the term «international traffic» means any transport by a ship or aircraft, including transport by container, operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
 - (h) the term «competent authority» means:
 - (i) in the case of Zimbabwe the Commissioner of Taxes or his authorised representative;
 - (ii) in the case of Norway, the Minister of Finance and Customs or his authorised representative;
 - (i) the term «national» means:
 - (i) in relation to Norway, any individual possessing the na-

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- tionality of Norway and any legal person, partnership or association deriving its status as such from the laws in force in Norway;
- (ii) in relation to Zimbabwe, any citizen of Zimbabwe and, any legal person, partnership, association or other entity deriving its status as such from the laws in force in Zimbabwe.
- (2) As regards the application of this Convention by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of that State concerning the taxes to which this Convention applies.

Article 4

RESIDENT

- (1) For the purposes of this Convention, the term «resident of a Contracting State» means any person who under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.
- (2) Where by reason of the provisions of paragraph (1) of this Article an individual is a resident of both Contracting States, then his status shall be determined as follows:
- 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);
 - 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;
 - 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;
 - 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) of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

Article 5

PERMANENT ESTABLISHMENT

- (1) For the purposes of this Convention, the term «permanent establishment» means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
- (2) The term «permanent establishment» includes especially:
- a place of management;
 - a branch;
 - an office;
 - a factory;
 - a workshop;
 - a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

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- (3) The term «permanent establishment» likewise encompasses:
 - (a) a building site, a construction, assembly or installation project or supervisory activities in connexion therewith, but only where such site, project or activities continue for a period of more than six months;
 - (b) the furnishing of services, including consultancy services, by an enterprise, through employees or other personnel engaged by the enterprise for the purpose of rendering services in connection with a building site or a project mentioned in subparagraph (a), but only where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than six months within any 12-month period.
- (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 or display of goods or merchandise belonging to the enterprise;
 - (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;
 - (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
 - (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
 - (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e) of this paragraph, 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) of this Article, where a person — other than an agent of an independent status to whom paragraph (7) applies — is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:
 - (a) has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph (4) of this Article 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; or
 - (b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.
- (6) Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a per-

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son other than an agent of an independent status to whom paragraph (7) of this Article applies.

- (7) 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 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, if it is shown that the transactions between the agent and the enterprise were not arm's-length transactions. In such case, the provisions of paragraph (5) of this Article shall apply.
- (8) The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise) shall not of itself constitute either company a permanent establishment of the other.

CHAPTER III

Taxation of income

Article 6

INCOME FROM IMMOVABLE PROPERTY

- (1) Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
- (2) The term «immovable property» shall have the meaning which it has under the laws 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 and aircraft shall not be regarded as immovable property.
- (3) The provisions of paragraph (1) of this Article shall also 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) of this Article 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 situ-

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ated 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;
 - (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.
- (2) Subject to the provisions of paragraph (3) of this Article, 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 deductions expenses which are incurred for the purposes of the business 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. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.
 - (4) In so far 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) of this Article 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) For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
 - (6) Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

INTERNATIONAL TRAFFIC

- (1) Profits from operations in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
- (2) Profits from the operation of boats engaged in inland waterways transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
- (3) If the place of effective management of a shipping enterprise or of an inland waterways transport enterprise is aboard a ship or boat, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship or boat is a resident.
- (4) The provisions of paragraph (1) of this Article shall also apply to profits from the participation in a pool, a joint business or an international operating agency.
- (5) The provisions of paragraphs (1) and (4) of this Article shall apply to profits derived by the joint Norwegian, Danish and Swedish air transport consortium Scandinavian Airlines System (SAS), but only in so far as profits derived by Det Norske Luftfartsselskap A/S (DNL), the Norwegian partner of the Scandinavian Airlines System (SAS), are in proportion to its share in that organisation.

Article 9

ASSOCIATED ENTERPRISES

- (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 items so included comprise income, deductions, receipts or outgoings which would have been attributed 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 the competent authorities of the Contracting States may consult together with a view to reaching an agreement on the adjustment of profits or losses in both Contracting States.

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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) 15 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) 20 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. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

- (3) The term «dividends» as used in this Article means income from shares, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.
- (4) The provisions of paragraphs (1) and (2) of this Article 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 15, 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 in so far as such dividends are paid to a resident of that other State or in so far 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.

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

- (3) Notwithstanding the provisions of paragraph (2) of this Article, interest shall be exempt from tax in the Contracting State in which it arises if:
 - (a) the interest is beneficially owned by a Contracting State, a political subdivision or local authority thereof or an instrumentality, subdivision or authority of a Contracting State which is not subject to tax by that State;
 - (b) the interest is beneficially owned by a resident of a Contracting State with respect to debt obligations guaranteed or insured by that State, a political subdivision or local authority thereof or an instrumentality, subdivision or authority of such State which is not subject to tax by that State, provided that the loan is given for development purposes acceptable to the Minister of Finance.
- (4) The term «interest» as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, 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), (2) and (3) of this Article 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 (a) such permanent establishment or fixed base, or with (b) business activities referred to under (c) of paragraph (1) of Article 7. In such cases the provisions of Article 7 or Article 15, as the case may be, shall apply.
- (6) Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
- (7) Where by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship the provisions of this Article shall apply only to the 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.

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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 according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 10 per cent of the gross amount of the royalties. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this limitation.
- (3) 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, or films or tapes used 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.
- (4) The provisions of paragraphs (1) and (2) of this Article 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 (a) such permanent establishment or fixed base, or with (b) business activities referred to under (c) of paragraph (1) of Article 7. In such cases, the provisions of Article 7 or Article 15, as the case may be, shall apply.
- (5) Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment 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.
- (6) Where by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

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Article 13

TECHNICAL FEES

- (1) Technical fees arising in a Contracting State which are derived by a resident of the other Contracting State may be taxed in that other State.
- (2) However, such technical fees may also be taxed in the Contracting State in which they arise, and according to the laws of that State, but where such technical fees are derived by a resident of the other Contracting State who is subject to tax there in respect thereof the tax charged in the Contracting State in which the technical fees arise shall not exceed 10 per cent of the gross amount of the technical fees. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this limitation.
- (3) The term «technical fees» as used in this Article means payments of any kind to any person, other than to an employee of the person making the payments, in consideration for any services of an administrative, technical, managerial or consultancy nature.
- (4) The provisions of paragraphs (1) and (2) of this Article shall not apply if the recipient of the technical fees, being a resident of a Contracting State, carries on business in the other Contracting State in which the technical fees arise, through a permanent establishment situated therein and or performs in that other State independent personal services from a fixed base situated therein, and the technical fees are effectively connected with (a) such permanent establishment or fixed base, or with (b) business activities referred to under (c) of paragraph (1) of Article 7. In such cases the provisions of Article 7 or Article 15, as the case may be, shall apply.
- (5) Technical fees shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the technical fees, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay the technical fees was incurred, and such technical fees are borne by that permanent establishment or fixed base, then such technical fees shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
- (6) Where, by reason of a special relationship between the payer and the recipient or between both of them and some other person, the amount of the technical fees paid exceeds, for whatever reason, 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 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 14

CAPITAL GAINS

- (1) Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

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- (2) Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.
- (3) Gains from the alienation of ships, aircraft or containers operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft, containers or boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
- (4) Gains from the alienation of shares in a company which is a resident of a Contracting State may be taxed in that State.
- (5) Gains from the alienation of any property other than that referred to in paragraphs (1), (2), (3) and (4) of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

Article 15

INDEPENDENT PERSONAL SERVICES

- (1) Subject to the provisions of Article 13, income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, when such income may also be taxed in the other Contracting State:
 - (a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or
 - (b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any period of twelve months; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.
- (2) The term «professional services» includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 16

DEPENDENT PERSONAL SERVICES

- (1) Subject to the provisions of Articles 17, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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- (2) Notwithstanding the provisions of paragraph (1) of this Article remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
 - (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any period of twelve months; and
 - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State and whose activity does not consist of the hiring out of labour; and
 - (c) the remuneration is not borne by a permanent establishment or 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, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.
- (4) Where a resident of Norway derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the Scandinavian Airlines System (SAS) consortium, such remuneration shall be taxable only in Norway.

Article 17

DIRECTORS' FEES AND REMUNERATION OF TOP-LEVEL MANAGERIAL OFFICIALS

- (1) Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the Board of Directors of a company which is a resident of the other Contracting State may be taxed in that other State.
- (2) Salaries, wages and other similar remuneration derived by a resident of a Contracting State in his capacity as an official in a top-level managerial position of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 18

INCOME EARNED BY ENTERTAINERS AND ATHLETES

- (1) Notwithstanding the provisions of Articles 15 and 16 income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
- (2) Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

Article 19

PENSIONS AND SOCIAL SECURITY PAYMENTS

- (1) Subject to the provisions of paragraph (2) of Article 20, pensions and other similar remuneration paid to a resident of a Contracting

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State in consideration of past employment shall be taxable only in that State.

- (2) Notwithstanding the provisions of paragraph (1) of this Article pensions paid and other payments made under public scheme which is part of the social security system of a Contracting State or a political subdivision or a local authority thereof shall be taxable only in that State.

Article 20

REMUNERATION AND PENSIONS IN RESPECT OF GOVERNMENT SERVICE

- (1) (a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
- (b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the individual is a resident of that State who:
- (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
- (2) (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
- (b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that other State.
- (c) For the purposes of this paragraph any pension paid out of the Central African Pension Fund and subject to tax under the law of Zimbabwe shall be treated as if it were a pension paid by, or out of funds created by, Zimbabwe.
- (3) The provisions of Articles 16, 17 and 19 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 21

PAYMENTS RECEIVED BY STUDENTS AND APPRENTICES

- (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 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.
- (2) In respect of grants, scholarships and remuneration from employment not covered by paragraph (1) of this Article a student or business apprentice described in paragraph (1) of this Article shall,

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in addition, be entitled during such education or training to the same exemptions, reliefs or reductions in respect of taxes available to residents of the State which he is visiting.

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) of this Article 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 15, as the case may be, shall apply.
- (3) Notwithstanding the provisions of paragraphs (1) and (2) of this Article, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention and arising in the other Contracting State may also be taxed in that other State.

CHAPTER IV

Taxation of capital

Article 23

CAPITAL

- (1) Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.
- (2) Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by 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, aircraft or containers operated in international traffic and by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft, containers or boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
- (4) All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

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CHAPTER V

Methods for the elimination of double taxation

Article 24

ELIMINATION OF DOUBLE TAXATION

- (1) In the case of Zimbabwe and subject to the provisions of the law of Zimbabwe regarding the allowance as a credit against Zimbabwean tax of the tax payable in a territory outside Zimbabwe which shall not affect the general principle hereof; Norwegian tax payable, whether directly or by deduction, in respect of taxable income or chargeable gains from sources within Norway shall be allowed as a credit against any Zimbabwean tax computed by reference to the same taxable income or chargeable gains by reference to which the Norwegian tax is computed.
- (2) In Norway double taxation shall be avoided as follows:
 - (a) Where a resident of Norway derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Zimbabwe, Norway shall, subject to the provisions of sub-paragraphs (b) and (c), exempt such income or capital from tax but may, in calculating tax on the remaining income or capital of that person, apply the rate of tax which would have been applicable if the exempted income or capital had not been so exempted.
 - (b) Where a resident of Norway derives items of income which, in accordance with the provisions of Articles 10, 11, 12, 13, paragraph (4) of Article 14, Article 17 and paragraph (3) of Article 22 may be taxed in Zimbabwe, Norway shall allow as a deduction from the tax on the income of that person an amount equal to the tax paid in Zimbabwe. 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 Zimbabwe.
 - (c) Where, however, a resident of Norway derives royalties or technical fees which, in accordance with the provisions of Articles 12 and 13 may be taxed in Zimbabwe, Norway shall allow as a deduction from the tax on the income of that person an amount equal to 15 per cent of the gross amount of such royalties or technical fees. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to such royalties or technical fees, respectively. The provisions of this sub-paragraph shall apply for the first ten years during which this Convention is effective, but the competent authorities of the Contracting State may consult each other to determine whether this period should be extended.

CHAPTER VI

Special provisions

Article 25

NON-DISCRIMINATION

- (1) Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connec-

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ted therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

- (2) Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances are or may be subjected.
- (3) The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. Provided that this paragraph shall not prevent a Contracting State from imposing on the profits attributable to a permanent establishment in that Contracting State of a company which is a resident of the other Contracting State a tax not exceeding 5 per cent of those profits in addition to the tax which would be chargeable on those profits if they were profits of a company which was a resident of the first-mentioned State. However, if a lower rate of tax is agreed upon between Zimbabwe and any member country of the Organisation for Economic Cooperation and Development (OECD) after the signing of this Convention, such lower rate shall be applicable also to a person who is a resident of Norway.
- (4) Except where the provisions of paragraph (1) of Article 9, paragraph (7) of Article 11, paragraph (6) of Article 12 or paragraph (6) of Article 13 apply, interest, royalties, technical fees 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) Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident.
- (7) The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

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Article 26

MUTUAL AGREEMENT PROCEDURE

- (1) Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph (1) of Article 25, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Convention.
- (2) The competent authority may 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 this Convention. Any agreement reached shall be implemented notwithstanding any timelimits 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 this 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. The competent authorities, through consultations, may develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this Article. In addition, a competent authority may devise appropriate unilateral procedures, conditions, methods and techniques to facilitate the above-mentioned bilateral actions and the implementation of the mutual agreement procedure.

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 this Convention, insofar as the taxation thereunder is not contrary to the Convention, in particular for the prevention of fraud or evasion of such taxes. 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. However, if the information is originally regarded as secret in the transmitting State it 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 rela-

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tion to, the taxes which are the subject of this Convention. Such persons or authorities shall use the information only for such purposes but may disclose the information in public court proceedings or in judicial decisions. The competent authorities may, through consultation, develop appropriate conditions, methods and techniques concerning the matters in respect of which such exchanges of information shall be made, including, where appropriate, exchanges of information regarding tax avoidance.

- (2) In no case shall the provisions of paragraph (1) of this Article 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

DIPLOMATIC AGENTS AND CONSULAR OFFICERS

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

CHAPTER VII

Final provisions

Article 29

ENTRY INTO FORCE

Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Convention. The Convention shall enter into force on the date of the later of these notifications and shall thereupon have effect:

- (a) in Zimbabwe:
 - (i) in respect of income tax, branch profits tax and capital gains tax, for any year of assessment beginning on or after 1st April in the calendar year following that in which this Convention enters into force;
 - (ii) in respect of non-resident shareholders' tax, non-residents' tax on interest, non-residents' tax on fees and non-residents' tax on royalties, on or after 1st April in the calendar year following that in which this Convention enters into force;

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- (b) in Norway:
in respect of taxes on income or on capital relating to any calendar year (including accounting periods beginning in any such year) following that in which this Convention enters into force.

Article 30

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 at least six months before the end of any calendar year after the expiration of five years from the date of entry into force of this Convention. In such event, the Convention shall cease to have effect:

- (a) in Zimbabwe:
- (i) in respect of income tax, branch profits tax and capital gains tax, for any year of assessment beginning on or after 1st April in the calendar year next following that in which the notice is given;
 - (ii) in respect of non-resident shareholders' tax, non-residents' tax on interest, non-residents' tax on fees and non-residents' tax on royalties from the 1st April in the calendar year next following that in which the notice is given;
- (b) In Norway:
in respect of taxes on income or on capital relating to the calendar year (including accounting periods beginning in such year) next following that in which the notice is given.

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

DONE at Harare this ninth day of March, 1989 in two originals in the English language, both text being equally authentic.

For the Government
of Kingdom of Norway

H. Pedersen
(sign.)

For the Government
of the Republic
Zimbabwe

B. Chiderzo
(sign.)
