

Overenskomst mellom Kongeriket Norge og Det Sveitsiske Edsforbund til unngåelse av dobbeltbeskatning med hensyn til skatter av inntekt og formue

Vedlegg

**Convention
between the Kingdom of Norway and The Swiss
Confederation for the avoidance of double
taxation with respect to taxes on income and on
capital**

The Government of the Kingdom of Norway and the Swiss Federal Council desiring to conclude a Convention for the Avoidance of Double Taxation with respect to taxes on income and on capital, have agreed as follows:

Article 1

PERSONAL SCOPE

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

Article 2

TAXES COVERED

1. This Convention shall apply to taxes on income and on capital imposed on behalf of a contracting state or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Convention shall apply are in particular:
 - a) In Norway:
 - (i) the national tax on income (inntektsskatt til staten);
 - (ii) the county municipal tax on income (inntektsskatt til fylkeskommunen);
 - (iii) the municipal tax on income (inntektsskatt til kommunen);
 - (iv) the national contributions to the Tax Equalisation Fund (felleskatt 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 artistes (avgift til staten av honorarer som tilfaller kunstnere bosatt i utlandet);
 - (viii) the seamen's tax (sjømannsskatt);
 (hereinafter referred to as «Norwegian tax»).
 - b) In Switzerland:
 the federal, cantonal and communal taxes
 - (i) on income (total income, earned income, income from capital, industrial and commercial profits, capital gains and other items of income); and

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- (ii) on capital (total property, movable and immovable property, business assets, paid up capital and reserves and other items of capital)
(hereinafter referred to as «Swiss tax»).
- 4. The Convention shall also apply to any identical or substantially similar taxes which are imposed in either Contracting State after the date of signature of the Convention in addition to, or in place of, the existing taxes.
- 5. The Convention shall not apply to the Federal anticipatory tax withheld in Switzerland at source on prizes in a lottery.

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:
 - a) the term «Switzerland» means the Swiss Confederation;
 - b) the term «Norway» means the Kingdom of Norway, but does not comprise Svalbard, Jan Mayen and the Norwegian dependencies («biland»);
 - c) the term «nationals» means:
 - (i) all individuals possessing the nationality of a Contracting State;
 - (ii) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State;
 - d) the term «person» includes an individual, a company and any other body of persons;
 - e) the term «company» means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - f) the terms «a Contracting State» and «the other Contracting State» mean Norway or Switzerland as the context requires;
 - g) the terms «enterprise of a Contracting State» and «enterprise of the other Contracting State» mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
 - h) the term «international traffic» means any transport by a ship or aircraft operated by an enterprise 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;
 - i) the term «competent authority» means:
 - (i) In Switzerland: the Director of the Federal Tax Administration or his authorized representative;
 - (ii) in Norway, the Minister of Finance and Customs 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

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,

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place of management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State 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. If, for the purposes of this Article, an individual is a resident of a Contracting State for a part of the year only, and for the remaining part of the year he is a resident of the other Contracting State (change of domicile), then the taxes may be imposed in each State on the basis of unlimited tax liability only for that period during which this person is deemed to be a resident of that State.
4. Where by reason of the provisions of paragraphs 1 and 2 an individual would be a resident of a Contracting State but is not subject in that State, with respect to all income generally taxable from sources from the other Contracting State, to the generally imposed income taxes, then such individual is not a resident of the firstmentioned State for the purposes of this Convention.
5. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term «permanent establishment» means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term «permanent establishment» includes especially:
 - a) a place of management;
 - b) a branch;
 - c) an office;
 - d) a factory;
 - e) a workshop, and
 - f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. A building site or construction or installation project or supervisory activities in connection therewith constitute a permanent establishment only if such site, project or activities last more than twelve 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.
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, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
4. 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 from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. If the place of effective management of a shipping enterprise is aboard a ship then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.
3. The provision of paragraph 1 shall also apply to profits derived from the participation in a pool, a joint business or in an international operating agency.

Article 9

ASSOCIATED ENTERPRISES

Where

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

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

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:
 - a) 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.
3. Notwithstanding the provisions of paragraph 2 as long as according to the laws of Norway dividends paid by a company which is a resident of Norway may be deducted from the taxable profits of such company for purposes of the national income tax,
 - a) dividends paid by such company to a resident of Switzerland may also be taxed in Norway and according to the laws of

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Norway, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 15 per cent of the gross amount of the dividends;

- b) dividends paid by a company which is a resident of Switzerland to a resident of Norway may also be taxed in Switzerland and according to the laws of Switzerland, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:
 - (i) 10 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;
 - (ii) 15 per cent of the gross amount of the dividends in all other cases.
4. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of the limitations set forth in paragraphs 2 and 3.
These paragraphs shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.
5. The term «dividends» as used in this Article means income from shares, jouissance shares or jouissance rights, mining shares, founders' shares or other rights, not being debt-claims, participation 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.
6. The provisions of paragraphs 1, 2, and 3 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.
7. 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 shall be taxable only in that other State, if such resident is the beneficial owner of the interest.
2. 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.

3. The provisions of paragraph 1 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.
4. 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

ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if such resident is the beneficial owner of the royalties.
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 the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.
3. The provisions of paragraph 1 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. 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.

Article 13

CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. Gains from the alienation of all or the majority of the shares of a company, the property of which consists wholly or principally of immovable property situated in a Contracting State, may be taxed in that State.
5. Gains from the entire or partial alienation of a substantial participation in a company may be taxed in the Contracting State of which the company is a resident if the alienator resident in the other Contracting State is an individual who
 - a) was a resident of the first-mentioned State according to Article 4 at any time during a period of five years immediately preceding such alienation, and
 - b) is not subject to tax in that other State on such gains.
 A substantial participation exists when the alienator holds more than 25 per cent of the capital of the company.
6. Gains from the alienation of any property other than that referred to in paragraphs 1 through 5, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.
2. The term «professional services» includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18 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 that other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned, and
 - b) the remuneration is paid by, or on behalf of, an employer who is a resident of the first-mentioned 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, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16

DIRECTORS' FEES

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

Article 17

ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

Article 18

PENSIONS AND ANNUITIES

1. Pensions (including government pensions) in consideration of past employment and annuities paid to a resident of a Contracting State shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1, pensions paid by, or out of funds created by Switzerland or a political subdivision or a local authority thereof to any individual in respect of services rendered to Switzerland or a subdivision or local authority thereof in the discharge of functions of a governmental nature shall be taxable only in Switzerland.
3. The term «annuities» means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Article 19

GOVERNMENT SERVICE

1. a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
 - b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2. The provisions of Articles 15 and 16 shall apply to remuneration other than pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20

STUDENTS

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

Article 21

OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or per-

forms in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 22

CAPITAL

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.
2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.
3. Capital represented by ships and aircraft operated in international traffic and by movable property pertaining to the operation of such ships and aircraft, 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.

Article 23

ELIMINATION OF DOUBLE TAXATION

1. Where a resident of Norway derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Switzerland, Norway shall, subject to the provisions of paragraphs 2 and 6 exempt such income or capital from tax.
2. Where a resident of Norway derives items of income which, in accordance with the provisions of Article 10 and 16 may be taxed in Switzerland, Norway shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Switzerland. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from Switzerland.
3. Where a resident of Switzerland derives income or owns capital which, in accordance with the provisions of the Convention, may be taxed in Norway, Switzerland shall, subject to the provisions of paragraphs 4,5 and 6, exempt such income or capital from tax, provided, however, that such exemption shall apply to gains referred to in paragraph 4 and Article 13 only if taxation of such gains in Norway is demonstrated.
4. Where a resident of Switzerland derives dividends which, in accordance with the provisions of Article 10, may be taxed in Norway, Switzerland shall allow, upon request, a relief to such resident. The relief may consist of:
 - a) a deduction from the Swiss tax on the income of that resident of an amount equal to the tax levied in Norway in accordance

with the provisions of Article 10; such deduction shall not, however, exceed that part of the Swiss tax, as computed before the deduction is given, which is appropriate to the dividends, or

- b) a lump sum reduction of the Swiss tax determined by standardised formulae which have regard to the general principles of the relief referred to in sub-paragraph a), or
- c) a partial exemption of such dividends from Swiss tax, in any case consisting at least of the deduction of the tax levied in Norway from the gross amount of the dividends.

Switzerland shall determine the applicable relief and regulate the procedure in accordance with the Swiss provisions relating to the carrying out of international conventions of the Swiss Confederation for the avoidance of double taxation.

- 5. A company which is a resident of Switzerland and which derives dividends from a company which is a resident of Norway shall be entitled for the purposes of Swiss tax with respect to such dividends to the same relief which would be granted to the company if the company paying the dividends were a resident of Switzerland.
- 6. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

Article 24

NON-DISCRIMINATION

- 1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
- 2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
- 3. Except where the provisions of Article 9, paragraph 4 of Article 11 or paragraph 4 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.
- 4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or

more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

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

Article 25

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 24, to that of the Contracting State of which he is a national. The case must be presented within two years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention.
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 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of this Convention in relation to the taxes which are subject of the Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the Convention. No information as aforesaid

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shall be exchanged which would disclose any trade, business, banking, industrial or professional secret or trade process.

2. In no case shall the provisions of this Article be construed as imposing upon either Contracting State the obligation to carry out administrative measures at variance with the regulations and practice of either Contracting State or which would be contrary to its sovereignty, security or public policy (ordre public) or to supply particulars which are not procurable under its own laws or those of the State making the application.

Article 27

DIPLOMATIC AGENTS AND CONSULAR OFFICERS

1. 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.
2. The Convention shall not apply to international organisations, to organs or officials thereof and to persons who are members of a diplomatic mission, consular post or permanent mission of a third State, being present in a Contracting State and not treated in either Contracting State as residents in respect of taxes on income or on capital.

Article 28

ENTRY INTO FORCE

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Oslo as soon as possible.
2. The Convention shall enter into force upon the exchange of the instruments of ratification and its provisions shall have effect:
 - a) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of the calendar year next following that in which the Convention enters into force; and
 - b) in respect of other taxes on income on or capital relating to the calendar year (including accounting periods closed in any such year) next following that in which the Convention enters into force.
3. The Convention between the Kingdom of Norway and the Swiss Confederation for the Avoidance of double Taxation with respect to Taxes on Income and Capital signed on 7 December 1956, shall terminate and cease to have effect upon the entry into force of this Convention in accordance with the provisions of paragraph 2.

Article 29

TERMINATION

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Conven-

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tion, through diplomatic channels, by given notice of termination at least six months before the end of any calendar year. In such event, the Convention shall cease to have effect:

- a) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of the calendar year next following that in which the notice is given; and
- b) in respect of other taxes on income or on capital relating to the calendar year (including accounting periods closed in any such year) next following that in which the notice is given.

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

Done in Duplicate at Bern this seventh day of September 1987, in the Norwegian, German and English languages. In case of any divergence of interpretation the English text shall prevail.

For the Government of
the Kingdom of Norway
Ketil Børde

For the Swiss Federal
Council
Pierre Aubert

PROTOCOL

The Government of the Kingdom of Norway and the Swiss Federal Council

Have agreed at the signing of the Convention between the two States for the avoidance of double taxation with respect to taxes on income and on capital upon the following provisions which shall form an integral part of the said Convention:

1. In respect of sub-paragraph b) of paragraph 1 of Article 3, it is understood that the term «Norway» shall not include any area outside the territorial sea of Norway which in accordance with the international law has been or may hereafter be designated under the laws of Norway as an area within which the rights of Norway with respect to the seabed and subsoil and their natural resources may be exercised.
2. For the purposes of Articles 8, 13 and 22, the joint Norwegian, Danish and Swedish air transport consortium Scandinavian Airlines System (SAS) shall be deemed to have its place of effective management in Norway, but only to the extent of the participation of Det Norske Luftfartsselskap A/S (DNL), the Norwegian partner of the Scandinavian Airlines System, in that organization.
For the purpose of paragraph 3 of Article 15, remuneration paid by the Scandinavian Airlines System (SAS) may be taxed in the Contracting State of which the recipient is a resident.
3. In respect of Articles 10, 11 and 12, it is understood that Switzerland has taken by Decree of the Swiss Federal Council of 14th December 1962 measures against the improper use of double taxation conventions which will also apply to this Convention. As re-

gards relief from taxes withheld at source on income by other Contracting States, the Decree excludes agents, nominees and other persons not being the beneficial owners of the income from such relief and sets forth requirements on the use of tax relieved income and on the distribution of profits.

4. Notwithstanding the provisions of paragraph 1 of Article 14, income derived by a resident of Switzerland in respect of professional services or other activities of an independent character rendered within Norway in connection with the exploration or exploitation of any of the natural resources of the seabed and subsoil of the continental shelf of Norway shall be taxable only in Switzerland unless
 - a) he has a fixed base available to him in Norway for the purpose of performing his activities; if he has such a fixed base, the income may be taxed in Norway but only so much of it as is attributable to that fixed base, or
 - b) he is present in Norway for the purpose of performing his activities for a period or periods aggregating more than 183 days in any twelve months period; in such a case, the income may be taxed in Norway.

However, to the extent the above-mentioned remuneration is not taxed in Norway, it may be taxed in Switzerland.

5. Notwithstanding the provisions of paragraph 2 of Article 15, remuneration derived by a resident of Switzerland in respect of an employment exercised within Norway in connection with the exploration or exploitation of any of the natural resources of the seabed and subsoil of the continental shelf of Norway may be taxed in Norway if the recipient of the remuneration is present in Norway for a period or periods aggregating more than 183 days in any twelve months period.

However, to the extent the above-mentioned remuneration is not taxed in Norway, it may be taxed in Switzerland.

6. The provisions of Article 24 shall not be construed as obliging Norway to grant to nationals of Switzerland not being nationals of Norway the exceptional tax relief accorded to repatriating nationals of Norway and persons born of parents having Norwegian nationality pursuant to Section 22 of the Norwegian tax law.

Done in duplicate at Bern this seventh day of September 1987, in the Norwegian, German and English languages. In case of any divergence of interpretation the English text shall prevail.

For the Government of
the Kingdom of Norway
Ketil Børde

For the Swiss Federal
Council
Pierre Aubert

