

UNITED STATES-NORWAY
INCOME AND PROPERTY TAX CONVENTION

*Convention Signed at Oslo December 3, 1971;
Ratification Advised by the Senate of the United States of America August 11, 1972;
Ratified by the President of the United States of America August 28, 1972;
Ratified by Norway May 5, 1972;
Ratifications Exchanged at Washington September 29, 1972;
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MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE
KINGDOM OF NORWAY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE
PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND
PROPERTY, SIGNED AT OSLO ON DECEMBER 3, 1971

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, January 13, 1972.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you, with a view to its transmission to the

Senate for advice and consent to ratification, a convention between the United States of America and the Kingdom of Norway for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and property, signed at Oslo on December 3, 1971.

This convention, upon entry into force, would terminate and replace the convention of June 13, 1949, for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, as modified and supplemented by a supplementary convention of July 10, 1958 (2 UST 2323; 10 UST 1924; Treaties and Other International Acts Series 2357 and 4360).

On the occasion of the signing of the new convention, the American Ambassador to Norway and the Norwegian Minister for Foreign Affairs also signed an exchange of notes relating to understandings in regard to certain provisions of the convention, as explained more fully hereinafter. The texts of the notes are also submitted herewith with a view to their transmission, for the information of the Senate, along with the convention.

The new convention takes into account important changes in the tax laws of the two countries and developments reflected in recent tax treaties concluded by them with other countries. It also reflects, as far as policy and technical considerations permit, the guidelines established in the model draft convention published in 1963 by the Organization for Economic Cooperation and Development.

The substance of the new convention is similar to that of income-tax conventions recently concluded by the United States with France, Belgium, and Japan. The convention retains the reciprocal exemptions from taxation of royalty and interest remittances and the maximum withholding rate of 15 percent on portfolio dividends as provided in the 1949 convention as modified. However, the maximum rate applicable to direct investment dividends is raised from 5 to 10 percent in view of the adoption by Norway of a split rate corporate tax which provides for a 24.1 percent tax on distributed profits compared with 50.6 percent on retained profits. United States tax treaties concluded with certain other countries which also have lower rates on distributed profits provide a withholding tax of 15 percent. Norway, however, agreed to a 10 percent withholding rate with respect to such profits. Under Norwegian law, Norwegian branches of foreign corporations are taxed at the higher rate of tax applicable to retained profits. In the new convention, Norway has agreed to limit that tax as it applies to branches of United States corporations to the tax which would be imposed if the branch were a separate corporation distributing the same proportion of its profits as the home office.

The new convention, interpreted and applied in accordance with the understandings in the exchange of notes, also stabilizes the tax treatment of international transportation involving the use of containers, the leasing of vehicles, and the use of partnerships and other forms of business organizations other than corporations. The exchange of notes makes it clear that the exemption for international shipping and aircraft income covers income from containers used in international traffic and income from the leasing of a ship or aircraft by a person engaged in international traffic. The exchange of notes states that, in the case of income derived by a partner who is a resident of one of the countries from an interest in a partnership which derives its income from the operation of ships or aircraft in international traffic and which is carried on with one or more partners resident in the other country, such income shall be taxable only in the

country in which he is a resident. Capital invested in such a partnership by partners resident in the United States would be exempt from any Norwegian taxes on capital. The application of Article 6 in regard to the treatment of income earned by Scandinavian Airlines System, Inc. (a New York corporation) from the operation of aircraft in international traffic is clarified in relation to Scandinavian Airlines System, a consortium. Such income is to be treated as the income of the consortium.

The convention contains a preamble and 32 articles.

Chapter I (Article 1) indicates the scope of the convention, specifying the taxes that are covered.

Chapter II (Articles 2-4) contains definitions of various terms found in the convention.

Chapter III (Articles 5-20) deals with the tax treatment of specific items of income, including business profits, shipping and air transport profits, income of related persons, dividends, interest, royalties, income from real property, capital gains, independent and dependent personal service income, income from teaching or research, remittances of various kinds to students and trainees, remuneration for performance of governmental functions, private pensions and annuities, social security payments and income of investment or holding companies.

Chapter IV (Article 21) relates to capital taxes.

Chapter V (Articles 22-24) contains general rules concerning taxation, relief from double taxation, and source of income.

Chapter VI (Articles 25-30) contains special provisions regarding nondiscrimination, diplomatic and consular officers, mutual agreement procedure, exchange of information, assistance in collection, and extension to territories.

Chapter VII (Articles 31 and 32) contains the final provisions regarding entry into force and procedure for termination.

The convention would remain in effect for a minimum period of five years and indefinitely thereafter subject to the right of either party to terminate it by giving a six-month notice for that purpose.

The Department of the Treasury, with the cooperation of the Department of State, was primarily responsible for the negotiation of the convention submitted herewith. It has the approval of both Departments.

Respectfully submitted,

WILLIAM P. ROGERS.

(Enclosures: 1. Tax convention of December 3, 1971. 2. Exchange of notes.)

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *February 3, 1972.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the convention between the United States of America and the Kingdom of Norway for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and property, signed at Oslo on December 3, 1971.

For the information of the Senate, I transmit also the report of the Secretary of State with respect to the convention and copies of two notes signed and exchanged on the same date as the convention and relating to understandings concerning certain provisions of the convention, as explained in the Secretary's report.

The existing income-tax convention with Norway of June 13, 1949, as modified and supplemented by a supplementary convention of July 10, 1958, would be terminated and replaced by the new convention when the latter comes into force.

The new convention follows the general pattern of bilateral income-tax conventions now in force between the United States and a number of other countries. It takes into account changes in United States and Norwegian tax laws and developments reflected in recent tax treaties concluded by the two countries with other countries. So far as policy and technical considerations permit, the convention follows the model draft convention of the Organization for Economic Cooperation and Development published in 1963.

The substance of the new convention is similar to that of income-tax conventions recently concluded with France, Belgium, and Japan. The provisions of the convention are outlined in the Secretary's report.

I recommend that the Senate give early and favorable consideration to the convention.

RICHARD NIXON.

Enclosures: 1. Report of the Secretary of State; 2. Tax convention of December 3, 1971 with Norway; 3. Exchange of notes.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

CONSIDERING THAT:

The Convention between the United States of America and the Kingdom of Norway for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Property was signed at Oslo on December 3, 1971, the text of which in English and Norwegian is hereto annexed;

The Senate of the United States of America by its resolution of August 11, 1972, two-thirds of the Senators present concurring therein, gave its advice and consent to the ratification of the Convention;

The Convention was duly ratified by the President of the United States of America on August 28, 1972 in pursuance of the advice and consent of the Senate, and was duly ratified on the part of the Kingdom of Norway;

It is provided in Article 31 of the Convention that the Convention shall enter into force two months after the date of exchange of instruments of ratification;

The instruments of ratification of the Convention were duly exchanged at Washington on September 29, 1972, and accordingly the Convention enters into force on November 29, 1972;

NOW, THEREFORE, be it known that I, Richard Nixon, President of the United States of America, proclaim and make public the Convention of December 3, 1971 to the end that it shall be observed and fulfilled with good faith by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this thirty-first day of October in the year of our Lord one thousand nine hundred seventy-two and of the Independence of the United States of America the one hundred ninety-seventh.

RICHARD NIXON

By the President:

WILLIAM P. ROGERS
Secretary of State

The United States of America and the Kingdom of Norway, desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital have agreed upon the following articles:

CHAPTER 1 SCOPE OF CONVENTION

ARTICLE 1 Taxes Covered

- (1) The taxes which are the subject of this Convention are:
- (a) In the case of the United States, the Federal income taxes imposed by the Internal Revenue Code, hereinafter referred to as the "United States tax", and
 - (b) In the case of Norway:
 - (i) The national and municipal taxes on income (including contributions to the tax equalization fund) and capital;
 - (ii) The national dues on the salaries of nonresident artists;
 - (iii) The special tax in aid of developing countries;
 - (iv) The municipal tax on real property; and
 - (v) The seamen's tax; hereinafter referred to as "Norwegian tax".

(2) This Convention shall also apply to taxes substantially similar to those covered by paragraph (1) which are imposed in addition to, or in place of, existing taxes after the date of signature of this Convention.

(3) For the purpose of Article 25 (Nondiscrimination); this Convention shall also apply to taxes of every kind imposed at the National, State, or local level. For the purpose of Article 28 (Exchange of Information) this Convention shall also apply to taxes of every kind imposed at the National level.

CHAPTER II DEFINITIONS

ARTICLE 2 General Definitions

- (1) In this Convention, unless the context otherwise requires:
- (a)
 - (i) The term "United States" means the United States of America; and
 - (ii) When used in a geographical sense, the term "United States" means the States thereof and the District of Columbia; Such term also includes
 - (A) the territorial sea thereof and
 - (B) the seabed and subsoil of the submarine areas adjacent to the territorial sea, over which the United States exercises sovereign rights, in accordance with international law, for the purpose of exploration and exploitation of the natural resources of such areas, but only to the extent that the person, property, or activity to which this Convention is being applied is connected with such exploration or exploitation.
 - (b)
 - (i) The term "Norway" means the Kingdom of Norway; and
 - (ii) When used in a geographical sense, the term "Norway" includes
 - (A) the territorial sea thereof and
 - (B) the seabed and subsoil of the submarine areas adjacent to the territorial sea, over which Norway exercises sovereign rights in accordance with international law, for the purpose of exploration and exploitation of the natural resources of such areas, but only to the extent

that the person, property, or activity to which this Convention is being applied is connected with such exploration or exploitation.

However, the term "Norway" does not include Spitzbergen (including Bear Island), Jan Mayen, and the Norwegian dependencies outside Europe.

(c) The term "one of the Contracting States" or "the other Contracting State" means the United States or Norway, as the context requires.

(d) The term "person" includes an individual, a partnership, a corporation, an estate, a trust, or any body of persons.

(e) (i) The term "United States corporation" or "corporation of the United States" means a corporation which is created or organized under the laws of the United States or any States thereof or the District of Columbia or any unincorporated entity treated as a United States corporation for United States tax purposes; and

(ii) The term "Norwegian corporation" or "corporation of Norway" means any corporation or any entity which is treated as a body corporate for tax purposes under Norwegian tax law and is created or organized under the laws of Norway.

(f) The term "competent authority" means:

(i) In the case of the United States, the Secretary of the Treasury or his delegate, and

(ii) In the case of Norway, the Ministry of Finance and Customs or its authorized representative.

(g) The term "State" means the United States, Norway, or any other National State.

(h) The term "international traffic" means any voyage of a ship or aircraft operated by a resident of one of the Contracting States except where such voyage is confined solely to places within a Contracting State.

(2) Any other term used in this Convention and not defined in this Convention shall, unless the context otherwise requires, have the meaning which it has under the laws of the Contracting State whose tax is being determined. Notwithstanding the preceding sentence, if the meaning of such a term under the laws of one of the Contracting States is different from the meaning of the term under the laws of the other Contracting State, or if the meaning of such a term is not readily determinable under the laws of one of the Contracting States, the competent authorities of the Contracting States may, in order to prevent double taxation or to further any other purpose of this Convention, establish a common meaning of the term for the purposes of this Convention.

ARTICLE 3 Fiscal Residence

(1) In this Convention:

(a) The term "resident of Norway" means:

(i) A Norwegian corporation, and

(ii) Any person (except a corporation or any entity treated under Norwegian law as a corporation) resident in Norway for purposes of its tax, but in the case of a partnership, estate, or trust only to the extent that the income derived by such person is subject to Norwegian tax as the income of a resident.

(b) The term "resident of the United States" means:

- (i) A United States corporation, and
- (ii) Any person (except a corporation or any unincorporated entity treated as a corporation for United States tax purposes) resident in the United States for purposes of its tax, but in the case of a partnership, estate or trust only to the extent that the income derived by such person is subject to United States tax as the income of a resident.

(2) Where by reason of the provisions of paragraph (1) an individual is a resident of both Contracting States:

(a) He shall be deemed to be a resident of that Contracting State in which he maintains his permanent home. If he has a permanent home in both Contracting States or in neither of the Contracting States, he shall be deemed to be a resident of that Contracting State with which his personal and economic relations are closest (center of vital interests);

(b) If the Contracting State in which he has his center of vital interests cannot be determined, he shall be deemed to be a resident of that Contracting State in which he has a habitual abode;

(c) If he has a habitual abode in both Contracting States or in neither of the Contracting States, he shall be deemed to be a resident of the Contracting State of which he is a citizen; and

(d) If he is a citizen of both Contracting States or of neither Contracting State the competent authorities of the Contracting States shall settle the question by mutual agreement.

For purposes of this paragraph, a permanent home is the place where an individual dwells with his family.

(3) An individual who is deemed to be a resident of one of the Contracting States and not a resident of the other Contracting State by reason of the provisions of paragraph (2) shall be deemed to be a resident only of the first-mentioned Contracting State for all purposes of this Convention, including Article 22 (General Rules of Taxation).

ARTICLE 4 Permanent Establishment

(1) For the purpose of this Convention, the term "permanent establishment" means a fixed place of business through which a resident of one of the Contracting States engages in industrial or commercial activity.

(2) The term "fixed place of business" includes but is not limited to:

- (a) A branch;
- (b) An office;
- (c) A factory;
- (d) A workshop;
- (e) A warehouse;
- (f) A mine, quarry, or other place of extraction of natural resources; and
- (g) A building site or construction or installation project which exists for more

than twelve months.

(3) Notwithstanding paragraphs (1) and (2), a permanent establishment shall not include a fixed place of business used only for one or more of the following:

(a) The use of facilities for the purpose of storage, display, or delivery of goods or merchandise belonging to the resident;

(b) The maintenance of a stock of goods or merchandise belonging to the resident for the purpose of storage, display, or delivery;

(c) The maintenance of a stock of goods or merchandise belonging to the resident for the purpose of processing by another person;

(d) The maintenance of a fixed place of business for the purpose of purchasing goods or merchandise, or for collecting information, for the resident;

(e) The maintenance of a fixed place of business for the purpose of advertising, for the supply of information, for scientific research, or for similar activities which have a preparatory or auxiliary character, for the resident; or

(f) The maintenance of a building site or construction or installation project which does not exist for more than twelve months.

(4) A person acting in one of the Contracting States on behalf of a resident of the other Contracting State, other than an agent of an independent status to whom paragraph (5) applies, shall be deemed to be a permanent establishment in the first-mentioned Contracting State if such person-

(a) Has, and habitually exercises in the first-mentioned Contracting State, an authority to conclude contracts in the name of that resident, unless the exercise of such authority is limited to the purchase of goods or merchandise for that resident, or

(b) Maintains substantial equipment or machinery within the first-mentioned Contracting State for more than twelve months.

(5) A resident of one of the Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because such resident engages in industrial or commercial activity in that other Contracting State through a broker, general commission agent, or any other agent of an independent status, where such broker or agent is acting in the ordinary course of his business.

(6) The fact that a resident of one of the Contracting States is a related person (as defined under Article 7 (Related Persons)) with respect to a resident of the other Contracting State or with respect to a person who engages in industrial or commercial activity in that other Contracting State (whether through a permanent establishment or otherwise) shall not be taken into account in determining whether that resident of the first-mentioned Contracting State has a permanent establishment in that other Contracting State.

(7) The principles set forth in paragraphs (1) through (6) shall be applied in determining whether there is a permanent establishment in a State other than one of the Contracting States or whether a person other than a resident of one of the Contracting States has a permanent establishment in one of the Contracting States.

CHAPTER III
TAXATION OF INCOME

ARTICLE 5
Business Profits

(1) Industrial or commercial profits of a resident of one of the Contracting States shall be exempt from tax by the other Contracting State unless such resident is engaged in industrial or commercial activity in that other Contracting State through a permanent establishment situated therein. If such resident is so engaged, tax may be imposed by that other Contracting State on the industrial or commercial profits of such resident but only on so much of such profits as are attributable to the permanent establishment.

(2) Where a resident of one of the Contracting States is engaged in industrial or commercial activity in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to the permanent establishment the industrial or commercial profits which would be attributable to such permanent establishment if such permanent establishment were an independent entity engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the resident of which it is a permanent establishment.

(3) In the determination of the industrial or commercial profits of a permanent establishment, there shall be allowed as deductions expenses which are reasonably connected with such profits, including executive and general administrative expenses, whether incurred in the Contracting State in which the permanent establishment is situated or elsewhere.

(4) No profits shall be attributed to a permanent establishment of a resident of one of the Contracting States in the other Contracting State merely by reason of the purchase of goods or merchandise by that permanent establishment, or by the resident of which it is a permanent establishment, for the account of that resident.

(5) The term "industrial or commercial activity" includes the conduct of manufacturing, mercantile, insurance, agricultural, fishing or mining activities, the operation of ships or aircraft, the furnishing of services, the rental of tangible personal property, and the rental or licensing of motion picture films or films or tapes used for radio or television broadcasting. Such term does not include the performance of personal services by an individual either as an employee or in an independent capacity.

(6) (a) The term "industrial or commercial profits" includes income derived from industrial or commercial activity. Such term also includes income derived from real property and natural resources and dividends, interest, royalties (as defined in paragraph (2) of Article 10 (Royalties)), and capital gains but only if the property or rights giving rise to such income, dividends, interest, royalties, or capital gains is effectively connected with a permanent establishment which the recipient, being a resident of one of the Contracting States, has in the other Contracting State, whether or not such income is derived from industrial or commercial activity.

(b) To determine whether property or rights are effectively connected with a

permanent establishment, the factors taken into account shall include whether the rights or property are used in or held for use in carrying on industrial or commercial activity through such permanent establishment and whether the activities carried on through such permanent establishment were a material factor in the realization of the income derived from such property or rights. For this purpose, due regard shall be given to whether or not such property or rights or such income were accounted for through such permanent establishment.

(7) Where industrial or commercial profits include items of income which are dealt with separately in other articles of this Convention, the provisions of those articles shall, except as otherwise provided therein, supersede the provisions of this article.

ARTICLE 6 Shipping and Air Transport

(1) Notwithstanding Article 5 (Business Profits), income which a resident of the United States derives from the operation in international traffic of ships or aircraft registered in either Contracting State or in a State with which Norway has an income tax convention exempting such income shall be exempt from Norwegian tax.

(2) Notwithstanding Article 5 (Business Profits), income derived by a resident of Norway, or an international consortium of which a resident of Norway and residents of other States with which the United States has an income tax convention exempting such income are the sole members, from the operation in international traffic of ships or aircraft shall be exempt from United States tax.

ARTICLE 7 Related Persons

(1) Where a resident of one of the Contracting States and any other person are related and where such related persons make arrangements or impose conditions between themselves which are different from those which would be made between independent persons, any income, deductions, credits, or allowances which would, but for those arrangements or conditions, have been taken into account in computing the income (or loss) of, or the tax payable by, one of such persons, may be taken into account in computing the amount of the income subject to tax and the taxes payable by such person.

(2) A person is related to another person if either person owns or controls directly or indirectly the other, or if any third person or persons own or control directly or indirectly both. For this purpose, the term "control" includes any kind of control, whether or not legally enforceable, and however exercised or exercisable.

ARTICLE 8 Dividends

(1) Dividends derived from sources within one of the Contracting States by a resident of the other Contracting State may be taxed by both Contracting States.

(2) The rate of tax imposed by one of the Contracting States on dividends derived from sources within that Contracting State by a resident of the other Contracting State shall not exceed-

- (a) 15 percent of the gross amount actually distributed; or
- (b) When the recipient is a corporation, 10 percent of the gross amount actually distributed if-
 - (i) During the part of the paying corporation's taxable year which precedes the date of payment of the dividend and during the whole of its prior taxable year (if any), at least 10 percent of the outstanding shares of the voting stock of the paying corporation was owned by the recipient corporation, and
 - (ii) Not more than 25 percent of the gross income of the paying corporation for such prior taxable year (if any) consists of interest or dividends (other than interest derived from the conduct of a banking, insurance, or financing business and other than dividends or interest received from subsidiary corporations, 50 percent or more of the outstanding shares of the voting stock of which is owned by the paying corporation at the time such dividends or interest is received).

(3) Paragraph (2) shall not apply if the recipient of the dividends, being a resident of one of the Contracting States, has a permanent establishment in the other Contracting State and the shares with respect to which the dividends are paid are effectively connected with such permanent establishment. In such a case, see paragraph (6) (a) of Article 5 (Business Profits).

(4) Dividends paid by a corporation of one of the Contracting States to a person other than a resident of the other Contracting State (and in the case of dividends paid by a Norwegian corporation, to a person other than a citizen of the United States) shall be exempt from tax by that other Contracting State. This paragraph shall not apply if the recipient of the dividends has a permanent establishment in that other Contracting State and the shares with respect to which the dividends are paid are effectively connected with such permanent establishment.

ARTICLE 9

Interest

(1) Interest derived from sources within one of the Contracting States by a resident of the other Contracting State shall be exempt from tax by the first-mentioned Contracting State.

(2) The term "interest" as used in this Convention means income from bonds, debentures, Government securities, notes, or other evidences of indebtedness, whether or not secured and whether or not carrying a right to participate in profits, and debt-claims of every kind, as well as all other income which, under the taxation law of the Contracting State in which the income has its source, is assimilated to income from money lent.

(3) Paragraph (1) shall not apply if the recipient of the interest, being a resident of one of the Contracting States, has a permanent establishment in the other Contracting State and the indebtedness giving rise to the interest is effectively connected with such permanent establishment. In such a case, see paragraph (6) (a) of Article 5 (Business Profits).

(4) Where any interest paid by a person to any related person exceeds an amount which would have been paid to an unrelated person, the provisions of this article shall apply only to so much of the interest as would have been paid to an unrelated person. In such a case the excess payment may be taxed by each Contracting State according to its own law, including the provisions of this Convention where applicable.

(5) Interest paid by a resident of one of the Contracting States to a person other than a resident of the other Contracting State (and in the case of interest paid by a Norwegian corporation, to a person other than a citizen of the United States) shall be exempt from tax by the other Contracting State. This paragraph shall not apply if-

(a) Such interest is treated as income from sources within the other Contracting State under paragraph (2) of Article 24 (Source of Income), or

(b) The recipient of the interest has a permanent establishment in the other Contracting State and the indebtedness giving rise to the interest is effectively connected with such permanent establishment.

ARTICLE 10 Royalties

(1) Royalties derived from sources within one of the Contracting States by a resident of the other Contracting State shall be exempt from tax by the first-mentioned Contracting State.

(2) The term “royalties” as used in this article means-

(a) Payment of any kind made as consideration for the use of, or the right to use, copyrights of literary, artistic, or scientific works (but not including copyrights of motion picture films or films or tapes used for radio or television broadcasting), patents, designs, models, plans, secret processes or formulae, trademarks, or other like property or rights, or knowledge, experience, or skill (know-how), and

(b) Gains derived from the sale, exchange, or other disposition of any such property or rights to the extent that the amounts realized on such sale, exchange, or other disposition for consideration are contingent on the productivity, use, or disposition of such property or rights.

(3) Paragraph (1) shall not apply if the recipient of the royalty, being a resident of one of the Contracting States, has in the other Contracting State a permanent establishment and the property or rights giving rise to the royalty is effectively connected with such permanent establishment. In such a case, see paragraph (6) (a) of Article 5 (Business Profits).

(4) Where any royalty paid by a person to any related person exceeds an amount which would have been paid to an unrelated person, the provisions of this article shall apply only to so

much of the royalty as would have been paid to an unrelated person. In such a case the excess payment may be taxed by each Contracting State according to its own law, including the provisions of this Convention where applicable.

ARTICLE 11 Income from Real Property

(1) Income from real property, including royalties in respect of the operation of mines, quarries, or other natural resources and gains derived from the sale, exchange, or other disposition of such property or of the right giving rise to such royalties, may be taxed by the Contracting State in which such real property, mines, quarries, or other natural resources are situated. For purposes of this Convention interest on indebtedness secured by real property or secured by a right giving rise to royalties in respect of the operation of mines, quarries, or other natural resources shall not be regarded as income from real property.

(2) Paragraph (1) shall apply to income derived from the usufruct, direct use, letting, or use in any other form of real property.

ARTICLE 12 Capital Gains

(1) A resident of one of the Contracting States shall be exempt from tax by the other Contracting State on gains from the sale, exchange, or other disposition of capital assets unless-

(a) The gain is derived by a resident of one of the Contracting States from the sale, exchange, or other disposition of property described in Article 11 (Income from Real Property) situated within the other Contracting State,

(b) The recipient of the gain, being a resident of one of the Contracting States, has a permanent establishment in the other Contracting State and the property giving rise to the gain is effectively connected with such permanent establishment, or

(c) The recipient of the gain, being an individual who is a resident of one of the contracting States-

(i) Maintains a fixed base in the other Contracting State for a period or periods aggregating 183 days or more during the taxable year and the property giving rise to such gains is effectively connected with such fixed base, or

(ii) Is present in the other Contracting State for a period or periods aggregating 183 days or more during the taxable year.

(2) Notwithstanding Article 5 (Business Profits) and paragraph (1) of this article, gains which a resident of one of the Contracting States derives from the sale, exchange, or other disposition of ships or aircraft which are operated in international traffic shall be exempt from tax by the other Contracting State.

(3) The provisions of paragraph (1) of this article shall not affect the right of Norway to tax gains which an individual derives from the sale or exchange of stock consisting of at least a 25-percent interest in a Norwegian corporation if such individual was a national and a resident of

Norway at any time during the five year period immediately preceding such sale or exchange.

(4) In the case of gains described in paragraph (1) (a), see Article 11 (Income from Real Property). In the case of gains described in paragraph (1) (b), see paragraph (6) (a) of Article 5 (Business Profits).

ARTICLE 13 Independent Personal Services

(1) Income derived by an individual who is a resident of one of the Contracting States from the performance of personal services in an independent capacity, may be taxed by that Contracting State. Except as provided in paragraph (2), such income shall be exempt from tax by the other Contracting State.

(2) Income derived by an individual who is a resident of one of the Contracting States from the performance of personal services in an independent capacity in the other Contracting State may be taxed by that other Contracting State, if:

(a) The individual is present in that other Contracting State for a period or periods aggregating 183 days or more in the taxable year, or

(b) The individual maintains a fixed base in that other Contracting State for a period or periods aggregating 183 days or more in the taxable year, but only so much of it as is attributable to such fixed base, or

(c) The individual is a public entertainer, such as a theater, motion picture, or television artist, a musician, or an athlete, and the income is derived from his personal services as a public entertainer provided that he is present in that other Contracting State for more than a total of 90 days during the taxable year or such income exceeds in the aggregate 3,000 United States dollars or its equivalent in Norwegian kroner during the taxable year.

ARTICLE 14 Dependent Personal Services

(1) Subject to the provisions of Articles 15 (Teachers), 16 (Students and Trainees), 17 (Governmental Functions), and 18 (Private Pensions and Annuities) wages, salaries, and similar remuneration derived by an individual who is a resident of one of the Contracting States from labor or personal services performed as an employee may be taxed by that Contracting State. Except as provided by paragraph (2), such remuneration derived from sources within the other Contracting State may also be taxed by that other Contracting State.

(2) Remuneration described in paragraph (1) derived by an individual who is a resident of one of the Contracting States shall be exempt from tax by the other Contracting State if-

(a) He is present in that other Contracting State for a period or periods aggregating less than 183 days in the taxable year;

(b) He is an employee of a resident of the first-mentioned Contracting State or of

a permanent establishment maintained in that Contracting State by a resident of a State other than that Contracting State; and

(c) The remuneration is not borne as such by a permanent establishment which the employer has in that other Contracting State.

(3) Notwithstanding paragraph (2) remuneration derived by an individual who is a resident of one of the Contracting States from the performance of labor or personal services as an employee aboard ships or aircraft operated by a resident of the other Contracting State in international traffic or in fishing on the high seas may be taxed by that other Contracting State if such individual is a member of the regular complement of the ship or aircraft.

ARTICLE 15

Teachers

(1) Where a resident of one of the Contracting States is invited by the Government of the other Contracting State or by a university or other recognized educational institution in that other Contracting State to come to that other Contracting State for a period not expected to exceed two years for the purpose of teaching or engaging in research or both at a university or other recognized educational institution and such resident comes to that other Contracting State primarily for such purpose, his income from personal services for teaching or research at such university or educational institution shall be exempt from tax by that other Contracting State for a period not exceeding two years from the date of his arrival in that other Contracting State.

(2) This article shall not apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.

ARTICLE 16

Students and Trainees

(1) (a) An individual who is a resident of one of the Contracting States at the time he becomes temporarily present in the other Contracting State and who is temporarily present in that other Contracting State for the primary purpose of-

(i) Studying at a university or other recognized educational institution in that other Contracting State, or

(ii) Securing training required to qualify him to practice a profession or professional specialty, or

(iii) Studying or doing research as a recipient of a grant, allowance, or award from a governmental, religious, charitable, scientific, literary, or educational organization,

shall be exempt from tax by that other Contracting State with respect to amounts described in subparagraph (b) for a period not exceeding five taxable years from the date of his arrival in that other Contracting State.

(b) The amounts referred to in subparagraph (a) are-

(i) Gifts from abroad for the purpose of his maintenance, education, study, research, or training;

- (ii) The grant, allowance, or award; and
- (iii) Income from personal services performed in that other Contracting State in an amount not in excess of 2,000 United States dollars or its equivalent in Norwegian kroner for any taxable year.

(2) An individual who is a resident of one of the Contracting States at the time he becomes temporarily present in the other Contracting State and who is temporarily present in that other Contracting State as an employee of, or under contract with, a resident of the first-mentioned Contracting State, for the primary purpose of-

(a) Acquiring technical, professional, or business experience from a person other than that resident of the first-mentioned Contracting State or other than a person related to such resident, or

(b) Studying at a university or other recognized educational institution in that other Contracting State, shall be exempt from tax by that other Contracting State for a period of twelve consecutive months with respect to his income from personal services in an aggregate amount not in excess of 5,000 United States dollars or its equivalent in Norwegian kroner.

(3) An individual who is a resident of one of the Contracting States at the time he becomes temporarily present in that other Contracting State and who is temporarily present in that other Contracting State for a period not exceeding one year, as a participant in a program sponsored by the Government of that other Contracting State, for the primary purpose of training, research, or study, shall be exempt from tax by that other Contracting State with respect to his income from personal services in respect of such training, research, or study performed in that other Contracting State in an aggregate amount not in excess of 10,000 United States dollars or its equivalent in Norwegian kroner.

(4) The benefits provided under Article 15 (Teachers) and paragraph (1) of this article shall extend only for such period of time as may reasonably or customarily be required to effectuate the purpose of the visit, but in no case shall any individual have the benefits provided therein for more than a total of five taxable years from the date of his arrival.

ARTICLE 17

Governmental Functions

Wages, salaries, and similar remuneration, including pensions or similar benefits, paid by or from public funds of one of the Contracting States, or a political subdivision or local authority thereof, to a citizen of that Contracting State for labor or personal services performed for that Contracting State, or for any of its political subdivisions or local authorities, in the discharge of governmental functions shall be exempt from tax by the other Contracting State.

ARTICLE 18

Private Pensions and Annuities

(1) Except as provided in Article 17 (Governmental Functions), pensions and other similar

remuneration paid to an individual who is a resident of one of the Contracting States in consideration of past employment shall be taxable only in that Contracting State.

(2) Alimony and annuities paid to an individual who is a resident of one of the Contracting States shall be taxable only in that Contracting State.

(3) Child support payments made by an individual who is a resident of one of the Contracting States to an individual who is a resident of the other Contracting State shall be exempt from tax in that other Contracting State.

(4) As used in this article-

(a) The term "pensions and other similar remunerations" means periodic payments made after retirement or death in consideration for services rendered, or by way of compensation for injuries received, in connection with past employment;

(b) The term annuities means a stated sum paid periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration (other than services rendered);

(c) The term "alimony" means periodic payments made pursuant to a decree of divorce, separate maintenance agreement, or support or separation agreement, which is taxable to the recipient under the internal laws of the Contracting State of which he is a resident; and

(d) The term "child support payments" means periodic payments for the support of a minor child made pursuant to a decree of divorce, separate maintenance agreement, or support or separation agreement.

ARTICLE 19 Social Security Payments

Social security payments and other public pensions paid by one of the Contracting States to an individual who is a resident of the other Contracting State shall be taxable only in the first-mentioned Contracting State. This article shall not apply to payments described in Article 17 (Governmental Functions).

ARTICLE 20 Investment or Holding Companies

A corporation of one of the Contracting States deriving dividends, interest, royalties, or capital gains from sources within the other Contracting State shall not be entitled to the benefits of Articles 8 (Dividends), 9 (Interest), 10 (Royalties) or 12 (Capital Gains) if-

(a) By reason of special measures the tax imposed on such corporation by the first-mentioned Contracting State with respect to such dividends, interest, royalties, or capital gains is substantially less than the tax generally imposed by such Contracting State on corporate profits, and

(b) 25 percent or more of the capital of such corporation is held of record or is otherwise determined, after consultation between the competent authorities of the

Contracting States, to be owned directly or indirectly, by one or more persons who are not individual residents of the first-mentioned Contracting State (or, in the case of a Norwegian corporation, who are citizens of the United States).

CHAPTER IV TAXATION OF CAPITAL

ARTICLE 21 Capital Taxes

(1) Capital represented by property referred to in Article 11 (Income from Real Property) may be taxed in the Contracting State in which such property is situated.

(2) Subject to the provisions of paragraph (3) below, capital represented by assets, other than property referred to in paragraph (1), which are effectively connected with a permanent establishment of a resident of one of the Contracting States may be taxed in the Contracting State in which the permanent establishment is situated.

(3) Ships and aircraft of a resident of one of the Contracting States and assets, other than property referred to in paragraph (1), pertaining to the operation of such ships or aircraft shall be exempt from tax by the other Contracting State.

(4) All other elements of capital of a resident of a Contracting State not dealt within this article shall be exempt from tax by the other Contracting State.

CHAPTER V GENERAL RULES

ARTICLE 22 General Rules of Taxation

(1) A resident of one of the Contracting States may be taxed by the other Contracting State on any income from sources within that other Contracting State and only on such income, subject to any limitations set forth in this Convention. For this purpose, the rules set forth in Article 24 (Source of Income) shall be applied to determine the source of income.

(2) The provisions of this Convention shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit, or other allowance now or hereafter accorded-

(a) By the laws of one of the Contracting States in the determination of the tax imposed by that Contracting State, or

(b) By any other agreement between the Contracting States.

(3) The United States may tax its citizens or residents as if this Convention had not come into effect.

(a) This provision shall not affect the rules laid down in Articles 19 (Social

Security Payments), 23 (Relief from Double Taxation), 25 (Nondiscrimination), 26 (Diplomatic and Consular Officers), and 27 (Mutual Agreement Procedure).

(b) This provision shall not affect the rules laid down in Articles 15 (Teachers), 16 (Students and Trainees), and 17 (Government Functions), upon individuals who are not citizens of the United States and who do not have immigrant status in the United States.

(4) Norway may tax its diplomatic and consular officers as if this Convention had not come into effect.

(5) The United States may impose its personal holding company tax and its accumulated earnings tax notwithstanding any provision of this Convention. However, a Norwegian corporation shall be exempt from the United States personal holding company tax in any taxable year if all of its stock is owned, directly or indirectly, by one or more individuals who are residents of Norway (and not citizens of the United States) for that entire year. A Norwegian corporation shall be exempt from the United States accumulated earnings tax in any taxable year unless such corporation is engaged in trade or business in the United States through a permanent establishment at any time during such year.

(6) The competent authorities of the two Contracting States may prescribe regulations necessary to carry out the provisions of this Convention.

ARTICLE 23 Relief from Double Taxation

Double taxation of income shall be avoided in the following manner:

(1) In accordance with the provisions and subject to the limitations of the law of the United States (as it may be amended from time to time without changing the principles hereof) regarding the allowance of a credit against United States tax of tax payable in any country other than the United States, the United States shall allow to a citizen or resident of the United States as a credit against the United States tax the appropriate amount of Norwegian tax. Such appropriate amount shall be based upon the amount of tax paid to Norway, but the credit shall not exceed the limitations (for the purpose of limiting the credit to the United States tax on income from sources within Norway or on income from sources outside of the United States) provided by United States law for the taxable year. For the purpose of applying the United States credit in relation to taxes paid to Norway, the rules set forth in Article 24 (Source of Income) shall be applied to determine the source of income. For purposes of applying the United States credit in relation to the taxes paid to Norway the taxes referred to in paragraph (1) (b) of Article 1 (Taxes Covered) other than the national and municipal taxes on capital and the municipal tax on real property shall be considered to be income taxes.

(2) In the case of income derived from sources in the United States, relief from double taxation shall be granted in Norway in the following manner:

(a) Where a resident of Norway derives income or owns property which, in accordance with the provisions of this Convention, may be taxed in the United States or

is exempt from United States tax under Article 15 (Teachers) or Article 16 (Students and Trainees), Norway shall, subject to the provisions of subparagraphs (b) or (c) of this paragraph, exempt such income or property from tax but may, in calculating tax on the remaining income or property of that resident, apply the rate of tax which would have been applicable if the exempted income or property had not been so exempted.

(b) Where a resident of Norway derives income which, in accordance with the provisions of this Convention may be taxed in both Contracting States, Norway shall allow as a credit against the tax on the income of that resident an amount equal to the tax paid in the United States. Such credit shall not, however, exceed that part of the tax, as computed before the credit is given, which is appropriate to the income derived from sources in the United States under the rules set forth in Article 24 (Source of Income).

(c) In determining its tax on a Norwegian corporation receiving dividends from a United States corporation in which it owns 10 percent or more of the stock, Norway shall allow a credit against the tax otherwise payable by the Norwegian corporation for the appropriate amount of United States tax imposed on the United States corporation on the profits out of which the dividends were paid. However, the deduction allowed such a Norwegian corporation for dividends paid out by it shall be reduced by the net amount of dividends received from the United States corporation (after all United States taxes imposed on such dividends).

ARTICLE 24 Source of Income

For purposes of this Convention:

(1) Dividends shall be treated as income from sources within a Contracting State only if paid by a corporation of that Contracting State.

(2) Interest shall be treated as income from sources within a Contracting State only if paid by such Contracting State, a political subdivision or a local authority thereof, or by a resident of that Contracting State. Notwithstanding the preceding sentence-

(a) If the person paying the interest (whether or not such person is a resident of one of the Contracting States) has a permanent establishment in one of the Contracting States in connection with which the indebtedness on which the interest is paid was incurred and such interest is borne by such permanent establishment, or

(b) If the person paying the interest is a resident of one of the Contracting States and has a permanent establishment in a State other than a Contracting State in connection with which the indebtedness on which the interest is paid was incurred and such interest is paid to a resident of the other Contracting State, and such interest is borne by such permanent establishment,

such interest shall be deemed to be from sources within the State in which the permanent establishment is situated.

(3) Royalties described in paragraph (2) of Article 10 (Royalties) for the use of, or the right to use, property or rights described in such paragraph shall be treated as income from sources within a Contracting State only to the extent that such royalties are for the use of, or the right to

use, such property or rights within that Contracting State.

(4) Income from real property and royalties from the operation of mines, quarries, or other natural resources (including gains derived from the sale of such property or the right giving rise to such royalties) shall be treated as income from sources within a Contracting State only if such property is situated in that Contracting State.

(5) Income from the rental of tangible personal (movable) property shall be treated as income from sources within a Contracting State only if such property is situated in that Contracting State.

(6) Income received by an individual for his performance of labor or personal services, whether as an employee or in an independent capacity, shall be treated as income from sources within a Contracting State only to the extent that such services are performed in that Contracting State. Income from personal services performed aboard ships or aircraft operated by a resident of one of the Contracting States in international traffic or in fishing on the high seas shall be treated as income from sources within that Contracting State if rendered by a member of the regular complement of the ship or aircraft. Notwithstanding the preceding provisions of this paragraph, remuneration described in Article 17 (Governmental Functions) and payments described in Article 19 (Social Security Payments) shall be treated as income from sources within a Contracting State only if paid by or from the public funds of that Contracting State or a political subdivision or local authority thereof.

(7) Income from the purchase and sale of intangible or tangible personal (including movable) property (other than gains defined as royalties by paragraph (2) (b) of Article 10 (Royalties)) shall be treated as income from sources within a Contracting State only if such property is sold in that Contracting State.

(8) Income from gains described in paragraph (3) of Article 12 (Capital Gains) shall be treated as income from sources within Norway.

(9) Notwithstanding paragraphs (1) through (7), industrial or commercial profits which are attributable to a permanent establishment which the recipient, a resident of one of the Contracting States, has in the other Contracting State, including income derived from real property and natural resources and dividends, interest, royalties (as defined in paragraph (2) of Article 10 (Royalties)), and capital gains, but only if the property or rights giving rise to such income, dividends, interest, royalties, or capital gains are effectively connected with such permanent establishment, shall be treated as income from sources within that other Contracting State.

(10) The source of any item of income to which paragraphs (1) through (9) are not applicable shall be determined by each of the Contracting States in accordance with its own law. Notwithstanding the preceding sentence, if the source of any item of income under the laws of one Contracting State is different from the source of such item of income under the laws of the other Contracting State or if the source of such income is not readily determinable under the laws of one of the Contracting States, the competent authorities of the Contracting States may, in order to prevent double taxation or further any other purpose of this Convention, establish a

common source of the item of income for purposes of this Convention.

CHAPTER VI SPECIAL PROVISIONS

ARTICLE 25 Nondiscrimination

(1) A citizen of one of the Contracting States who is a resident of the other Contracting State shall not be subjected in that other Contracting State to more burdensome taxes than a citizen of that other Contracting State who is a resident thereof.

(2) A permanent establishment which a resident of one of the Contracting States has in the other Contracting State shall not be subject in that other Contracting State to more burdensome taxes than a resident of that other Contracting State carrying on the same activities. This paragraph shall not be construed as obliging a Contracting State to grant to individual residents of the other Contracting State any personal allowances, reliefs, or deductions for taxation purposes on account of civil status or family responsibilities which it grants to its own individual residents.

(3) A corporation of one of the Contracting States, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which a corporation of the first-mentioned Contracting State carrying on the same activities, the capital of which is wholly owned or controlled by one or more residents of the first-mentioned Contracting State, is or may be subjected.

(4) The provisions of this article shall not be construed as obliging Norway to grant to citizens of the United States who are not born in Norway of parents having Norwegian nationality, the exceptional tax relief which is accorded pursuant to section 22 of the Norwegian Taxation Act for the Rural Districts and section 17 of the Norwegian Taxation Act for the Urban Districts, to Citizens of Norway and individuals born in Norway.

(5) A citizen or resident of the United States shall, for purposes of Norwegian income tax, be allowed to deduct interest expenses which are incurred with respect to a mortgage or other evidence of indebtedness on real property which is situated in Norway to the same extent that such expenditures would be deductible for purposes of Norwegian income tax if incurred by a resident of Norway.

(6) In accordance with paragraph (3) of Article 1 (Taxes Covered) this article shall apply to taxes of every kind imposed at the National, State, or local level.

(7) The provisions of paragraph (2) shall not be construed as preventing Norway from taxing the total profits attributable to a permanent establishment which is maintained in Norway by a United States corporation at a rate at which the undistributed profits of a Norwegian corporation

may be taxed. However, the amount of such tax shall not exceed the tax that would be imposed on a corporation and its shareholders if such profits were derived by a Norwegian corporation that distributed to its United States shareholders, owning at least 10 percent of its voting stock, the same percentage of its profits as such United States corporation maintaining such permanent establishment distributed to its shareholders from its total profits.

ARTICLE 26 Diplomatic and Consular Officers

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

ARTICLE 27 Mutual Agreement Procedure

(1) Where a resident of one of the Contracting States considers that the action of one or both of the Contracting States results or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of the Contracting States, present his case to the competent authority of the Contracting State of which he is a resident. Should the resident's claim be considered to have merit by the competent authority of the Contracting State to which the claim is made, it shall endeavor to come to an agreement with the competent authority of the other Contracting State with a view to the avoidance of taxation contrary to the provisions of this Convention.

(2) The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the application of this Convention. In particular, the competent authorities of the Contracting States may agree-

- (a) To the same attribution of industrial or commercial profits to a resident of one of the Contracting States and its permanent establishment situated in the other Contracting State;
- (b) To the same allocation of income, deductions, credits, or allowances between a resident of one of the Contracting States and any related person; or
- (c) To the same determination of the source of particular items of income.

(3) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of this article. When it seems advisable for the purpose of reaching agreement, the competent authorities may meet together for an oral exchange of opinions.

(4) In the event that the competent authorities reach such an agreement, taxes shall be imposed on such income, and refund or credit of taxes shall be allowed, by the Contracting States in accordance with such agreement.

ARTICLE 28
Exchange of Information

(1) The competent authorities of the Contracting States shall exchange such information as is pertinent to carrying out the provisions of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those (including a court or administrative body) concerned with assessment, collection, enforcement, or prosecution in respect of the taxes which are the subject of this Convention.

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

(a) To carry out administrative measures at variance with the laws or the administrative practice of that Contracting State or the other Contracting State;

(b) To supply particulars which are not obtainable under the laws, or in the normal course of the administration, of that Contracting State or of the other Contracting State; or

(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.

(3) The exchange of information shall be either on a routine basis or on request with reference to particular cases. The competent authorities of the Contracting States may agree on the list of information which shall be furnished on a routine basis.

(4) The competent authorities of the Contracting States shall notify each other of any amendments of the tax laws referred to in paragraph (1) of Article 1 (Taxes Covered) and of the adoption of any taxes referred to in paragraph (2) of Article 1 (Taxes Covered) by transmitting the texts of any amendments or new statutes at least once a year.

(5) The competent authorities of the Contracting States shall notify each other of the publication by their respective Contracting States of any material concerning the application of this Convention, whether in the form of regulations, rulings, or judicial decisions by transmitting the texts of any such materials at least once a year.

ARTICLE 29
Assistance in Collection

(1) Each of the Contracting States shall endeavor to collect on behalf of the other Contracting State such taxes imposed by that other Contracting State as will ensure that any exemption or reduced rate of tax granted under this Convention by that other Contracting State shall not be enjoyed by persons not entitled to such benefits. The competent authorities of the Contracting States may consult together for the purpose of giving effect to this article.

(2) In no case shall this article be construed so as to impose upon a Contracting State the obligation to carry out administrative measures at variance with the regulations and practices of

either Contracting State or which would be contrary to the first-mentioned Contracting State's sovereignty, security, or public policy.

ARTICLE 30
Extension to Territories

(1) Either one of the Contracting States may, at any time while this Convention continues in force, by a written notification given to the other Contracting State through diplomatic channels, declare its desire that the operation of this Convention, either in whole or in part or with such modifications as may be found necessary for special application in a particular case, shall-

(a) In the case of the United States, extend to all or any of the areas (to which this Convention is not otherwise applicable) for whose international relations it is responsible and which impose taxes substantially similar in character to those which are the subject of this Convention, and

(b) In the case of Norway, extend to all or any of the areas (to which this Convention is not otherwise applicable) for whose international relations it is responsible and in which taxes are imposed which are substantially similar in character to those that are the subject of this Convention.

When the other Contracting State has, by a written communication through diplomatic channels, signified to the first-mentioned Contracting State that such notification is accepted in respect of such area or areas, and the notification and communication have been ratified and instruments of ratification exchanged, this Convention, in whole or in part, or with such modifications as may be found necessary for special application in a particular case, as specified in the notification, shall apply to the area or areas named in the notification and shall enter into force and effect on and after the date or dates specified therein. None of the provisions of this Convention shall apply to any such area in the absence of such acceptance and exchange of instruments of ratification in respect of that area.

(2) At any time after the date of entry into force of an extension under paragraph (1), either of the Contracting States may, by six-months' prior notice of termination given to the other Contracting State through diplomatic channels, terminate the application of this Convention to any area to which it has been extended under paragraph (1), and in such event this Convention shall cease to apply and have force and effect, beginning on or after the first day of January next following the expiration of the six-month period, to the area or areas named therein, but without affecting its continued application to the United States, Norway, or to any other area to which it has been extended under paragraph (1).

(3) In the application of this Convention in relation to any area to which it is extended by notification by Norway or the United States, reference to "Norway" or the "United States", as the case may be, shall be construed as referring to that area.

(4) The termination in respect of the United States or Norway of this Convention under Article 32 (Termination) shall, unless otherwise expressly agreed by both Contracting States terminate the application of this Convention to any area to which the Convention has been extended under this article by the United States or Norway.

CHAPTER VII
FINAL PROVISIONS

ARTICLE 31
Entry into Force

(1) This Convention shall be ratified and the instruments of ratification shall be exchanged at Washington, D.C., as soon as possible. It shall enter into force two months after the exchange of the instruments of ratification. Its provisions shall for the first time have effect-

(a) in the case of the United States-

(i) As respects the rate of withholding tax, to amounts paid on or after the date on which this Convention enters into force;

(ii) As respects other income taxes, to taxable years beginning on or after January 1, 1971;

(b) in the case of Norway-

(i) As respects the rate of withholding tax, to amounts paid on or after the date on which this Convention enters into force;

(ii) As respect other taxes, to income years beginning on or after January 1, 1971.

(2) The Convention between Norway and the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed at Washington, D.C., on June 13, 1949, modified and supplemented by the Supplementary Convention signed at Oslo on July 10, 1958, shall terminate and cease to have effect in respect of income to which this Convention applies under paragraph (1) of this article.

ARTICLE 32
Termination

(1) This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention at any time after five years from the date on which this Convention enters into force provided that at least six-months' prior notice of termination has been given through diplomatic channels. In such event, the Convention shall cease to have force and effect as respects income of taxable years or income years beginning (or, in the case of taxes payable at the source, payments made) on or after January 1 next following the expiration of the six-month period.

(2) Notwithstanding the provision of paragraph (1), and upon prior notice to be given through diplomatic channels, the provisions of Article 19 (Social Security Payments) may be terminated by either Contracting State at any time after this Convention enters into force.

DONE at Oslo in duplicate, in the English and Norwegian languages, the two texts having equal authenticity, this third day of December 1971.

FOR THE UNITED STATES OF AMERICA: FOR THE KINGDOM OF NORWAY
(s) Philip K. Crowe (s) Andreas Cappelen

NOTES OF EXCHANGE

OSLO, *December 3, 1971*

No. 81

His Excellency
ANDREAS CAPPELEN,
Minister of Foreign Affairs, Oslo

EXCELLENCY: I have the honor to refer to the Convention between the United States of America and Norway for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Property which was signed today and to confirm, on behalf of the Government of the United States of America, the following understandings reached between the two Governments.

(1) The income, if any, derived by a resident of a Contracting State engaged in the operation in international traffic of ships or aircraft from the use, maintenance, and lease of containers and related equipment (including trailers for the inland transport of containers) in connection with the operation in international traffic of ships or aircraft described in Article 6 of the Convention falls within the scope of the income described in that article and therefore is exempt from tax in the other Contracting State.

(2) Income derived by a resident of one of the Contracting States engaged in the operation of ships or aircraft in international traffic from the leasing of a ship or aircraft is to be considered income from the operation of ships or aircraft in international traffic and therefore is exempt from income taxation in the other Contracting State in accordance with the provisions of Article 6 of the Convention.

(3) Income derived by a partner who is a resident of one of the Contracting States from an interest in a partnership which derives its income from the operation in international traffic of ships or aircraft and which is carried on with one or more partners resident in the other Contracting State shall be taxable only in the Contracting State in which he is a resident. Capital invested in such a partnership by partners resident in the United States shall be exempt from any Norwegian taxes on capital.

(4) Scandinavian Airlines System (SAS) is a consortium within the meaning of Article 6, its participating members being Det Norske Luftfartselskap A/S (DNL), A.B. Aerotransport (ABA), and Det Danske Luftfartselskab A/S (DDL). In order to avoid the problems inherent in operating in the United States through a consortium, the members of the consortium in 1946 established a New York corporation, Scandinavian Airlines System, Inc. (SAS, Inc.) to act on their behalf in the United States pursuant to an agency agreement dated September 18, 1946. A similar agreement was entered into by SAS directly and SAS, Inc. on March 14, 1951. Pursuant to the

agency agreement, SAS, Inc. is authorized to perform only such functions as SAS assigns to it, all in connection with international air traffic. Under that agreement, all revenues collected by SAS, Inc. are automatically credited to SAS. Operating expenses incurred by SAS, Inc. are debited to SAS in accordance with the terms of the agency agreement. SAS is obligated under the terms of the agency agreement to reimburse SAS, Inc. for all of its expenses irrespective of the revenues of SAS, Inc. SAS, Inc. does not perform any functions except those connected with or incidental to the business of SAS as an operator of aircraft in international traffic.

In view of the special nature of the SAS consortium and in view of the agency agreement as described above the United States for purposes of Article 6 of the Convention signed today and Article 5 of the existing Convention shall treat all of the income earned by SAS, Inc. which is derived from the operation in international traffic of aircraft as the income of the SAS consortium.

If this is in accord with your understanding, I would appreciate an acknowledgment from you to that effect.

PHILIP K. CROWE

[TRANSLATION]

THE ROYAL DEPARTMENT OF FOREIGN AFFAIRS

THE MINISTER
OSLO, *December 3, 1971*

His Excellency
PHILIP K. CROWE,
United States Ambassador, Oslo

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note of today's date, which reads as follows:

“I have the honor to refer to the Convention between the United States of America and Norway for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Property which was signed today and to confirm, on behalf of the Government of the United States of America, the following understandings reached between the two Governments.

(1) The income, if any, derived by a resident of a Contracting State engaged in the operation in international traffic of ships or aircraft from the use, maintenance, and lease of containers and related equipment (including trailers for the inland transport of containers) in connection with the operation in international traffic of ships or aircraft described in Article 6 of the Convention falls within the scope of the income described in that article and therefore is exempt from tax in the other Contracting State.

(2) Income derived by a resident of one of the Contracting States engaged in the operation of

ships or aircraft in international traffic from the leasing of a ship or aircraft is to be considered income from the operation of ships or aircraft in international traffic and therefore is exempt from income taxation in the other Contracting State in accordance with the provisions of Article 6 of the Convention.

(3) Income derived by a partner who is a resident of one of the Contracting States from an interest in a partnership which derives its income from the operation in international traffic of ships or aircraft and which is carried on with one or more partners resident in the other Contracting State shall be taxable only in the Contracting State in which he is a resident. Capital invested in such a partnership by partners resident in the United States shall be exempt from any Norwegian taxes on capital.

(4) Scandinavian Airlines System (SAS) is a consortium within the meaning of Article 6, its participating members being Det Norske Luftfartselskap A/S (DNL), A.B. Aerotransport (ABA), and Det Danske Luftfartselskab A/S (DDL). In order to avoid the problems inherent in operating in the United States through a consortium, the members of the consortium in 1946 established a New York corporation, Scandinavian Airlines System, Inc. (SAS, Inc.) to act on their behalf in the United States pursuant to an agency agreement dated September 18, 1946. A similar agreement was entered into by SAS directly and SAS, Inc. on March 14, 1951. Pursuant to the agency agreement, SAS, Inc. is authorized to perform only such functions as SAS assigns to it, all in connection with international air traffic. Under that agreement, all revenues collected by SAS, Inc. are automatically credited to SAS. Operating expenses incurred by SAS, Inc. are debited to SAS in accordance with the terms of the agency agreement. SAS is obligated under the terms of the agency agreement to reimburse SAS, Inc. for all of its expenses irrespective of the revenues of SAS, Inc. SAS, Inc. does not perform any functions except those connected with or incidental to the business of SAS as an operator of aircraft in international traffic.

In view of the special nature of the SAS consortium and in view of the agency agreement as described above the United States for purposes of Article 6 of the Convention signed today and Article 5 of the existing Convention shall treat all of the income earned by SAS, Inc. which is derived from the operation in international traffic of aircraft as the income of the SAS consortium.

If this is in accord with your understanding, I would appreciate an acknowledgment from you to that effect.”

In reply I have the honor to inform Your Excellency that the Government of Norway accepts this proposal and agrees that Your Excellency's note and this reply shall constitute an agreement between the two Governments.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

ANDREAS CAPPELEN

PROTOCOL

UNITED STATE-NORWAY PROTOCOL AMENDING INCOME TAX CONVENTION

Protocol Signed at Oslo September 19, 1980;
Ratification Advised by the Senate of the United States of America November 18, 1981;
Ratified by the President of the United States of America December 3, 1981;
Ratified by Norway
Ratifications Exchanged at Washington December 15, 1981;
Proclaimed by the President of the United States of America January 12, 1982;
Entered into Force December 15, 1981.

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE PROTOCOL AMENDING THE CONVENTION BETWEEN THE GOVERNMENT OF
THE UNITED STATES OF AMERICA AND THE KINGDOM OF NORWAY
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES ON INCOME AND PROPERTY
SIGNED AT OSLO ON DECEMBER 3, 1971, WHICH PROTOCOL WAS SIGNED AT OSLO
ON SEPTEMBER 19, 1980

LETTER OF SUBMITTAL (PROTOCOL)

DEPARTMENT OF STATE,
Washington, November 13, 1980.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you, with a view to its transmission to the Senate for advice and consent to ratification, the Protocol amending the Convention between the Government of the United States of America and the Kingdom of Norway for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and property signed at Oslo on December 3, 1971, which Protocol was signed at Oslo on September 19, 1980.

The Protocol modifies the existing convention between the United States and Norway. It takes into account changes in Norway's tax system during the intervening years and otherwise brings the Convention up to date.

In 1975, Norway amended its corporate tax in several ways to increase the burden of that tax

on corporations deriving income from the extraction of offshore oil and gas. The 1975 legislation also added a special tax on income from submarine petroleum resources. Due to the nature of the 1975 changes and subsequent amendments, it is not clear whether the payments being made to Norway by United States taxpayers engaged in offshore petroleum extraction are eligible for the foreign tax credit in the United States. Article I of the Protocol resolves this issue by providing that foreign tax credits are available with respect to the corporate tax and special surcharge on offshore petroleum income. The amount of credit for taxpayers subject to the special tax is limited, however, to the amount necessary to offset United States tax on the petroleum income from sources within Norway. This per country limitation is similar to the limitation contained in the Third Protocol to the income tax convention between the United States and the United Kingdom.

The existing income tax convention between the United States and Norway does not specify when activities in connection with the exploration or exploitation of a country's continental shelf and its natural resources are sufficient to give that country the right to impose tax, as the country of the source of the income from such activities, Article II of the Protocol allows Norway and the United States to impose tax on income arising from the exploitation or exploration of natural resources on its continental shelf after such activities exist for more than 30 days in a twelve-month period. This rule applies to income of employees and independent contractors as well as to corporate profits. In the case of employees, however, an exemption is provided for wages attributable to sixty days of personal services performed in the taxable year.

The Protocol modifies the provisions for the rates of withholding tax at source on dividends and interest. In the case of dividends, the rate of withholding is increased from 10 to 15 percent. Norway has been amending its tax conventions with other countries to assure the uniform application of 15 percent withholding on Norwegian dividends. This increase in Norway's withholding tax is mitigated by Norway's split rate tax system which allows corporations to reduce their Norwegian corporate tax burden by making larger distributions to their shareholders.

The provision in the Convention exempting interest from tax in the country of source is modified by Article V of the Protocol to allow imposition of a 10 percent withholding tax. Interest arising on commercial credit, bank loans, and obligations outstanding on the date of the signature of the Protocol remains, however, exempt from withholding tax. Furthermore, interest generally remains exempt in the country of source unless the other country has legislation in effect which authorizes the taxation of interest paid to nonresidents. Norway does not now have a withholding tax on interest. Thus, at this time, all interest remains exempt from tax at source under Article V of the Protocol.

As in the case of other recent United States tax treaties, the Protocol with Norway contains a provision designed to allow the United States to tax gains derived by residents of Norway from the sale of stock of a corporation, or an interest in a partnership, trust or an estate, in cases where the property of such entities consists principally of United States real estate. Other provisions of the Protocol include a new article on the tax treatment of entertainers and athletes, a technical amendment to the exemption for social security payments made by the other country, and a clarification that former United States citizens who give up their citizenship to avoid United States tax do not benefit from the Convention. Also included is a definition of Norway's obligation to give credits for United States taxes, and provisions to modernize the Mutual

Agreement Procedure and Exchange of Information articles of the Convention.

The Protocol will enter into force upon the exchange of instruments of ratification and its provisions will have effect:

- (a) In respect of credits against United States tax allowed pursuant to Article I of this Protocol, as of the sixth taxable year preceding January 1 of the year in which the Protocol enters into force;
- (b) In respect of tax withheld at the source, to amounts paid on or after the first day of the sixth month next following the date on which the Protocol enters into force;
- (c) In respect of other taxes, for taxable years beginning on or after January 1 of the year following the year in which the Protocol enters into force.

A technical memorandum explaining in detail the provisions of the Protocol is being prepared by the Department of the Treasury and will be submitted to the Senate Committee on Foreign Relations.

The Department of the Treasury, with the cooperation of the Department of State, was primarily responsible for the negotiation of the Convention. It has the approval of both Departments.

Respectfully submitted,

EDMUND S. MUSKIE.

LETTER OF TRANSMITTAL (PROTOCOL)

THE WHITE HOUSE, *December 2, 1980.*

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, a protocol amending the Convention between the United States of America and the Kingdom of Norway signed at Oslo on December 3, 1971, which Protocol was signed at Oslo on September 19, 1980. I also enclose, for the information of the Senate, the report of the Department of State.

The Protocol modifies the existing convention between the United States and Norway. It takes into account changes in Norway's tax system during the years since the Convention was negotiated and otherwise brings it up to date.

In 1975, Norway amended its corporate tax in several ways to increase the burden of that tax on corporations deriving income from the extraction of offshore oil and gas. The 1975 legislation also added a special tax on income from submarine petroleum resources. Article I of the Protocol clarifies certain questions arising from these changes by providing foreign tax credits with respect to the corporate tax and the special tax, with a limitation for taxpayers subject to the special tax to the amount necessary to offset United States tax on the petroleum income from sources within Norway. This limitation is similar to that contained in the Third Protocol to the income tax convention between the United States and the United Kingdom.

The Convention does not provide specific rules to determine when a country has the right to tax income resulting from the exploration or exploitation of its continental shelf and its natural resources. Article II of the Protocol allows Norway and the United States to impose a tax on income derived from the exploitation or exploration of natural resources on their respective continental shelves after such activities have existed for more than 30 days in a twelve-month period. With respect to income from employment in such activities, however, an exemption is provided for wages attributable to sixty days of personal services performed in the taxable year.

In addition, the Protocol modifies the rate of withholding tax at source on dividends and interest and allows the United States to tax gains from the sale of shares in companies whose assets consist principally of United States real property. It also contains other provisions, including a new provision on the tax treatment of entertainers and athletes and clarifies provisions on administrative cooperation.

I recommend that the Senate give early and favorable consideration to the Protocol and give advice and consent to its ratification.

JIMMY CARTER.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

CONSIDERING THAT:

The Protocol amending the Convention between the United States of America and the Kingdom of Norway for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Property, signed at Oslo on December 3, 1971, which Protocol was signed at Oslo on September 19, 1980, the text of which is hereto annexed;

The Senate of the United States of America by its resolution of November 18, 1981, two-thirds of the Senators present concurring therein, gave its advice and consent to ratification of the Protocol, subject to the understanding that appropriate Congressional committees and the General Accounting Office shall be afforded access to the information exchanged under this treaty where such access is necessary to carry out their oversight responsibilities, subject only to the limitations and procedures of the Internal Revenue Code.

The Protocol was ratified, subject to the aforesaid understanding by the President of the United States of America on December 3, 1981, in pursuance of the advice and consent of the Senate, and was ratified on the part of the Kingdom of Norway;

The instruments of ratification of the Protocol were exchanged at Washington on December 15, 1981, and accordingly the Protocol entered into force on December 15, 1981, effective as specified in Article XIII;

NOW, THEREFORE, I, Ronald Reagan, President of the United States of America, proclaim

and make public the Protocol to the end that it be observed and fulfilled with good faith on and after December 15, 1981, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this twelfth day of January in the year of our Lord one thousand nine hundred eighty-two and of the Independence of the United States of America the two hundred sixth.

RONALD REAGAN

By the President:

ALEXANDER M. HAIG, JR.
Secretary of State

PROTOCOL AMENDING THE CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF NORWAY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND PROPERTY, SIGNED AT OSLO ON DECEMBER 3, 1971

The United States of America and the Kingdom of Norway, desiring to conclude a Protocol to amend the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Property, signed at Oslo on December 3, 1971, have agreed as follows:

ARTICLE I

(1) Paragraph (2) of Article 1 (Taxes Covered) shall be deleted and replaced by the following:

- “(2) (a) This Convention shall also apply to:
- (i) taxes substantially similar to those covered by paragraph (1) which are imposed in addition to, or in place of, existing taxes after the date of signature of this Convention; and
 - (ii) in the case of Norway, the national and municipal taxes on income (including contributions to the tax equalization fund), and the special tax administered under section 5 of the Act of 13 June 1975, No.35, relating to the taxation of submarine petroleum resources, as in effect on the date of signature of the Protocol to this Convention, and taxes substantially similar thereto enacted after such date.
- (b) The terms ‘United States tax’ and ‘Norwegian tax’ used in paragraph (1) are deemed to include, respectively, the taxes imposed by the United States and Norway described in this paragraph (2).”

(2) Paragraph (1) of Article 23 (Relief from Double Taxation) and the introductory language that precedes paragraph (1) of Article 23, shall be deleted and replaced by the following:

"(1) in the case of the United States, double taxation shall be avoided as follows:

(a) in accordance with the provisions and subject to the limitations of the law of the United States (as it may be amended from time to time without changing the general principle hereof), the United States shall allow to a resident or citizen of the United States as a credit against the United States tax on income the appropriate amount of income taxes imposed by Norway; and, in the case of a United States company owning at least 10 percent of the voting stock of a company which is a resident of Norway from which it receives dividends in any taxable year, the United States shall allow as a credit against the United States tax on income the appropriate amount of income taxes imposed by Norway on the company which is a resident of Norway with respect to the profits out of which such dividends are paid. For purposes of applying the United States credit in relation to taxes paid or accrued to Norway, the Norwegian taxes referred to in paragraphs (1)(b) and (2) of Article 1 (Taxes Covered) (other than the national and municipal taxes on capital, the municipal tax on real property, and taxes substantially similar to such taxes on capital and real property but imposed by Norway after the date of signature of the Convention) shall be considered to be income taxes, and shall be allowed as a credit against the United States tax on income, subject to the provisions of subparagraph (b).

(b) The appropriate amount allowed as a credit by the United States shall be based upon the amount of income taxes paid or accrued to Norway. However, the credit shall not exceed the limitations (for the purpose of limiting the credit to the United States tax on income from sources outside of the United States) provided by United States law for the taxable year. In addition, in the case of income taxes paid or accrued to Norway by persons subject to the special tax referred to in subparagraph (2)(a)(ii) of Article 1 (Taxes Covered), or to a substantially similar tax, the appropriate amount allowed as a credit by the United States shall be limited to the amount of income taxes paid or accrued to Norway attributable to Norwegian source taxable income in the following way:

(i) with respect to income taxes paid or accrued to Norway on oil and gas extraction income from oil or gas wells in Norway, the amount to be allowed as a credit for a taxable year shall not exceed the product of:

(a) the maximum statutory United States tax rate applicable to a corporation for such taxable year, and

(b) the amount of such income.

(ii) further, the lesser of:

(a) the amount of taxes paid or accrued to Norway on oil and gas extraction income from oil or gas wells in Norway that is not allowable as a credit under subparagraph (i), or

(b) two percent of such income for the taxable year

shall be deemed to be income taxes paid or accrued in the two preceding or five succeeding taxable years, to the extent not deemed paid or accrued in a prior taxable year, and shall be allowable as a credit in the year in which it is deemed paid or accrued subject to the limitation in subparagraph (i).

(iii) the provisions of subparagraphs (i) and (ii) shall apply separately, in the same way (but with the deletion, in the case of subparagraph (ii), of the words 'the lesser of (a)' and 'or (b) two percent of such income for the taxable year') to the amount of income taxes paid or accrued to Norway on:

(a) Norwegian source oil related income not described in

subparagraph (i); and
(b) other Norwegian source income."

ARTICLE II

The following new Article 4A (Offshore Activities) shall be inserted after Article 4 (Permanent Establishment):

"ARTICLE 4A Offshore Activities

(1) Notwithstanding the provisions of Articles 4 (Permanent Establishment) and 13 (Independent Personal Services), a resident of a Contracting State who carries on activities in the other Contracting State in connection with the exploration or exploitation of the seabed and subsoil and their natural resources situated in that other Contracting State shall be deemed to be carrying on in respect of those activities a business in that other Contracting State through a permanent establishment or fixed base situated therein.

(2) The provisions of paragraph (1) shall not apply where the activities are carried on for a period not exceeding 30 days in the aggregate in any 12-month period. However, for the purpose of this paragraph, activities carried on by a person related to another person within the meaning of Article 7 (Related Persons) shall be regarded as carried on by the last-mentioned person if the activities in question are substantially the same as those carried on by that last-mentioned person.

(3) Notwithstanding the preceding paragraphs, the provisions of Article 6 (Shipping and Air Transport) shall apply to profits derived by a resident of a Contracting State from the transportation by ship or aircraft of supplies or personnel to a location where activities in connection with the exploration of the seabed and subsoil and their natural resources are being carried on in the other Contracting State, or from the operation of tugboats and similar vessels in connection with such activities.

(4) Notwithstanding Article 14 (Dependent Personal Services), wages, salaries and similar remuneration derived by an individual who is a resident of one of the Contracting States from labor or personal services in connection with the exploration or exploitation of the seabed and subsoil and their natural resources situated in the other Contracting State shall not be taxable in that other State to the extent such wages, salaries and similar remuneration are attributable to:

(a) Labor or personal services performed in that other State for a period of 60 days in the taxable year; or

(b) If that other State is Norway, labor or personal services performed on behalf of an employer who is a resident of the United States with respect to petroleum reservoirs which extend between Norway and any other State, provided that there is an agreement between Norway and that other State for joint exploitation of the reservoir and the exploitation is performed simultaneously in both States. This provision shall, however, only come into force by a separate agreement between the competent authorities of the Contracting States.

(5) Wages, salaries and similar remuneration derived by an individual who is a resident of a Contracting State in respect of labor or personal services rendered aboard a ship or aircraft covered by paragraph (3) shall be taxed in accordance with paragraph (3) of Article 14 (Dependent Personal Services)."

ARTICLE III

Paragraph (1) of Article 6 (Shipping and Air Transport) shall be deleted and replaced by the following:

"(1) Notwithstanding Article 5 (Business Profits), income which a resident of the United States derives from the operation in international traffic of ships or aircraft shall be exempt from Norwegian tax."

ARTICLE IV

(1) Paragraph (2) of Article 8 (Dividends) shall be deleted and replaced by the following:

"(2) The rate of tax imposed by one of the Contracting States on dividends derived from sources within that Contracting State by a resident of the other Contracting State shall not exceed 15 percent of the gross amount actually distributed."

(2) Paragraph (4) of Article 8 (Dividends) shall be deleted and replaced by the following:

"(4) Dividends paid by a corporation of one of the Contracting States shall be exempt from tax by the other Contracting State except insofar as:

(a) The recipient of the dividends is a resident of the other Contracting State;

(b) In the case of dividends paid by a Norwegian corporation, the recipient of the dividends is a citizen of the United States;

(c) The recipient of the dividends has a permanent establishment in that other State and the shares with respect to which the dividends are paid are effectively connected with such permanent establishment; or

(d) In cases where that other State is the United States, such dividends are paid out of profits attributable to one or more permanent establishments which such corporation had in that other State, provided that such profits constituted at least 50 percent of such corporation's gross income from all sources.

"Where subparagraph (d) applies and subparagraphs (a), (b) and (c) do not apply, any such tax shall be subject to the limitation of paragraph (2)."

ARTICLE V

Article 9 (Interest) shall be deleted and replaced by the following:

"ARTICLE 9 Interest

(1) Interest derived from sources within one of the Contracting States by a resident of the

other Contracting State may be taxed by both Contracting States; provided, however, that such interest shall be exempt in the first-mentioned State in any calendar year in which either State exempts similar interest derived from sources within that State from taxation under its domestic law.

(2) The rate of tax imposed by a Contracting State on interest derived from sources within that State by a resident of the other Contracting State shall in no event exceed 10 percent of the gross amount of the interest.

(3) Notwithstanding the provisions of paragraph (2), interest derived from sources within one of the Contracting States by a resident of the other Contracting State shall in all events be exempt from tax by the first-mentioned State if:

(a) The interest is beneficially owned by, or is paid by, a Contracting State, a political subdivision 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;

(c) The interest is paid by a purchaser to a seller in connection with a commercial credit resulting from deferred payments for goods, merchandise or services;

(d) The interest is paid with respect to a loan of any nature made by a bank; or

(e) The interest is paid with respect to an obligation outstanding on the date of signature of this Protocol.

(4) The term 'interest' as used in this Convention means income from bonds, debentures, Government securities, notes or other evidences of indebtedness, whether or not secured, and debt-claims of every kind, as well as all other income which, under the taxation law of the Contracting State in which the income has its source, is assimilated to income from money lent.

(5) Paragraphs (2) and (3) shall not apply if the beneficial owner of the interest, being a resident of one of the Contracting States, has a permanent establishment in the other Contracting State and the indebtedness giving rise to the interest is effectively connected with such permanent establishment. In such a case, see paragraph (6)(a) of Article 5 (Business Profits).

(6) Where any interest paid by a person to any related person exceeds an amount which would have been paid to an unrelated person, the provisions of this Article shall apply only to so much of the interest as would have been paid to an unrelated person. In such a case the excess payment may be taxed by each Contracting State according to its own law, including the provisions of this Convention where applicable.

(7) Interest paid by a resident of one of the Contracting States to a person other than a resident of the other Contracting State (and in the case of interest paid by a Norwegian corporation, to a person other than a citizen of the United States) shall be exempt from tax by the other Contracting State. This paragraph shall not apply if:

(a) Such interest is treated as income from sources within the other Contracting State under paragraph (2) of Article 24 (Source of Income); or

(b) The recipient of the interest has a permanent establishment in the other Contracting State and the indebtedness giving rise to the interest is effectively connected with such permanent establishment."

ARTICLE VI

(1) Paragraph (1) of Article 12 (Capital Gains) shall be amended by redesignating subparagraphs (b) and (c) as, respectively, (d) and (e), and by inserting after subparagraph (a) the following new subparagraphs (b) and (c):

"(b) The gain is derived by a resident of one of the Contracting States from the sale, exchange or other disposition of:

(i) Stock of a corporation the property of which consists principally of real property situated within the other Contracting State; or

(ii) An interest in a partnership, trust or estate the property of which consists principally of real property situated within the other Contracting State.

For the purposes of this subparagraph, the term 'real property' includes stock of a corporation referred to in subparagraph (b)(i) or an interest in a partnership, trust or estate referred to in subparagraph (b)(ii).

(c) The gain is derived by a resident of one of the Contracting States from the sale, exchange or other disposition of stock of a corporation which is a resident of the other Contracting State, but only if:

(i) The recipient of the gain owns within the 12-month period preceding such sale, exchange or other disposition more than 25 percent of the stock of that corporation; and

(ii) More than 50 percent of the fair market value of the gross assets of that corporation used in its trade or business are physically located in the other Contracting State on the last day of each of the three taxable years preceding the sale, exchange or other disposition (or, if the corporation has been in existence for less than 3 years, on the last day of each preceding taxable year of the corporation)."

(2) Paragraphs (3) and (4) of Article 12 (Capital Gains) shall be deleted and a new paragraph (3) shall be inserted after paragraph (2):

"(3) In the case of gains described in paragraph (1)(a), see Article 11 (Income from Real Property). In the case of gains described in paragraph (1)(d), see paragraph 6(a) of Article 5 (Business Profits)."

(3) Paragraph (8) of Article 24 (Source of Income) shall be deleted and replaced by the following:

"(8) Income from gains described in paragraph (1) of Article 12 (Capital Gains), derived by a resident of a Contracting State but which may be taxed by the other Contracting State, shall be treated as income from sources within that other Contracting State."

ARTICLE VII

(1) Subparagraph (c) of paragraph (2) of Article 13 (Independent Personal Services) shall be deleted and replaced by the following:

"(c) The individual is a public entertainer, such as a theater, motion picture or television artist, a musician or an athlete, and the income is derived from his personal services as a public entertainer provided that he is present in that other Contracting State for more than a total of 90 days during the taxable year or such income exceeds in the aggregate 10,000 United States dollars or its equivalent in Norwegian Kroner during the taxable year."

(2) The following new Article 14A (Artistes and Athletes) shall be inserted after Article 14 (Dependent Personal Services):

"ARTICLE 14A
Artistes And Athletes

Where income in respect of activities exercised by an entertainer or an athlete in his capacity as such accrues not to that entertainer or athlete but to another person, that income may, notwithstanding the provisions of Articles 5 (Business Profits), 13 (Independent Personal Services), and 14 (Dependent Personal Services), be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised. For purposes of the preceding sentence, income of an entertainer or athlete shall be deemed not to accrue to another person if it is established that neither the entertainer or athlete, nor persons related thereto, participate directly or indirectly in the profits of such other person in any manner, including the receipt of deferred remuneration, bonuses, fees, dividends, partnership distributions or other distributions."

ARTICLE VIII

Article 19 (Social Security Payments) shall be deleted and replaced by the following:

"ARTICLE 19
Social Security Payments

Social Security payments and other public pensions paid by one of the Contracting States to an individual who is a resident of the other Contracting State or a citizen of the United States shall be taxable only in the first-mentioned Contracting State. This Article shall not apply to payments described in Article 17 (Governmental Functions)."

ARTICLE IX

Paragraph (3) of Article 22 (General Rules of Taxation) shall be amended by adding after the first sentence thereof the following:

"For this purpose the term 'citizen' shall include a former citizen whose loss of citizenship has as one of its principal purposes the avoidance of income tax, but only for a period of ten years following such loss."

ARTICLE X

Paragraph (2) of Article 23 (Relief from Double Taxation) shall be amended as follows:

(1) The first sentence of subparagraph (a) shall be amended by changing "subject to the provisions of subparagraphs (b) or (c) of this paragraph" to "subject to the provisions of subparagraphs (b), (c), or (d) of this paragraph".

(2) Subparagraph (c) shall be deleted and replaced with the following:

"(c) In determining its tax on a Norwegian corporation receiving dividends from a United States corporation in which it owns 10 percent or more of the stock, Norway shall allow a credit against the tax otherwise payable by the Norwegian corporation for that part of United States tax imposed on the profits of the United States corporation out of which the dividends were paid, in the proportion that the dividends received bear to the accumulated profits of the United States corporation in excess of that tax, provided that an amount equal to such credit is recognized by the Norwegian corporation as income in the year in which the dividend is received. Such credit shall not, however exceed that part of the tax, as computed before the credit is given, which is appropriate to the income derived from sources in the United States under the rules set forth in Article 24 (Source of Income)."

(3) A new subparagraph (d) shall be added as follows-:

"(d) Where a resident of Norway derives income which, in accordance with paragraph (1) of Article 4(A) (Offshore Activities), may be taxed in the United States, Norway may tax such income but shall allow as a credit against the tax in Norway on that income an amount equal to the tax paid in the United States. Such credit shall not, however, exceed that part of the tax as computed before the credit is given, which is attributable to the income which may be taxed in the United States."

ARTICLE XI

(1) Paragraph (4) of Article 27 (Mutual Agreement Procedure) shall be amended by adding at the end thereof the following:

"Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States."

(2) The following new paragraph (5) shall be added to Article 27 (Mutual Agreement Procedure):

"(5) Where any provision in this Convention specifies an amount in currency, the competent authorities may agree to adjust such amount upward in light of economic developments."

ARTICLE XII

Paragraph (3) of Article 28 (Exchange of Information) shall be deleted and replaced by the

following:

"(3) The exchange of information shall be either on a routine basis or on request with reference to particular cases. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall obtain the information to which the request relates in the same manner and to the same extent as if the tax of the first-mentioned State were the tax of that other State and were being imposed by that other State. If specifically requested by the competent authority of a Contracting State, the competent authority of the other Contracting State shall provide information under this Article in the form of depositions of witnesses and authenticated copies of unedited original documents (including books, papers, statements, records, accounts or writings), to the same extent such depositions and documents can be obtained under the laws and administrative practices of such other State with respect to its own taxes."

ARTICLE XIII

(1) This Protocol shall be ratified and the instruments of ratification shall be exchanged at Washington as soon as possible.

(2) This Protocol shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect:

(a) In respect of credits against United States tax allowed pursuant to Article I of this Protocol, as of the sixth taxable year preceding January 1 of the year in which this Protocol enters into force;

(b) In respect of tax withheld at the source; to amounts paid on or after the first day of the sixth month next following the date on which this Protocol enters into force;

(c) In respect of other taxes, for taxable years beginning on or after January 1 of the year following the year in which this Protocol enters into force.

DONE at Oslo in duplicate, in the English and Norwegian languages, both texts having equal authenticity, this 19th day of September, 1980.

FOR THE UNITED STATES OF AMERICA:

(s) Sidney A. Rand

FOR THE KINGDOM OF NORWAY

(s) Ulf Sand