

No. 5119

NORWAY
and
FEDERAL REPUBLIC OF GERMANY

Agreement for the avoidance of double taxation and concerning reciprocal administrative and legal assistance with respect to taxes on income and fortune and to the business tax (with exchange of notes). Signed at Oslo, on 18 November 1958

Official texts: Norwegian and German.

Registered by Norway on 4 May 1960.

NORVÈGE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

Convention tendant à éviter la double imposition et à établir des règles d'assistance administrative et judiciaire réciproque en matière d'impôts sur le revenu et sur la fortune et de patente (avec échange de notes). Signée à Oslo, le 18 novembre 1958

Textes officiels norvégien et allemand.

Enregistrée par la Norvège le 4 mai 1960.

[TRANSLATION — TRADUCTION]

No. 5119. AGREEMENT¹ BETWEEN THE KINGDOM OF NORWAY AND THE FEDERAL REPUBLIC OF GERMANY FOR THE AVOIDANCE OF DOUBLE TAXATION AND CONCERNING RECIPROCAL ADMINISTRATIVE AND LEGAL ASSISTANCE WITH RESPECT TO TAXES ON INCOME AND FORTUNE AND TO THE BUSINESS TAX. SIGNED AT OSLO, ON 18 NOVEMBER 1958

The Kingdom of Norway and the Federal Republic of Germany, desiring to avoid double taxation and to establish principles for reciprocal administrative and legal assistance with respect to taxes on income and fortune and to the business tax, have agreed to conclude the following Agreement and for that purpose have appointed as their plenipotentiaries :

His Majesty the King of Norway :

Mr. Halvard Lange, Minister of Foreign Affairs of Norway;

The President of the Federal Republic of Germany :

Mr. Kurt Oppler, Ambassador of the Federal Republic of Germany at Oslo,

who having exchanged their full powers, found in good and due form, have agreed as follows :

Article 1

(1) This Agreement shall apply to taxes on income and fortune levied on behalf of the two Contracting States, their *Länder* or their communes, irrespective of the manner in which such taxes are levied.

(2) The following shall be regarded as taxes on income and fortune : all taxes levied on total income and total fortune or parts thereof, including taxes on profits derived from the alienation of movable or immovable property and the business tax levied in the Federal Republic of Germany.

(3) The taxes to which this Agreement applies are, at the present time, the following :

1. In the Kingdom of Norway :

¹ Came into force on 4 May 1960, one month after the exchange of the instruments of ratification which took place at Bonn on 4 April 1960, in accordance with article 26.

- (a) The State tax on income and fortune (*inntekts- og formuesskatt til Staten*),
 - (b) The communal tax on income and fortune (*inntekts- og formuesskatt til kommuner*), including the surtax on higher incomes (*tilleggs katt på større inntekter*),
 - (c) The seamen's tax (*sjømannsskatt*),
 - (d) The old-age pension tax and war pension tax (*alderstrygd- og krigspensjoneringsavgift*),
(hereinafter referred to as "Norwegian taxes").
2. In the Federal Republic of Germany :
- (a) The income tax (*Einkommensteuer*) (including the wages tax (*Lohnsteuer*), the tax on income from capital (*Kapitalertragsteuer*) and the tax on directors' fees (*Aufsichtsratssteuer*),
 - (b) The corporation tax (*Körperschaftsteuer*),
 - (c) The Berlin emergency contribution (*Notopfer Berlin*),
 - (d) The tax on fortune (*Vermögensteuer*),
 - (e) The business tax (*Gewerbesteuer*),
(hereinafter referred to as "Federal Republic taxes").
- (4) This Agreement shall also apply to any taxes of the same or of like nature which may in the future be levied in addition to or instead of the existing taxes. The competent authorities of the Contracting States shall inform each other at the end of each year of any changes in their fiscal laws.
- (5) The Agreement shall not apply to non-recurrent taxes on income, fortune or capital gains.
- (6) The competent authorities of the Contracting States shall settle by agreement any doubts which may arise as to the question which taxes are covered by this Agreement.
- (7) The Agreement shall not apply to Spitzbergen, Jan Mayen or the Norwegian dependencies outside Europe.

Article 2

(1) For the purposes of this Agreement, the following shall apply :

1. The term " person " includes :
 - (a) Individuals;

- (b) Bodies corporate; bodies corporate are deemed to include any associations or any assets which are subject to taxation as bodies corporate.
2. (a) In this Agreement the expression “ a person domiciled in one of the Contracting States ” means a person who, under the law of that State, is liable to taxation there on the basis of his domicile, residence or place of business management or of any other criterion of a similar nature.
- (b) Where, under the provisions of (a), an individual is domiciled in both Contracting States, the following shall apply :
- (aa) The individual shall be deemed to be domiciled in the Contracting State in which he has a permanent place of abode. If he has a permanent place of abode in both Contracting States, he shall be deemed to be domiciled in the State with which he has the closer personal and economic ties (centre of vital interests).
- (bb) If it cannot be determined in which Contracting State the individual has the centre of his vital interests, or if he has no permanent place of abode in either State, he shall be deemed to be domiciled in the State in which he regularly resides.
- (cc) If the individual regularly resides in both or in neither of the Contracting States, he shall be deemed to be domiciled in the State of which he is a national.
- (dd) If the individual is a national of both or of neither of the Contracting States, the competent authorities of the said States shall settle the question by agreement.
- (c) Where, under the provisions of (a), a body corporate is domiciled in both Contracting States, it shall be deemed to be domiciled in the State in which its place of actual management is situated.
3. The term “ enterprise of one of the Contracting States ” or “ enterprise of the other State ” means, as the context requires, a business enterprise conducted by a person domiciled in the Kingdom of Norway or the Federal Republic of Germany.
4. The term “ permanent establishment ” means a fixed place of business in which an enterprise carries on all or part of its activities.
- (a) The following shall, in particular, be deemed to be permanent establishments :
- (aa) A place of management;

- (bb) A branch;
 - (cc) Business office;
 - (dd) A factory;
 - (ee) A workshop;
 - (ff) A mine, a quarry or any other place where natural resources are worked;
 - (gg) A construction or assembly project the duration of which exceeds twelve months.
- (b) The following shall not be deemed to constitute a permanent establishment :
- (aa) The use of facilities exclusively for the storage, display or delivery of goods or merchandise belonging to an enterprise;
 - (bb) The maintenance, exclusively for storage, display or delivery, of a stock of goods or merchandise belonging to an enterprise;
 - (cc) The maintenance, exclusively for manufacturing or processing by some other enterprise, of a stock of goods or merchandise belonging to an enterprise;
 - (dd) The maintenance of a fixed place of business exclusively for the purchase of goods or merchandise or for procuring information for an enterprise;
 - (ee) The maintenance of a fixed place of business exclusively for advertising purposes, for the furnishing of information or for the conduct of scientific research or of similar activities which are in the nature of preparatory or subsidiary activities for the benefit of an enterprise.
- (c) A person—other than an independent representative within the meaning of (d)—who carries on dealings in one of the Contracting States for an enterprise of the other State shall be deemed to constitute a permanent establishment situated in the first-mentioned State if he has and habitually exercises in that State a general authority to conclude contracts there on behalf of the enterprise and if his activities are not limited to the purchase of goods or merchandise for the enterprise.
- (d) An enterprise of one of the Contracting States shall not be deemed to have a permanent establishment in the other State merely because it carries on business dealings there through a broker, commission agent or other independent representative acting in the ordinary course of his business as such.
- (e) The fact that a company domiciled in one of the Contracting States controls, or is controlled by, a company which is domiciled in the other

State or carries on business dealings there (either through a permanent establishment or otherwise) shall not of itself constitute one of the two companies a permanent establishment of the other.

5. The term “dividends” means income derived from shares, mining shares (*Kuxe*), profit-participation certificates (*Genuss-scheine*), shares in private limited companies (*Gesellschaften mit beschränkter Haftung*) or co-operative societies (*Genossenschaften*) and shares in companies which under Norwegian fiscal law are treated as the equivalent to joint-stock companies, and income derived by a sleeping partner from his participation as such, provided that he has no share in the assets of the enterprise. Distributions made on shares in an investment trust (*Kapitalanlagegesellschaft*) shall also be deemed to be dividends.
6. The term “competent authority” shall be deemed to mean, in the case of the Kingdom of Norway, the Department of Finance and Customs or an authority duly empowered by the latter and, in the case of the Federal Republic of Germany, the Federal Minister of Finance.

(2) In the application of this agreement by either Contracting State, any term not defined in the agreement shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that State relating to the taxes which are the subject of this agreement.

Article 3

(1) Where a person domiciled in one of the Contracting States derives income from immovable property (including accessories thereto) situated in the other State the said income shall be taxable by the latter State. Rights which are subject to the provisions of the civil law of the Contracting States relating to real property shall be deemed to be equivalent to immovable property.

(2) The provisions of paragraph (1) shall apply both to income derived from the direct administration and use of immovable property (including agricultural and forestry undertakings ancillary thereto) and to income derived from the lease or use in any other form of such property, in particular fixed or variable compensation for the use of natural resources; they shall also apply to income derived from the alienation of immovable property.

(3) Where a person domiciled in one of the Contracting States derives income from claims secured by mortgages or other liens on real property situated in the other State, the said income shall be taxable by the latter State. If that State does not exercise the right to impose tax, the income shall be taxable by the State in which the person concerned is domiciled. The first sentence in this paragraph shall not apply to bonds secured by immovable property.

Article 4

(1) Where a person domiciled in one of the Contracting States derives income, as owner, from a business enterprise whose activities extend to the territory of the other State, the said income shall be taxable by the latter State only in so far as it is attributable to a permanent establishment of the enterprise which is situated in its territory. Income derived from an interest in a business enterprise shall, except for that constituting dividends, be treated as income derived from the conduct of the enterprise.

(2) The income to be attributed to a permanent establishment shall be that which would have accrued to it if it had been an independent enterprise engaged in the same or similar activities under the same or similar conditions and had carried on its activities as an independent enterprise. The income derived from the activities of a permanent establishment shall as a general rule be determined from the balance-sheet of the permanent establishment. In this connexion, account shall be taken of all expenditure that is attributable to the permanent establishment, including a share in the general administrative expenses of the enterprise, but excluding artificial transfers of profits and, in particular, remuneration agreed upon in the form of so-called interest or royalties between permanent establishments of the same enterprise. In special cases, the determination of income may be effected by dividing up the total profits of the enterprise.

(3) The provisions of paragraph (1) shall apply both to income derived from the direct administration and use of the business enterprise and to income derived from the lease or use in any other form thereof; they shall also apply to income derived from the alienation of an entire business, of a part of a business, of a share in the enterprise or of an object used in the business.

(4) Paragraph (1) shall apply, *mutatis mutandis*, to business tax which is imposed on a basis other than income.

(5) The provisions of paragraph (1) shall not be construed so as to prevent one of the Contracting States from taxing in accordance with this Agreement income from its territory accruing to a person domiciled in the other State (e.g. income from immovable property, dividends, interest) if such income is not attributable to a permanent establishment situated in the territory of the first-mentioned State.

Article 5

(1) Where an enterprise of one of the Contracting States, by virtue of its participation in the management or financial structure of an enterprise of the other State, arranges with or imposes upon that enterprise economic or financial

conditions differing from those which would be arranged with an independent enterprise, any income which would normally have accrued to one of the two enterprises but which by reason of those conditions has not so accrued may be included in the income of that enterprise and taxed accordingly.

(2) The provisions of paragraph (1) shall apply as appropriate to the relationship between two enterprises in whose management or assets one and the same person participates directly or indirectly.

Article 6

(1) Where a person domiciled in one of the Contracting States derives income, as owner or co-owner, from the operation of international maritime shipping or aircraft services, the said income shall be taxable by the State in which the place of actual management of the enterprise is situated.

(2) Paragraph (1) shall also apply where the enterprise operates with chartered or leased vessels or aircraft. It shall likewise apply to agencies, in so far as the activities of the agency are directly connected with the operation of the enterprise or with local services ancillary thereto.

(3) Paragraph (1) shall also apply to participation by maritime shipping or air transport enterprises in a pool, a joint operating organization or an international operating agency.

(4) Paragraph (1) shall apply, *mutatis mutandis*, to business tax which is imposed on a basis other than income.

Article 7

(1) Where a person domiciled in the Federal Republic of Germany derives income from the disposal of an interest in a joint-stock company (*aksjeselskap*) or a company which under Norwegian fiscal law is treated as equivalent thereto, such company being domiciled in the Kingdom of Norway, the said income shall be taxable by the Federal Republic of Germany.

(2) Where a person domiciled in the Kingdom of Norway derives income from the disposal of an interest in a corporation (*Kapitalgesellschaft*) which is domiciled in the Federal Republic of Germany, the said income shall be taxable by the Kingdom of Norway.

(3) The provisions of paragraphs (1) and (2) shall not apply where a person domiciled in one of the Contracting States has a permanent establishment in the other State and realizes the income through that establishment. In this case the income shall be taxable by the other State.

Article 8

(1) Where a person domiciled in one of the Contracting States derives income from present or past self-employment in the other State, the said income shall be taxable by the latter State.

(2) A person shall not be considered to be self-employed in the other State unless in the exercise of his occupation he makes use of permanent facilities regularly available to him there. This restriction shall not, however, apply to self-employment in the other State as a public entertainer, e.g. as a stage or motion picture actor, a radio performer, a musician, an artiste or a professional athlete.

(3) the provisions of article 4, paragraph (3), shall apply as appropriate.

(4) Where an individual domiciled in one of the Contracting States receives from a body corporate domiciled in the other State fees as a member of a board of directors or board of management or as a non-managing member of a similar organ, the said fees shall be taxable by the other State.

(5) Where income within the meaning of the second sentence of paragraph (2) is not taxed in one of the Contracting States, the State in which the individual concerned is domiciled shall have the right to impose tax.

Article 9

(1) Where an individual domiciled in one of the Contracting States derives income from present or past employment in the other State, the said income shall be taxable by the latter State.

(2) Notwithstanding the provisions of paragraph (1), income derived from employment shall be taxable solely in the Contracting State in which the employee is domiciled if :

1. He is present in the other State temporarily for not more than 183 days in one calendar year;
2. The remuneration for his work during this period is paid by an employer who is domiciled in the first-mentioned State; and
3. The remuneration for his work is not charged against a permanent establishment or installation of the employer situated in the other State.

Where the employer is a partnership, the latter shall be deemed to be domiciled in the Contracting State in which the place of its actual management is situated.

(3) Where an individual domiciled in one of the Contracting States derives income from services performed on board a sea-going vessel or an aircraft, the said income shall be taxable by the State in which the individual is domiciled.

(4) Notwithstanding paragraph 1, students attending a university, college or similar institution of learning in one of the two States who engage in remunerated employment at an enterprise of the other State for not more than 183 days in one calendar year in order to acquire practical training shall be taxable only in the first-mentioned State in respect of such remuneration.

(5) Where income within the meaning of paragraph (1) is not taxed in one of the Contracting States, the State in which the individual concerned is domiciled shall have the right to impose tax.

Article 10

(1) Where an individual domiciled in one of the Contracting States receives income in the form of wages, salaries or similar remuneration paid by one of the two States or by a *Land*, commune, association of communes or other public corporation of one of the two States, the said income shall be taxable by the State from whose public funds it is paid.

(2) If the individual concerned is a national of the State in which he is domiciled but is not at the same time a national of the State from whose public funds the income is paid, and if he performs his work in the first-mentioned State, the income shall, notwithstanding paragraph (1), be taxable by that State.

(3) With regard to remuneration for services rendered in connexion with any business carried on for profit by either of the Contracting States or by some other public corporation within the meaning of paragraph (1), the provisions of article 9 shall apply. Wages, salaries and similar remuneration paid, in the case of the Federal Republic of Germany, by the Deutsche Bundespost (German Federal Post Office), the Deutsche Bundesbahn (German Federal Railways), and the Deutsche Bundesbank (German Federal Bank) and, in the case of the Kingdom of Norway, by Post- og telegrafverket (the Postal and Telegraph Service), by Norges statsbaner (the Norwegian State Railways), and Norges bank (the Bank of Norway) shall be governed by the provisions of paragraph (1).

Article 11

(1) Where a person domiciled in one of the Contracting States receives half-pay, a retirement, widow's or orphan's pension, or any similar recurrent payments or benefits in money's worth in respect of past services, the income in question shall be taxable by the State in which the recipient is domiciled.

(2) Notwithstanding the provisions of paragraph (1), income in the form of half-pay, retirement, widows' or orphans' pension or similar recurrent payments or benefits in money's worth in respect of past services paid by one of the two States or by a *Land*, commune, association of communes or other public corpora-

tion of one of the two States to its employees or their survivors, either directly or through a public institution established for that purpose, shall be taxable by that State.

(3) The provisions of paragraph (2) shall also apply in respect of pensions, life annuities and other recurrent and non-recurrent payments made by one of the Contracting States or by a public corporation within the meaning of paragraph (2) as compensation for injury or damage resulting from military action or political persecution.

Article 12

(1) Where a person domiciled in one of the Contracting States receives dividends from the other State, the said dividends shall be taxable by the former State.

(2) If in the other Contracting State the tax on dividends is collected by deduction (at the source), the right to make such tax deductions shall not be affected.

(3) The tax deducted as provided in paragraph (2) shall not exceed 15 per cent of the dividends.

(4) Notwithstanding paragraphs (2) and (3), dividends shall not be taxable in the Kingdom of Norway if they are paid by a joint-stock company (*aksjeselskap*) or a company which under Norwegian fiscal law is treated as equivalent thereto, such company being domiciled in the Kingdom of Norway, to a corporation (*Kapitalgesellschaft*) domiciled in the Federal Republic of Germany which owns at least 25 per cent of the voting shares of the company domiciled in the Kingdom of Norway.

(5) Notwithstanding paragraph (3), tax deducted in the Federal Republic of Germany from dividends paid after 31 December 1958 shall not exceed 25 per cent if the dividends are paid by a corporation domiciled in the Federal Republic of Germany to a joint-stock company or company treated under Norwegian fiscal law as equivalent thereto, such company being domiciled in the Kingdom of Norway, which owns at least 25 per cent of the voting shares of the corporation domiciled in the Federal Republic of Germany.

(6) The provisions of paragraphs (1) to (5) shall not apply where a person domiciled in one of the Contracting States has a permanent establishment in the other State and realizes the income through such establishment. In this case the said income shall be taxable by the other State.

(7) Notwithstanding paragraphs (3) to (5), tax collected by deduction may be levied initially at the rates which would be applicable irrespective of this Agreement. Where the amount of tax withheld exceeds the amount which

would result from the application of the provisions of this Agreement the difference shall be refunded, on application being made, to the person entitled thereto. Such refund shall be made if the application for refund is submitted within a period of two years from the time when the tax was paid; in the case of tax paid before the entry into force of this Agreement the period shall be reckoned from the date of such entry into force.

Article 13

(1) Where a person domiciled in one of the Contracting States receives interest from the other State, the said interest shall be taxable by the first-mentioned State.

(2) Interest shall be deemed to include income derived from loans, bonds (including convertible bonds and participating debentures) and any other form of indebtedness, with the exception of the income referred to in article 3, paragraph (3).

(3) The provisions of paragraph (1) shall not apply where a person domiciled in one of the Contracting States has a permanent establishment in the other State and realizes the interest through such establishment. In this case the said interest shall be taxable by the other State.

(4) The provisions of article 12, paragraph (7), shall apply as appropriate.

Article 14

(1) Where a person domiciled in one of the Contracting States derives from the other State income from royalties or other remuneration paid as consideration for the use of, or for the right to use, copyrights, patents, registered designs, manufacturing processes, trade-marks or similar rights (other than rights pertaining to the exploitation of natural resources), the said income shall be taxable by the State of domicile.

(2) Rentals and like payments in respect of the hire of cinematograph films (including films used for television broadcasts) or for the use of industrial, commercial or scientific equipment or industrial information shall be treated as royalties.

(3) The provisions of paragraphs (1) and (2) shall also apply to income derived from the transfer of any of the rights referred to therein.

(4) The provisions of paragraphs (1) to (3) shall not apply where a person domiciled in one of the Contracting States has a permanent establishment in the other State and realizes the income through such establishment. In this case the said income shall be taxable by the other State.

Article 15

A student, business or other apprentice or unsalaried trainee from one of the Contracting States who is present in the other State for the sole purpose of study or training shall not be taxed by the latter State in respect of sums which he receives from outside that State for his maintenance, study or training.

Article 16

Where a person domiciled in one of the Contracting States receives income the right to impose tax on which is not regulated in the preceding articles, the said income shall be taxable by that State.

Article 17

(1) Where the property of a person domiciled in one of the Contracting States consists of :

- (a) Immovable property (including accessories thereto);
- (b) Claims secured by liens on immovable property; or
- (c) Property used by a business enterprise,

the said property shall be taxable by the State which is entitled under this Agreement to tax the income derived therefrom.

(2) Other property belonging to a person domiciled in one of the Contracting States shall be taxable by the State of domicile.

Article 18

The provisions of Norwegian law relating to the taxation of the undivided estates of deceased persons shall, where a participant in the estate is domiciled in the Federal Republic of Germany, be inapplicable to the extent that such person is liable to direct taxation there under the provisions of this Agreement in respect of the income or property derived from the succession.

Article 19

(1) Income and property which under the preceding articles are taxable by the State in which a person is domiciled shall not be taxable by the other State. The foregoing shall be without prejudice to the provisions of article 12, paragraph (2).

(2) Where a person is subject to taxation without limitation in the Federal Republic of Germany, the latter shall exclude from the tax base any income and property which under the preceding articles are taxable by the Kingdom of

Norway. Nevertheless, taxes on income and property which are taxable by the Federal Republic of Germany shall be levied at the rate applicable to the taxpayer's total income or total property. Notwithstanding the first sentence of this paragraph, dividends, other than those referred to in paragraph (3), shall not be excluded from the tax base; Norwegian tax which is deducted from such dividends shall be credited against the tax levied on these dividends by the Federal Republic, the latter tax being computed on the basis of an average rate of tax.

(3) Shares in a joint-stock company (*aksjeselskap*) or company treated under Norwegian fiscal law as equivalent thereto, such company being domiciled in the Kingdom of Norway, which belong to a corporation (*Kapitalgesellschaft*) domiciled in the Federal Republic of Germany and dividends paid on such shares shall be excluded from the tax base for taxes of the Federal Republic where the participation amounts to at least 25 per cent of the voting shares of the company domiciled in the Kingdom of Norway.

(4) Where a person is deemed under Norwegian fiscal law to be domiciled in the Kingdom of Norway, income and property which under the preceding articles are taxable by the Federal Republic of Germany shall be excluded from the tax base for Norwegian taxes. Nevertheless, taxes on income and property which are taxable by the Kingdom of Norway may be levied at the rate applicable to the taxpayer's total income or total property.

Notwithstanding the first sentence of this paragraph, dividends, other than those referred to in paragraph (5), shall not be excluded from the tax base but shall be taxed on their gross amount. However, an amount equal to not more than 15 per cent of the dividends taxed in this manner shall be deducted from the Norwegian taxes levied on such income.

(5) Shares in a corporation domiciled in the Federal Republic of Germany which belong to a joint-stock company or company treated under Norwegian fiscal law as equivalent thereto, such company being domiciled in the Kingdom of Norway, and dividends paid on such shares shall, if such participation amounts to at least 25 per cent of the voting shares of the corporation domiciled in the Federal Republic of Germany, be treated in the Kingdom of Norway for purposes of income tax and property tax levied by the Norwegian State as if both companies were domiciled in the Kingdom of Norway.

Article 20

(1) This Agreement shall not affect any additional exemptions to which diplomatic or consular officials are entitled under the general rules of international law or by virtue of special agreements. Where, owing to such additional exemptions, income and property are not taxed in the receiving State, the right of taxation shall be reserved to the sending State.

(2) Members of a diplomatic mission of one of the Contracting States shall be entitled in the receiving State to the privileges provided for in this Agreement if they are liable to income and property taxes in the sending State in respect of income accruing to them from the receiving State and of property within the meaning of article 17, paragraph (2).

(3) International organizations, their organs and officials and members of the staffs of diplomatic or consular missions of third States shall not be entitled to the privileges contained in articles 7 to 17 if they are not liable, in respect of income accruing to them from one of the Contracting States and of property within the meaning of article 17, paragraph (2), to income and property taxes in the other State.

Article 21

(1) Where a person domiciled in one of the Contracting States shows proof that the action of the taxation authorities of the Contracting States has resulted or will result in his case in double taxation contrary to the principles of this Agreement, he shall be entitled, without prejudice to such legal remedies as may be open to him under national law, to apply to the competent authority of the State in which he is domiciled.

(2) If the application is allowed, the authority competent under paragraph (1) shall endeavour to come to an agreement with the competent authority of the other State with a view to the avoidance of double taxation.

Article 22

(1) The Contracting States shall render each other administrative and legal assistance in assessing and collecting the taxes specified in article 1.

(2) The competent authorities shall, in particular, exchange such information (being information which is at their disposal or which is statutorily available to them) as is necessary for carrying out this Agreement and for preventing tax evasion. Information communicated to the competent authorities in accordance with this article shall be treated as secret. It may however be disclosed to persons and authorities (including courts) which are statutorily concerned with the assessment or collection of the taxes which are the subject of this Agreement. Such persons and authorities shall have the same responsibility as the competent authorities to treat the information as secret.

(3) The provisions of this article shall not be so construed as to impose upon either Contracting State the obligation to provide information which is not obtainable under the legislation of either of the two Contracting States or which would disclose a business or professional secret. The provisions of this article

shall further not be so construed as to impose upon either Contracting State the obligation to carry out administrative measures at variance with its regulations or administrative practice.

Article 23

(1) The Contracting States shall render each other aid and assistance in collecting in accordance with their legislation the taxes specified in article 1, including overdue payment penalties, surtaxes, interest and costs, where such sums are finally due under the laws of the applicant State.

(2) Applications shall be accompanied by such documents as are required, under the laws of the applicant State, in order to establish that the sums to be collected are finally due.

(3) Upon receipt of the said documents, service shall be effected and measures for collection and recovery shall be taken in the State applied to in accordance with the laws governing the collection and recovery of its own taxes. In particular, writs of execution shall be drawn in conformity with the legislation of the said State. Priorities governing the satisfaction of domestic tax claims in the State applied to shall not extend to tax claims for whose collection application is made.

(4) In the case of tax claims which are not yet final, the creditor State may, in order to protect its rights, request the other State to take such interim measures as its legislation authorizes.

Article 24

(1) Nationals of one Contracting State shall not be subjected in the other State to any taxation or to any obligation connected therewith which is other or more burdensome than the taxation and connected obligations to which the nationals of the other State are or may be subjected under like conditions.

(2) For the purposes of this article, the term "national" means :

- (a) In relation to the Kingdom of Norway : all individuals possessing Norwegian nationality;
- (b) In relation to the Federal Republic of Germany : all persons who are Germans within the meaning of article 116, paragraph 1, of the Basic Law of the Federal Republic of Germany;
- (c) All bodies corporate, partnerships and other associations constituted under the law in force in either of the Contracting States.

(3) Paragraph (1) shall not be so construed as to permit German nationals to claim the special tax treatment to which Norwegian nationals and native-born Norwegians are entitled under the Norwegian Rural Tax Act (article 22, paragraph 2) and Urban Tax Act (article 17, paragraph 2).

(4) A permanent establishment maintained in one of the Contracting States by an enterprise of the other State shall not be subjected in the former State to taxation which is less favourable than the taxation to which enterprises of that State carrying on the same activities are subjected. The first sentence in this paragraph shall not be so construed as to require either of the Contracting States to grant to persons domiciled in the other State tax exemptions, privileges or abatements based on personal status or family burdens which it grants to persons domiciled in its own territory.

(5) Enterprises of one Contracting State whose capital is wholly or partly owned, directly or indirectly, by one or more persons domiciled in the other State or is controlled by such persons shall not be subjected in the first-mentioned State to any taxation or any obligation connected therewith which is other or more burdensome than the taxation and connected obligations to which other like enterprises of the first-mentioned State are or may be subjected.

(6) In this article the term "taxation" means taxes of any kind or description.

Article 25

(1) The competent authorities of the Contracting States shall take such administrative measures as are necessary for the application of this Agreement, in particular articles 12, 22 and 23.

(2) In dealing with matters arising out of this Agreement, the competent authorities of the Contracting States may enter into direct contact with each other.

(3) Where any difficulty or doubt arises in the interpretation or application of this Agreement, or where any hardship occurs through double taxation in cases for which the Agreement does not provide, the competent authorities shall settle the matter by arrangement between them.

Article 26

(1) This Agreement shall be ratified, and the instruments of ratification shall be exchanged as soon as possible at Bonn.

(2) This Agreement shall enter into force one month after the exchange of the instruments of ratification.

(3) After the entry into force of this Agreement, the provisions of the Agreement shall apply for the first time :

(a) In the Kingdom of Norway :

to taxes levied on the basis of the 1958 assessment (1957 income year);

(b) In the Federal Republic of Germany :

to taxes levied in respect of the calendar year 1957.

Article 27

This Agreement shall continue in force indefinitely, but either of the Contracting States may, on or before 30 June in any calendar year not earlier than the year 1962, give written notice of termination to the other State through the diplomatic channel. In the case of the provisions of articles 12 and 19, in so far as they concern dividends, notice of termination may however be given before 1962. If notice of termination is given, the provisions of the Agreement in respect of which such notice is given shall apply for the last time :

(a) In the Kingdom of Norway :

to taxes levied on the basis of the assessment for the year following the calendar year in which notice of termination is given;

(b) In the Federal Republic of Germany :

to taxes levied in respect of the calendar year in which the notice of termination is given.

IN WITNESS WHEREOF the respective plenipotentiaries have signed this Agreement and have thereto affixed their seals.

DONE at Oslo on 18 November 1958 in duplicate in the Norwegian and German languages, both texts being equally authentic.

For the Kingdom
of Norway :
Halvard LANGE

For the Federal Republic
of Germany :
Dr. OPPLER

EXCHANGE OF NOTES

I

EMBASSY OF THE FEDERAL REPUBLIC OF GERMANY

Oslo, 29 January 1959

Your Excellency,

In connexion with the Agreement signed on 18 November 1958¹ between the Federal Republic of Germany and the Kingdom of Norway for the avoidance of double taxation and concerning reciprocal administrative and legal assistance with respect to taxes on income and fortune and to the business tax, I have the honour to inform you on behalf of the Government of the Federal Republic of Germany of the following :

The Agreement will also apply to *Land* Berlin provided that the Government of the Federal Republic of Germany has not delivered a contrary declaration to the Government of the Kingdom of Norway within three months from the date of entry into force of the Agreement. In the application of the Agreement to *Land* Berlin references to the Federal Republic of Germany shall be deemed also to be references to *Land* Berlin.

If this proposal is acceptable to the Government of the Kingdom of Norway, this note and your reply will be regarded as constituting an agreement.

I have the honour to be, etc.

(Signed) Dr. OPPLER

His Excellency Mr. Halvard Lange
Minister of Foreign Affairs
Royal Ministry of Foreign Affairs
Oslo

¹ See p. 242 of this volume.

II

ROYAL MINISTRY OF FOREIGN AFFAIRS

Oslo, 29 January 1959

Your Excellency,

I have the honour to acknowledge receipt of your note of today's date which reads as follows :

[*See note I*]

I have the honour to inform you that the proposal made by the Government of the Federal Republic of Germany has met with the approval of the Royal Norwegian Government. Accordingly, your note and this reply are regarded as giving effect to the agreement between our two Governments that *Land Berlin* shall be covered by the Agreement signed on 18 November 1958.

I have the honour to be, etc.

(*Signed*) Halvard LANGE

His Excellency Dr. Kurt Oppler
Ambassador of the Federal Republic of Germany
etc., etc., etc.