

No. 6896

**NORWAY
and
ITALY**

Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and fortune (with exchange of letters). Signed at Oslo, on 25 August 1961

Official texts: Norwegian and Italian.

Registered by Norway on 5 September 1963.

**NORVÈGE
et
ITALIE**

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur la fortune (avec échange de lettres). Signée à Oslo, le 25 août 1961

Textes officiels norvégien et italien.

Enregistrée par la Norvège le 5 septembre 1963.

[TRANSLATION — TRADUCTION]

No. 6896. AGREEMENT¹ BETWEEN THE KINGDOM OF NORWAY AND THE ITALIAN REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND FORTUNE. SIGNED AT OSLO, ON 25 AUGUST 1961

His Majesty the King of Norway and
The President of the Italian Republic,

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and fortune, have for this purpose appointed as their plenipotentiaries :

His Majesty the King of Norway :

Mr. Halvard Lange, Minister for Foreign Affairs;

The President of the Italian Republic :

Mr. Guido Colonna di Paliano, Italian Ambassador to Norway, who, having exchanged their full powers, found in good and due form, have agreed as follows :

Article 1

This Agreement shall apply to persons who are residents of Norway or Italy.

Article 2

1. This Agreement shall apply to taxes on income and fortune levied on behalf of the Contracting States, their political sub-divisions and their local bodies, irrespective of the manner in which such taxes are levied.

2. The following shall be regarded as taxes on income and fortune : taxes levied on total income, total fortune or parts of total income or fortune, including taxes on profits derived from the alienation of movable or immovable property, payroll taxes paid by enterprises, and taxes on increase to fortune.

3. The taxes to which this Agreement at present applies are, in particular :

¹ Came into force on 25 July 1963, the date of the exchange of the instruments of ratification at Rome, in accordance with article 29.

(a) In the case of Norway :

- (1) The State tax on income and fortune (*inntekts- og formuesskatt til staten*);
- (2) The communal tax on income and fortune (*inntekts- og formuesskatt til kommunene*), including the surtax on higher income (*tilleggsskatt på større inntekter*);
- (3) The tax on land (*eiendomsskatt*);
- (4) The seamen's tax (*sjømannsskatt*).

(b) In the case of Italy :

- (1) The tax on income from land (*l'imposta sui redditi dei terreni*);
- (2) The tax on income from buildings (*l'imposta sui redditi dei fabbricati*);
- (3) The tax on income from movable capital (*l'imposta sui redditi di ricchezza mobile*);
- (4) The tax on agricultural income (*l'imposta sui redditi agrari*);
- (5) The supplementary income tax (*l'imposta complementare progressiva sul reddito*);
- (6) The company tax (*l'imposta sulle società*);
- (7) The tax on bonds (*l'imposta sulle obbligazioni*);
- (8) Regional, provincial and communal income taxes and income taxes payable to chambers of commerce (*le imposte regionali, provinciali, comunali e camerali sul reddito*).

4. The 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 competent authorities of the Contracting States shall settle by agreement any questions which may arise as to which taxes are covered by this reement.

Article 3

1. For the purposes of this Agreement, unless the context otherwise requires :

- (a) The term “ Norway ” means the Kingdom of Norway; however, the provisions of the Agreement shall not apply to Svalbard, Jan Mayen or the Norwegian dependencies outside Europe;
- (b) The term “ Italy ” means the Italian Republic;
- (c) The term “ person ” includes individuals and any body of persons, corporate or not corporate;
- (d) The term “ enterprise of one of the Contracting States ” or “ enterprise of the other Contracting State ” means an enterprise carried on by a resident of one or the other of the Contracting States;
- (e) The term “ pension ” means a periodic payment made in consideration of past services rendered or by way of compensation for injuries received;
- (f) The term “ competent authorities ” means :
 - (i) In the case of Norway, the Department of Finance and Customs or a person duly empowered by the latter;
 - (ii) In the case of Italy, the Ministry of Finance (Directorate-General for Direct Taxes).

2. In the application of this Agreement by one of the Contracting States, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the fiscal laws in force in that State.

Article 4

1. For the purposes of this Agreement, the term “ resident of a Contracting State ” 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.

2. Where, under the provisions of paragraph 1 above, an individual is deemed to be a resident of both Contracting States, the matter shall be settled as follows :

- (a) The individual shall be deemed to be a resident of the Contracting State in which he has a permanent dwelling. If he has a permanent dwelling in both Contracting States, he shall be deemed to be a resident of the Contracting State with which he has the closer personal and economic ties (centre of vital interests).
- (b) If it cannot be determined in which Contracting State the individual has the centre of his vital interests, or if he has no permanent dwelling in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he habitually resides.

- (c) If the individual habitually resides in both or in neither of the Contracting States, he shall be deemed to be a resident of the Contracting State of which he is a national.
- (d) If the individual is a national of both or of neither of the Contracting States, the competent authorities of the Contracting States shall settle the question by agreement.

3. Where, under the provisions of paragraph 1 above, a body corporate is deemed to be a resident of both Contracting States, it shall be deemed to be a resident of the Contracting State in which its place of actual management is situated. The same shall apply to partnerships and associations which are not incorporated under the national law to which they are subject.

4. The *situs* of an estate undivided (as a taxable entity) shall be deemed to be in the Contracting State of which the deceased was deemed to be a resident at the time of his death.

Article 5

1. The term " permanent establishment " means a fixed place of business in which an enterprise carries on all or part of its business.

2. The following shall, in particular, be deemed to be permanent establishments;

- (a) A place of management;
- (b) A branch;
- (c) A business office;
- (d) A factory;
- (e) A workshop;
- (f) A mine, a quarry or any other place where natural resources are worked;
- (g) A construction or assembly project the duration of which exceeds twelve months.

3. The following shall not be deemed to constitute a permanent establishment :

- (a) The use of facilities exclusively for the storage, display or delivery of goods belonging to an enterprise;
- (b) The maintenance, exclusively for storage, display or delivery, of a stock of goods belonging to an enterprise;
- (c) The maintenance, exclusively for processing by some other enterprise, of a stock of goods belonging to an enterprise;

- (d) The maintenance of a fixed place of business exclusively for the purchase of goods or for procuring information for an enterprise;
- (e) 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.

4. A person—other than an independent representative within the meaning of paragraph 5 below—who carries on dealings in one of the Contracting States for an enterprise of the other Contracting 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 for the enterprise.

5. An enterprise of one of the Contracting States shall not be deemed to have a permanent establishment in the other Contracting 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.

6. The fact that a company which is a resident of one of the Contracting States controls, or is controlled by, a company which is a resident of the other Contracting 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.

Article 6

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

2. The term “national” means :

- (a) Any individual possessing the nationality of one of the Contracting States;
- (b) Any body corporate, partnership or association constituted under the law in force in either of the Contracting States.

3. Stateless persons shall not be subjected in either Contracting State to any taxation or to any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that State are or may be subjected under like conditions.

4. A permanent establishment maintained in one of the Contracting States by an enterprise of the other Contracting State shall not be subjected in the first-mentioned State to taxation which is less favourable than that to which enterprises of that State carrying on the same activities are subjected.

This provision shall not be so construed as to :

- (a) Require either Contracting State to grant to residents of the other Contracting State tax deductions, exemptions and reductions on account of personal status or family burdens which it grants to persons resident in its own territory;
- (b) Affect the imposition in Italy of the company tax on foreign partnerships, associations, etc., which are liable to the tax under Italian law.

5. Enterprises of one Contracting State whose capital is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

6. In this article, the term "taxation" refers to taxes of any kind or description.

Article 7

1. Income from immovable property shall be taxable in the Contracting State in which the property is situated.

2. The term "immovable property" shall have the meaning which it has under the laws of the Contracting State in which the property in question is situated. It shall in any case include accessories, livestock and equipment used in agricultural and forestry undertakings, rights which are subject to the provisions of private law relating to real property, usufructuary rights in immovable property, and rights to fixed or variable compensation for the exploitation of mineral deposits, natural springs and other natural resources; vessels and aircraft shall not be deemed to be immovable property.

3. The provisions of paragraphs 1 and 2 above shall apply to income derived from the direct use or lease of immovable property or from the use in any other form of such property, including income derived from agricultural and forestry undertakings. They shall also apply to profits derived from the alienation of immovable property.

4. The provisions of paragraphs 1-3 above shall also apply to income derived from the immovable property of undertakings other than agricultural and forestry undertakings and to income derived from immovable property used in the exercise of a profession.

Article 8

1. Save as otherwise provided in this Agreement, the profits of an enterprise of one of the Contracting States shall be taxable only in that State, unless the enterprise carries on business activities in the other State through a permanent establishment situated there. If the enterprise carries on such activities, its profits shall be taxable in the other State, but only in so far as such profits are attributable to the said permanent establishment.

2. Where an enterprise of one of the Contracting States carries on business activities in the other Contracting State through a permanent establishment situated there, the profits to be attributed to such permanent establishment shall be those which could have accrued to it if it had been an independent enterprise engaged in the same or similar activities under the same or similar conditions without any connexion with the enterprise of which it is the permanent establishment.

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions all expenses, wherever incurred, reasonably attributable to the permanent establishment, including executive and general administrative expenses so attributable.

4. For the purposes of this article, the profits attributable to a permanent establishment shall be deemed to include those derived from the sale, transfer or exchange of all or part of the capital invested in the permanent establishment.

Article 9

Where

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

and in either case conditions are made or imposed between the two enterprises, in their commercial or financial relations, which differ from those which would

be made between independent enterprises, then any profits which would except for those conditions have accrued to one of the enterprises may be included in the profits of that enterprise and taxed accordingly.

Article 10

1. Income derived from the operation of international shipping or aircraft services shall be taxable only in the Contracting State in which the place of actual management of the enterprise is situated.

2. The same shall apply where a shipping or air transport enterprise of one of the two Contracting States maintains an agency in the territory of the other Contracting State, but only in so far as the agency's activities are confined to the sale of tickets for the transport of persons or goods by ship or aircraft (whether or not the ships or aircraft in question belong to the enterprise), including local services ancillary thereto.

3. Where an air transport enterprise of one of the two States participates in a pool, a joint operating organization or an international operating agency, the provisions of paragraph 1 above shall also apply to income accruing to the enterprise as a result of such co-operation.

Article 11

1. Subject to the provisions of paragraph 2 below, dividends shall be taxable in each Contracting State in accordance with the law of that State.

2. Where a resident of one of the two Contracting States receives dividends from sources in the other Contracting State and the dividends are taxed in the latter State, the Contracting State of which he is a resident shall allow as a deduction from the tax which it levies an amount equal to the tax paid in the other State, subject to the proviso that the amount deducted shall not be greater in proportion to the total tax (as determined before the deduction) than are the dividends taxed in the other State in proportion to the total income.

3. For the purposes of this article, the State of which the taxpayer is a resident shall regard any portion of tax allowed as a reduction or exemption in the other State as having been paid.

4. For the purposes of this article, the term "dividends" means income from shares, "jouissance" shares, "jouissance" rights, founders' shares, profit-participating debentures and like participations in companies, and income from participations in co-operative societies and private limited companies.

Article 12

1. Where interest or other income from bonds or any other form of loan, deposits, deposit accounts or other types of indebtedness paid from a source in Italy to a taxpayer who is a resident of Norway has been subjected to any Italian tax (including the tax on bonds), Norway shall allow a deduction from its tax equal to the tax paid in Italy.

2. For the purposes of this article, the State of which the taxpayer is a resident shall regard any portion of tax allowed as a reduction or exemption in the other State as having been paid.

3. If, after the signing of this Agreement, Norway introduces a tax on interest levied at the source, the two Contracting States shall consult together.

Article 13

1. Royalties and other remuneration paid as consideration for the use of or the right to use copyrights relating to literary, artistic or scientific works, including cinematograph films, or patents, trade marks, designs or models, plans, secret processes or formulae, or any like property or right, shall be taxable only in the Contracting State of which the recipient is a resident.

2. Rentals and similar payments for the use of or the right to use industrial, commercial or scientific equipment or for the provision of industrial, commercial or scientific information shall be treated as royalties.

3. Fixed or variable payments for the working of mines, quarries or other natural resources shall not be treated as royalties.

4. Where royalties or other payments within the meaning of paragraphs 1 and 2 exceed a fair and reasonable consideration, the Contracting State of which the taxpayer is a resident shall be entitled to tax only so much of the royalties or payments as represents a fair and reasonable consideration.

5. The provisions of paragraph 1 shall also apply to payments received in respect of the alienation of any of the properties or rights referred to in paragraphs 1 and 2.

6. The provisions of paragraphs 1, 2, 4 and 5 shall not apply where the recipient of the royalties or other payments has a permanent establishment

or fixed base in the Contracting State from which such income originates. In such cases, the income shall be taxable by that State.

Article 14

1. Remuneration, including pensions, paid directly by, or out of funds created by, either Contracting State or one of its political sub-divisions or local bodies to any individual in respect of services rendered to such State, sub-division or body in the discharge of governmental functions shall be taxable in the said State.

2. Remuneration and pensions paid in respect of services rendered in connexion with any trade or business carried on by either Contracting State or one of its political sub-divisions or local bodies shall be subject to the provisions of articles 15, 16 and 19.

Article 15

Subject to the provisions of article 14, paragraph 1, pensions and other similar remuneration paid in respect of past employment shall be taxable only in the Contracting State of which the recipient is a resident.

Article 16

1. Subject to the provisions of articles 14, 15 and 19, salaries, wages and other similar remuneration received by a resident of either Contracting State in respect of employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived from it shall be taxable in the other State.

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

- (a) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned;
- (b) The remuneration is paid by or on behalf of an employer who is not a resident of the other State; and

- (c) The remuneration is not deducted from the profits of a permanent establishment or fixed base which the employer maintains in the other State.

3. Notwithstanding the preceding provisions of this article, remuneration for services performed on board a ship or aircraft in international traffic shall be taxable in the Contracting State in which the place of actual management of the enterprise is situated.

Article 17

Where a resident of one of the Contracting States derives income from the exercise of a profession or from other self-employment of a similar nature, the said income shall be taxable only in that State unless such person makes use, in the exercise of his activities, of a fixed base which is regularly available to him in the other Contracting State. If such a base is available to him, the portion of his income attributable to it shall be taxable in the other State.

Article 18

Notwithstanding the provisions of this Agreement, income derived by public entertainers—such as theatre, motion picture, radio or television artistes, and musicians—and by athletes from their personal activities as such shall be taxable in the Contracting State in which such activities are carried on.

Article 19

Directors' fees and other similar payments received by a resident of either Contracting State in his capacity as member of the board of directors or board of auditors of a company which is a resident of the other Contracting State shall be taxable in the latter State.

Article 20

Professors or teachers of one of the Contracting States receiving remuneration for teaching activities carried on by them, for a period of residence not exceeding two years, at a university, school or other teaching establishment situated in the other Contracting State shall not be subject in the latter State to taxation in respect of such remuneration.

Article 21

Payments which a student or business apprentice of one of the Contracting States who is present in the other Contracting State solely for the purpose

of his education or training receives for the purpose of his maintenance, education or training shall not be taxable in the latter State, provided that such payments are made from sources outside it.

Article 22

Income of all kinds other than those referred to in this Agreement shall be taxable only in the State of which the recipient is a resident.

Article 23

1. Fortune consisting of immovable property within the meaning of article 7, paragraph 2, shall be taxable in the Contracting State in which the property is situated.

2. Subject to the provisions of paragraph 1 above, fortune consisting of property forming part of the assets of a permanent establishment of an enterprise or of property pertaining to a fixed base used for the exercise of a profession shall be taxable in the Contracting State in which the permanent establishment or fixed base is situated.

3. Ships and aircraft operated in international traffic, and property other than immovable property pertaining to their operation, shall be taxable only in the Contracting State in which the place of actual management of the enterprise is situated.

4. All other elements of fortune of a resident of one of the Contracting States shall be taxable only in that State.

5. For the purposes of this article, the Italian company tax and the Italian tax on bonds shall not be deemed to be taxes on fortune.

Article 24

Subject to the provisions of articles 11 and 12, the following shall apply :

Where, under the provisions of this Agreement, one of the Contracting States is entitled to tax a specified item of income and the same item of income is taxable in the other Contracting State under the laws of that State, the latter Contracting State shall exempt such income from taxation but may, in calculating the amount of tax payable on other income, apply the same rate as would have been applicable if the said item of income had not been exempted.

Article 25

Where a taxpayer shows proof that the action of the tax authorities of the Contracting States has resulted or will result in his case in double taxation contrary to the provisions of this Agreement, he shall be entitled to file a complaint in the State of which he is a resident. Such complaint must be filed within one year from the date of notification or collection at source of the tax most recently levied. If the complaint is upheld, the competent authorities of the Contracting State in question shall consult with the competent authorities of the other State with a view to the avoidance of the double taxation.

Article 26

The competent authorities of the Contracting States shall exchange such information (being information which may be furnished under the fiscal laws of the Contracting States) as is required for the application of this Agreement, for the prevention of tax fraud or for the application of domestic legislation designed to prevent fiscal evasion with respect to the taxes which are the subject of this Agreement. Information thus exchanged shall be treated as secret and may not be divulged to any persons other than those responsible for the assessment and collection of the taxes which are the subject of this Agreement. No information which might disclose an industrial, commercial or professional secret or process shall be exchanged.

Article 27

1. The provisions of this Agreement shall not be construed as limiting in any way such deductions, exemptions, reductions or other reliefs as are or may be granted under the laws of either Contracting State in determining the amount of tax to be levied by that State.

2. Where difficulties or doubts arise in connexion with the interpretation or application of this Agreement, or with agreements concluded by one of the Contracting States with a third State, the competent authorities of the Contracting States shall settle the matter by agreement.

Article 28

The competent authorities of the two Contracting States may make such regulations as may be necessary for interpreting and carrying out the provisions of this Agreement and may communicate with each other directly for the purpose of giving effect to the provisions of the Agreement.

Article 29

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

2. This Agreement shall enter into force on the date of the exchange of the instruments of ratification and shall apply for the first time :

As regards taxes on income : to the taxation of income received during 1960 or during a financial year ending in the course of that year.

As regards taxes on fortune : to the taxation of fortune existing as at 1 January 1961 or as at the last day of a financial year ending in 1960.

Article 30

This Agreement shall remain in force for a term of five years, and indefinitely thereafter, but may be terminated by either Contracting State on the expiry of the five-year term or at any subsequent time, provided that at least six months' notice of such termination is given, in which event this Agreement shall cease to have effect as from 1 January following the expiry of the period of six months. In the event of its termination, the application of the Agreement shall be limited :

As regards annual taxes on income : to those levied on income received during the year in which the Agreement was terminated or during a financial year ending in the course of that year ;

As regards taxes on fortune : to the taxation of fortune existing as at 1 January of the year following that in which the Agreement was terminated or as at the last day of a financial year ending during the year in which the Agreement was terminated.

IN WITNESS WHEREOF the undersigned, being duly authorized for the purpose by their respective Governments, have signed this Agreement and have thereto affixed their seals.

DONE at Oslo on 25 August 1961, in two copies in the Norwegian and Italian languages respectively, both texts being equally authentic.

For the Kingdom
of Norway :
Halvard LANGE

For the Italian
Republic :
Guido COLONNA

EXCHANGE OF LETTERS

I

Oslo, 25 August 1961

Sir,

In connexion with the signing this day of the Agreement between the Norwegian Government and the Italian Government for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and fortune,¹ I have the honour to state, on behalf of the Norwegian Government, that in the view of the Norwegian Government the provisions of article 6, paragraph 1, are not to be construed as meaning that Italian citizens may claim the special tax treatment to which Norwegian citizens and persons having Norwegian nationality rights are entitled under the provisions of the Norwegian Tax Acts of 18 August 1911, No. 8, article 22, paragraph 2, and of 18 August 1911, No. 9, article 17, paragraph 2.

If you agree to this interpretation of the Agreement, I should be grateful if you would confirm the fact to me. I propose that, in the event of an affirmative reply, this letter and your reply should constitute an integral part of the Agreement.

I have the honour to be, etc.

(Signed) Halvard LANGE

II

Oslo, 25 August 1961

Sir,

I have the honour to acknowledge receipt of your letter of today's date in connexion with the signing of the Agreement between the Norwegian Government and the Italian Government for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and fortune, in which you communicated the following to me :

[See letter I]

I have the honour to confirm that the Italian Government agrees to this interpretation and that your letter and my reply shall constitute an integral part of the Agreement.

I have the honour to be, etc.

(Signed) Guido COLONNA

¹ See p. 300 of this volume.