No. 7340

NORWAY
and
SPAIN

Agreement for the avoidance of double taxation with respect to taxes on income and fortune (with Additional Protocol). Signed at Madrid, on 25 April 1963

Official texts: Norwegian and Spanish.

Registered by Norway on 21 July 1964.

NORVÈGE
et
ESPAGNE

Convention tendant à éviter la double imposition en matière d'impôts sur le revenu et d'impôts sur la fortune (avec Protocole additionnel). Signée à Madrid, le 25 avril 1963

Textes officiels norvégien et espagnol.

Enregistrée par la Norvège le 21 juillet 1964.

[TRANSLATION — TRADUCTION]

No. 7340. AGREEMENT[1] BETWEEN THE GOVERNMENT OF NORWAY AND THE GOVERNMENT OF SPAIN FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND FORTUNE. SIGNED AT MADRID, ON 25 APRIL 1963

The Government of Norway and the Government of Spain, desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income and fortune, have agreed as follows :

Chapter I

APPLICATION OF THE AGREEMENT

Article 1

APPLICATION TO PERSONS

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

Article 2

TAXES TO WHICH THE AGREEMENT APPLIES

1. This Agreement shall apply to taxes on income and fortune imposed on behalf of each Contracting State or of its local administrative authorities, irrespective of the manner in which they are levied.

2. The following shall be regarded as taxes on income and fortune : all taxes imposed on total income, on total fortune, or on any part of income or of fortune, including taxes on profits derived from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises (excluding social insurance contributions), and taxes on capital appreciation.

3. The existing taxes to which this Agreement shall apply in each of the Contracting States are :

(*a*) In the case of Norway :

[1] Came into force on 24 May 1964, thirty days after the exchange of the instruments of ratification which took place at Oslo on 24 April 1964, in accordance with article 29.

(1) The State tax on income and fortune, including the tax equalization levy (*inntekts- og formuesskatt til staten, herunder skatteutjevningsavgift*);

(2) The communal tax on income and fortune (*inntekts- og formuesskatt til kommuner*);

(3) The real property tax (*eiendomsskatt*);

(4) The seamen's tax (*sjømannsskatt*);

(hereinafter referred to as " Norwegian taxes ").

(*b*) In the case of Spain :

(1) The rural and urban land tax (*la Contribución Territorial Rústica y Urbana*);

(2) The tax on earnings form personal services (*el Impuesto sobre los rendimientos del Trabajo personal*);

(3) The tax on income from capital (*el Impuesto sobre las rentas del capital*);

(4) The tax on commercial and industrial activities and profits (fiscal licence and contribution on profits) (*el Impuesto sobre actividades y beneficios comerciales e industriales* (*Licencia Fiscal y Cuota por beneficios*));

(5) The tax on the income of companies and other legal entities (*el Impuesto sobre la renta de sociedades y demás entidades jurídicas*[1]);

(6) The general income tax (*la Contribución General sobre la Renta*);

(7) The various taxes on income (*Impuestos sobre las Rentas*) levied in each of its African provinces;

(8) With respect to enterprises governed by the Act of 26 December 1958 which are engaged in prospecting for and extracting oil, the Agreement shall apply, over and above the other taxes enumerated in this article, to the tax on surface area (*el Canón de superficie*), the tax on the unrefined product (*el Impuesto sobre el producto bruto*) and the special tax on the profits (*el Impuesto especial sobre beneficios*) of such companies;

(9) The local taxes on income and fortune (*los Impuestos locales sobre la renta y el patrimonio*);

(hereinafter referred to as " Spanish taxes ").

4. This Agreement shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes. At the end of each year, the competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their taxation laws.

[1] See footnote 1, p. 45 of this volume.

Chapter II

DEFINITIONS

Article 3

GENERAL DEFINITIONS

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

(*a*) The term " Norway " means the Kingdom of Norway excluding Svalbard (Spitsbergen), Jan Mayen and the Norwegian dependencies outside Europe;

(*b*) The term " Spain " means the Spanish State (Peninsular Spain, the Balearic and Canary Islands, and Spanish places and provinces in Africa);

(*c*) The terms " one Contracting State " and " the other Contracting State " mean Norway or Spain as the context requires;

(*d*) The term " tax " means Norwegian tax or Spanish tax as the context requires;

(*e*) The term " person " includes individuals, companies and any other entity treated as a taxable unit by the taxation laws in force in either of the Contracting States;

(*f*) The term " company " means any entity which is treated as a body corporate for tax purposes by the laws of either of the Contracting States;

(*g*) The term " competent authorities " means, in the case of Norway, the Minister for Finance and Customs or his authorized representative and, in the case of Spain, the Ministry of Finance.

2. In the application of the provisions of this Agreement by one of the Contracting States, any term not otherwise defined herein shall, unless the context requires otherwise, have the meaning assigned to it in the taxation laws in force in that State.

Article 4

FISCAL DOMICILE

1. For the purposes of this Agreement, the term " resident of a Contracting State " means any person who, under the law of that State, is liable to taxation in that State by reason of his domicile, residence, place of management or any other similar criterion.

2. Where, within the meaning of the provisions of paragraph 1 above, an individual is considered to be a resident of both Contracting States, the question shall be settled in accordance with the following rules :

(*a*) The individual shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests).

(*b*) If the Contracting State in which the individual has his centre of vital interests cannot be determined, or if he has no permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode.

(*c*) If the individual has an habitual abode in both the Contracting States or in neither of them, 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 the Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by agreement.

3. Where, within the meaning of the provisions of paragraph 1 above, a body corporate is 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 bodies corporate, under the national laws by which they are governed.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term " permanent establishment " means a fixed place of business in which the activity of the entreprise is wholly or partly carried on.

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

(*a*) A place of management;

(*b*) A branch;

(*c*) An office;

(*d*) A factory;

(*e*) A workshop;

(*f*) A mine, quarry or other place of extraction of natural resources;

(*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 solely for the storage, display or delivery of goods belonging to the enterprise; if such facilities are used for the direct sale of goods to customers or agents, the said facilities shall be deemed to be permanent establishments;

(*b*) The maintenance, solely for the purpose of storage, display or delivery, of a stock of goods belonging to the enterprise; if the goods are sold directly from the places where they are stored, such repositories shall be deemed to be permanent establishments;

(*c*) The maintenance, solely for the purpose of processing by another enterprise, of a stock of goods belonging to the enterprise;

(*d*) The use of a fixed place of business solely for the purpose of purchasing goods, or for collecting information, for the enterprise;

(*e*) The use of a fixed place of business solely for the purposes of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. A person acting in one Contracting State on behalf of an enterprise of the other Contracting State—other than an independent agent to whom paragraph 5 below applies—shall be treated as a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods for the enterprise.

5. An enterprise of one Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or other independent agent, where such persons are acting in the ordinary course of their business.

6. The fact that a company which is a resident of one Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Chapter III

TAXES ON INCOME

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.

2. The term " immovable property " shall be defined in accordance with the laws of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment of agricultural and forestry enterprises, rights to which the provisions of private law respecting landed property apply, usufruct of immovable property, fishing and hunting rights and rights to fixed or variable payments as consideration for the working of, or for the right to work, mineral deposits, stone, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 above shall apply to income derived from the direct use or from the letting of immovable property or the use in any other form of such property, including income from agricultural or forestry enterprises.

4. The provisions of paragraphs 1 and 3 above shall also apply to income derived from the immovable property of an enterprise and to income from immovable property used in the exercise of a profession.

Article 7

INCOME FROM BUSINESS

1. The profits of an enterprise of one Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on such business, the profits of the enterprise may be taxed in the latter State, but only in so far as those profits are attributable to the said permanent establishment.

2. Where an enterprise of one Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall be attributed to such permanent establishment, in each Contracting State, the profits which it would have been able to make if it had been a distinct and separate enterprise engaged in the same or similar activities under the same

or similar conditions and dealing quite independently with the enterprise of which it is a permanent establishment.

3. In calculating the profits of a permanent establishment, deductions shall be allowed for all genuine expenses which are incurred for the purposes of the permanent establishment, including a reasonable share of executive and general administrative expenses, whether incurred in the State in which the permanent establishment is situated or elsewhere.

4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise among its various parts, nothing in paragraph 2 of this article shall preclude such Contracting State from determining the taxable profits by such an apportionment as may be customary.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to follow another procedure.

7. Where profits include income which is dealt with separately in other articles of this Agreement, the provisions of such articles shall not be affected by the provisions of this article.

Article 8

SHIPPING, INLAND WATERWAYS TRANSPORT AND AIR TRANSPORT

1. Income derived from the operation of ships or aircraft in international traffic may be taxed only in the Contracting State in which the place of actual management of the enterprise is situated.

2. Income derived from the operation of boats engaged in inland waterways transport may be taxed only in the Contracting State in which the place of actual management of the enterprise is situated.

3. If the place of actual management of a shipping enterprise or of an inland waterways transport enterprise is aboard a ship or boat, it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated or, if there is no such home harbour, in the Contracting State of which the operator of the ship or boat is a resident.

4. The provisions of paragraphs 1, 2 and 3 of this article shall also apply to Norwegian or Spanish enterprises engaged in shipping or air transport which participate in pools of any description.

Article 9

ASSOCIATED ENTERPRISES

Where

(*a*) An enterprise of one Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

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

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

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of one Contracting State to a resident of the other Contracting State may be taxed in the latter State.

2. However, the Contracting State of which the company paying the dividends is a resident shall have the right to tax such dividends according to its own law, but the rate of the tax which it charges shall not exceed :

(*a*) 10 per cent of the gross amount of the dividends if the recipient is a company (other than a partnership) which holds directly at least 50 per cent of the capital of the company paying the dividends;

(*b*) In all other cases, 15 per cent of the gross amount of the dividends.

The competent authorities of the two States shall determine by agreement the mode of application of this limitation.

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

3. The term " dividends " as used in this article means income from shares, *jouissance* shares or *jouissance* rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 of this article shall not apply if the recipient of the dividends, being a resident of one Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding producing the dividends is effectively connected. In such a case, article 7 shall apply.

5. Where a company which is a resident of one Contracting State receives profits or income from the other Contracting State, such other State may not levy any tax on the dividends paid by the company to persons who are not residents of that other State, or the company's undistributed profits subject to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

INTEREST

1. Interest arising in one Contracting State and paid to a resident of the other Contracting State may be taxed in the latter State.

2. However, the Contracting State in which the interest arises shall have the right to tax such interest according to its own law, but the rate of tax applied shall not exceed 10 per cent of the amount of the interest. The competent authorities of the two States shall determine by agreement the mode of application of this limitation.

3. The term " interest " as used in this article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind, as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

4. Interest on Government securities issued by a Contracting State may be taxed by that State.

5. The provisions of paragraphs 1 and 2 of this article shall not apply if the recipient of the interest, being a resident of one Contracting State, has in the other Contracting State, in which the interest arises, a permanent establishment with which the debt-claim producing the interest is effectively connected. In such a case, article 7 shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself or a local administrative authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment for whose requirements the loan producing the interest was made, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

7. Where, owing to a special relationship between the payer and the recipient, or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the municipal law of the Contracting States, due regard being had to the other provisions of this Agreement.

Article 12

ROYALTIES

1. Royalties arising in one Contracting State and paid to a resident of the other Contracting State may be taxed in the latter State.

2. However, the Contracting State in which the royalties arise shall have the right to tax such royalties according to its own law, but the rate of tax applied shall not exceed 5 per cent of the amount of the royalties. The competent authorities of the two States shall determine by agreement the mode of application of this limitation.

3. The term " royalties " as used in this article means payments of any kind received as consideration for the use of, or for the right to use, any copyright in literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or for the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. Profits derived from the sale of any rights or property mentioned in paragraph 3 above may be taxed only in the Contracting State of which the seller is a resident. Any alienation the consideration for which is not precisely specified and expressed in monetary terms at the time of conclusion of the contract shall not be deemed to be a sale for the purposes of this provision.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself or a local administrative authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment through which the royalties are paid, such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. The provisions of paragraphs 1, 2 and 4 of this article shall not apply if the recipient of the royalties, being a resident of one Contracting State, has in the other Contracting State, in which the royalties arise, a permanent establishment with which the right or property producing the royalties is effectively connected. In such a case, article 7 shall apply.

7. Where, owing to a special relationship between the payer and the recipient, or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the municipal law of the Contracting states, due regard being had to the other provisions of this Agreement.

Article 13

CAPITAL GAINS

1. Profits derived from the alienation of immovable property, as defined in article 6, paragraph 2, may be taxed in the Contracting State in which such property is situated.

2. Profits derived from the alienation of movable property forming part of the assets of a permanent establishment which an enterprise of one Contracting State has in the other Contracting State, or from the alienation of movable property pertaining to a fixed base which a resident of one Contracting State has in the other Contracting State for the exercise of a profession, including profits derived from the alienation of such permanent establishment (either independently of or jointly with the rest of the enterprise) or of such fixed base, may be taxed in the latter State. However, profits derived from the alienation of movable property of the kind specified in article 23, paragraph 3, shall be taxable only in

the Contracting State in which such movable property is taxable under the said article.

3. Profits derived from the alienation of any possessions or assets other than those specified in paragraphs 1 and 2 of this article may be taxed only in the State of which the alienator is a resident.

Article 14

INDEPENDENT PERSONAL SERVICES (PROFESSIONS)

1. Income derived by a resident of one Contracting State from the exercise of a profession or from other independent activities of a similar character may be taxed only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, such part of the income as is attributable to that base may be taxed in the latter State.

2. For the purposes of this article, the term " profession " includes, in particular, scientific, literary, artistic, pedagogic or educational activities and the independent activities of physicians, lawyers, engineers, architects, dentists, accountants and brokers.

Article 15

DEPENDENT PERSONAL SERVICES (EMPLOYMENT)

1. Subject to the provisions of articles 16, 18 and 19, salaries, wages and similar remuneration which a resident of one Contracting State derives from employment may be taxed only in that State unless the work is done in the other Contracting State. If the work is done there, the remuneration received therefor shall be taxable in the latter State.

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

(*a*) The recipient stays in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned, and

(*b*) The remuneration is paid by or on behalf of an employer who is not a resident of the other State, and

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

3. Notwithstanding the preceding provisions of this article, remuneration for services rendered aboard a ship or an aircraft in international traffic, or aboard

a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of actual management of the enterprise is situated.

Article 16

DIRECTORS' FEES

Directors' fees and similar payments received by a resident of one Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in the latter State.

Article 17

ARTISTES AND ATHLETES

Notwithstanding the provisions of articles 14 and 15, income derived by professional entertainers such as theatre, motion picture, radio or television artistes, by musicians, and by athletes or sportsmen, from their personal activities as such may be taxed in the Contracting State in which these activities are performed.

Article 18

PENSIONS

Subject to the provisions of article 19, paragraph 1, pensions and similar remuneration paid in consideration of past employment may be taxed only in the Contracting State of which the recipient is a resident.

Article 19

PUBLIC SERVICE

1. Remunerations, including pensions, paid directly by, or out of funds established by, a Contracting State or a local administrative authority thereof to any individual in respect of services rendered to that State or local administrative authority in the discharge of public functions may be taxed in that State.

2. The provisions of articles 15, 16 and 18 shall apply to remuneration or pensions paid in respect of services rendered in connexion with any commercial or industrial activity carried on by one of the Contracting States or by a local administrative authority thereof.

Article 20

STUDENTS

A resident of one Contracting State who is staying temporarily in the other Contracting State solely

(*a*) As a student at a university, college or school in that other Contracting State, or

(*b*) As an apprentice to a business or trade, or

(*c*) As the holder of a scholarship or student's allowance granted by a religious, charitable, scientific or educational organization for the purpose of study or research,

shall not be taxed in that other Contracting State in respect of remittances received from abroad for his maintenance, education or training or under theterms of a scholarship or student's allowance. The same shall apply to any amount received as remuneration for work done in that other State, provided that such work is connected with his studies or training or is necessary to his maintenance. However, this provision shall not apply in cases where the said studies or training are secondary to the work for which the remuneration is received.

Article 21

PROFESSORS, TEACHERS AND RESEARCH WORKERS

A resident of one Contracting State who, at the invitation of a university, a college or another institution of higher education or scientific research in the other Contracting State, visits that other State, for the sole purpose of teaching or engaging in scientific research at such institution, for a period not exceeding two years, shall not be taxed in that other State in respect of remuneration received for such teaching or research.

Article 22

INCOME NOT EXPRESSLY MENTIONED

Income not expressly mentioned in the preceding articles of this Agreement may be taxed only in the Contracting State of which the recipient is a resident.

Chapter IV

TAXES ON FORTUNE

Article 23

FORTUNE

1. Fortune represented by immovable property, as defined in article 6, paragraph 2, may be taxed in the Contracting State in which such property is situated.

2. Subject to the provisions of paragraph 1 of this article, fortune represented by assets forming part of the business property of a permanent establishment of an enterprise, or by assets pertaining to a fixed base used for the exercise of a profession, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.

3. Ships and aircraft operated in international traffic, boats engaged in inland waterways transport, and assets, other than immovable property, pertaining to the operation of such ships, aircraft and boats may be taxed only in the Contracting State in which the place of actual management of the enterprise is situated.

4. All other elements of the fortune of a resident of a Contracting State may be taxed only in that State.

Chapter V

PROCEDURE FOR THE AVOIDANCE OF DOUBLE TAXATION

Article 24

1. Where a resident of one Contracting State receives income from or owns fortune in the other Contracting State and that income or fortune, in accordance with the provisions of this Agreement, may be taxed in that other Contracting State, the first-mentioned State shall, subject to the provisions of paragraphs 2 and 3 of this article, exempt such income or fortune from taxation but may, in calculating the amount of tax on the remaining income or fortune of that resident, apply the rate of tax which would have been applicable if the exempted income or fortune had not been so exempted.

2. Where a resident of one Contracting State receives income from the other Contracting State and that income, in accordance with the provisions of articles 10, 11 and 12 of this Agreement, may be taxed in that other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid on it in the other Con-

tracting State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income received from that other Contracting State.

3. The procedure laid down in paragraph 2 above shall also apply, in the case of Spain, to the general income tax (*la Contribución General sobre la Renta*) in respect of all income to be taken into consideration in determining the basis of assessment for such tax.

4. Where a total or partial exemption from Spanish taxes is granted, for a limited period, in respect of dividends, interest or royalties received by a resident of Norway, Norway shall deduct from the tax to be paid in its territory an amount equal to the tax which would have been paid in Spain in the absence of such exemption.

Chapter VI

SPECIAL PROVISIONS

Article 25

NON-DISCRIMINATION

1. The nationals of one Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than that to which nationals of that other State in the same circumstances are or may be subjected.

2. The term " nationals " means :

(*a*) All individuals possessing the nationality of a Contracting State;

(*b*) All bodies corporate, partnerships and associations constituted in accordance with the law in force in a Contracting State.

3. Stateless persons shall not be subjected in a Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than that to which nationals of that other State in the same circumstances are or may be subjected.

4. The taxation on permanent establishments which an enterprise of one contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

This provision shall not be construed as obliging either Contracting State to grant to residents of the other Contracting State any personal tax allowances, reliefs or reductions which it grants to its own residents on account of their personal circumstances or family responsibilities.

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 Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than that to which similar enterprises of the first-mentioned State are or may be subjected.

6. The provisions of this article shall not be construed as obliging Norway to grant to Spanish nationals the special tax relief which is granted under article 22 of the Norwegian Rural Tax Act and article 17 of the Norwegian Urban Tax Act to Norwegian citizens and persons having Norwegian nationality rights.

7. For the purposes of this article, the term " taxation " means only those taxes to which this Agreement applies.

Article 26

PROCEDURE FOR AMICABLE SETTLEMENT

1. Where a resident of a Contracting State considers that measures taken by one or both of the Contracting States result or will result for him in taxation which is not in accordance with this Agreement, he may, notwithstanding the remedies provided by the municipal law of those States, present his case to the competent authority of the Contracting State of which he is a resident.

2. If the objection appears to the competent authority to be justified, and if such authority itself is unable to arrive at an appropriate solution, it shall endeavour to resolve the case by amicable agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Agreement.

3. The competent authorities of the Contracting States shall endeavour to resolve by amicable agreement any difficulties or doubts raised by the interpretation or application of this Agreement. They may also consult together with a view to the elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Contracting States may communicate with each other for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable, in order to reach agreement, to have an oral exchange of opinions, such exchange may take place through a

commission composed of representatives of the competent authorities of the Contracting States.

Article 27

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the application of this Agreement and of such municipal law of the Contracting States as relates to this Agreement. The competent authorities shall not, however, be required to supply information which is not available from the tax authority's own documents but would necessitate special inquiries. All information thus exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those responsible for the assessment and collection of the taxes to which this Agreement applies.

2. The provisions of paragraph 1 of this article shall in no case be construed as imposing on either Contracting State the obligation :

(*a*) To adopt administrative measures at variance with the law or administrative practice of that State or of the other Contracting State;

(*b*) To supply information which cannot be demanded under the law of that State or of the other Contracting State.

3. No information shall be exchanged which might disclose any trade, business, industrial, commercial or professional secret or manufacturing process.

4. The competent authorities of the Contracting States may lay down rules for the application of this Agreement within their respective States.

5. The competent authorities of the Contracting States may communicate with each other in order to give effect to the provisions of this Agreement.

Article 28

DIPLOMATIC AND CONSULAR PRIVILEGES

Nothing in this Agreement shall affect any tax privileges to which diplomatic or consular officials are entitled under the general rules of international law or by virtue of the provisions of special agreements.

Chapter VII

FINAL PROVISIONS

Article 29

ENTRY INTO FORCE

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

2. This Agreement shall enter into force thirty days after the exchange of the instruments of ratification and shall apply for the first time :

(*a*) In Norway :

(1) As regards income taxes, to income received during the calendar year in which the instruments of ratification were exchanged, or during any fiscal year ending in the course of that calendar year;

(2) As regards taxes on fortune, to fortune taxable as from 1 January of the year following the calendar year in which the instruments of ratification were exchanged, or as from the last day of any fiscal year ending in the course of that calendar year;

(*b*) In Spain :

(1) As regards the taxes on dividends and interest collected by deduction at the source, to which articles 10 and 11 refer, to dividends and interest declared after the entry into force of this Agreement;

(2) As regards other income taxes, to income received during the calendar year in which the instruments of ratification were exchanged, or during any fiscal year ending in the course of that calendar year.

Article 30

TERMINATION

This Agreement shall remain in force until it is denounced by one of the Contracting States. Either Contracting State may denounce the Agreement through the diplomatic channel by giving notice of termination not later than six months before the end of any calendar year after 1965. In that event, the Agreement shall cease to apply :

(*a*) In Norway :

(1) As regards income taxes, to income received after the calendar year at the end of which this Agreement ceases to have effect;

(2) As regards taxes on fortune, to fortune taxable as from 1 January of the year following the calendar year at the end of which this Agreement ceases to have effect;

(*b*) In Spain :

(1) As regards the taxes on dividends or interest collected by deduction at the source, to which articles 10 and 11 refer, to dividends and interest declared after the calendar year at the end of which this Agreement ceases to have effect;

(2) As regards other income taxes, to income received after the calendar year at the end of which this Agreement ceases to have effect.

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

DONE at Madrid on 25 April 1963, in duplicate in the Norwegian and Spanish languages, both texts being equally authentic.

For the Norwegian Government :

Henr. A. BROCH

For the Government of Spain :

Fernando CASTIELLA

ADDITIONAL PROTOCOL

On signing this Agreement, the undersigned plenipotentiaries have made the following declarations, which specify the conditions for the application of article 7 of the Agreement :

A. For the purposes of article 7, paragraph 4, the taxable profits received in Spain by Norwegian enterprises which have one or more permanent establishments in Spain shall be computed according to Spanish municipal law.

However, in determining the total taxable income to be attributed to a permanent establishment situated in Spain, capital appreciation resulting from any compulsory legal revalorization either of immovable property situated, or of shares and securities invested, outside Spain shall be excluded from the calculation of taxable income.

Save in cases where fraud is committed against Spanish taxation law, the following shall also be left out of account for this purpose :

(*a*) Capital appreciation resulting from voluntary revalorization of immovable assets (excluding shares and securities) situated outside Spain;

(*b*) Capital appreciation resulting from the transfer of immovable assets (excluding shares and securities) situated outside Spain.

B. Norwegian enterprises which have one or more permanent establishments in Spain may elect to be taxed according to the same procedure as is applicable to Spanish enterprises which carry on all their activity in Spain.

That choice shall be open for two years and must be exercised before the beginning of the first fiscal year to which "it" applies.

For the Norwegian Government :
Henr. A. BROCH

For the Government of Spain :
Fernando CASTIELLA