

No. 8683

**NORWAY
and
NETHERLANDS**

Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and fortune (with Protocol). Signed at The Hague, on 22 September 1966

Official texts : Norwegian and Dutch.

Registered by Norway on 12 July 1967.

**NORVÈGE
et
PAYS-BAS**

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et d'impôts sur la fortune (avec Protocole). Signée à La Haye, le 22 septembre 1966

Textes officiels norvégien et néerlandais.

Enregistrée par la Norvège le 12 juillet 1967.

[TRANSLATION — TRADUCTION]

No. 8683. AGREEMENT¹ BETWEEN THE KINGDOM OF NORWAY AND THE KINGDOM OF THE NETHERLANDS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND FORTUNE. SIGNED AT THE HAGUE, ON 22 SEPTEMBER 1966

His Majesty the King of Norway and

Her Majesty the Queen of the Netherlands,

Desiring to replace the Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital, signed at The Hague on 29 December 1950² with a new Agreement,

Have for this purpose appointed as their plenipotentiaries :

His Majesty the King of Norway :

Mr. Otto J. L. Kildal, Ambassador Extraordinary and Plenipotentiary at The Hague,

Her Majesty the Queen of the Netherlands :

Mr. Leo de Block, Secretary of State for Foreign Affairs,

Who, having exchanged their full powers, found in good and due form, have agreed on the following provisions :

CHAPTER I

SCOPE OF AGREEMENT

Article 1

PERSONAL SCOPE

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

Article 2

TAXES COVERED BY THE AGREEMENT

1. This Agreement shall apply to taxes on income and fortune imposed on behalf of each of the States or of its political sub-divisions or local authorities, irrespective of the manner in which they are levied.

¹ Came into force on 6 June 1967, the date of the exchange of the instruments of ratification at Oslo, in accordance with article 35.

² United Nations, *Treaty Series* Vol. 134, p. 19.

2. The following shall be regarded as taxes on income and fortune: all taxes of any description imposed on total income, on total fortune, or on elements 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 and taxes on capital appreciation.

3. The existing taxes to which this Agreement shall apply are, in particular:

(a) In the case of the Netherlands:

- The income tax (*inkomstenbelasting*);
- The tax on wages and salaries (*loonbelasting*);
- The company tax (*vennootschapsbelasting*);
- The dividends tax (*dividendbelasting*);
- The tax on directors' emoluments (*commissarissenbelasting*);
- The fortune tax (*vermogensbelasting*);

(b) In the case of Norway:

- The State income tax (*inntektsskatt til staten*);
- The State tax-equalization dues (*skatteutjevningsavgift til staten*);
- The special State tax in aid of developing countries (*saerskatt til staten for utviklingshjelp*);
- The State tax on fees paid to foreign artists (*avgift til staten av utenlandske kunstneres honorarer*);
- The State fortune tax (*formuesskatt til staten*);
- The communal income tax (*inntektsskatt til kommuner*);
- The communal fortune tax (*formuesskatt til kommuner*);
- The communal real property tax (*eiendomsskatt til kommuner*);
- The seamen's tax (*sjømannsskatt*); and
- The tax on the income of dependent children (*skatt av forsørgede barns innteker*).

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 States shall notify each other of any significant changes which have been made in their taxation laws.

CHAPTER II

DEFINITIONS

Article 3

GENERAL DEFINITIONS

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

(a) The term "State" means the Netherlands or Norway, as required by the context; The term "States" means the Netherlands and Norway;

(b) The term "Netherlands" covers that part of the Kingdom of the Netherlands which is situated in Europe and that part of the sea-bed and subsoil in the North Sea which is subject to the sovereignty of the Kingdom of the Netherlands in accordance with the Convention on the Continental Shelf, signed at Geneva on 29 April 1958;¹

(c) The term "Norway" means the Kingdom of Norway and the sea-bed and its subsoil in the sea areas off the coast of the Kingdom of Norway which are subject to Norwegian sovereignty in respect of the use and exploration of natural resources; Svalbard (Spitzbergen), Jan Mayen and the Norwegian dependencies outside Europe are not included;

(d) The term "person" includes individuals, companies and all other associations of persons;

(e) The term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(f) The terms "enterprise of one of the States" and "enterprise of the other State" mean respectively an enterprise carried on by a resident of one of the States and an enterprise carried on by a resident of the other State;

(g) The term "competent authority" means :

1. In the Netherlands, the Minister of Finance or his authorized representative;
2. In Norway, the Minister of Finance and Customs or his authorized representative.

2. In the application of the provisions of this Agreement by each of the States, any term not otherwise defined shall, unless the context requires otherwise, have the meaning which it has under the taxation laws of that State relating to the taxes which are the subject of the Agreement.

Article 4

FISCAL DOMICILE

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

2. For the purposes of this Agreement, an individual who is a member of a diplomatic or consular mission of one of the States in the other State or in a third State and who is a national of the sending State shall be deemed to be a

¹ United Nations, *Treaty Series*, Vol. 499, p. 311.

resident of the sending State if he is subject therein to the same requirements in respect of taxes on income and fortune as residents of that State.

3. Where under the provisions of paragraph 1 an individual is a resident of both States, the case shall be determined in accordance with the following rules :

- (a) He shall be deemed to be a resident of the State in which he has a permanent home available to him. If he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests).
- (b) If the State in which he has his centre of vital interests cannot be determined, or if he has no permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has a habitual abode.
- (c) If he has a habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national.
- (d) If he is a national of both States or of neither of them, the competent authorities of the States shall settle the question by agreement.

4. Where under the provisions of paragraph 1 a person other than an individual is a resident of both States, it shall be deemed to be a resident of the State in which its place of actual management is situated.

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 enterprise is wholly or partly carried on.

2. The term " permanent establishment " shall include especially :

- (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 building site or construction or assembly project which exists for more than twelve months.

3. The term “ permanent establishment ” shall not be deemed to include :
- (a) The use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
 - (b) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - (c) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - (d) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information for the enterprise;
 - (e) The maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. A person acting in one of the States on behalf of an enterprise of the other State, other than an independent agent to whom paragraph 5 applies, shall be deemed to be 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 or merchandise for the enterprise. If he has no such authority, he shall not be deemed to be a permanent establishment, even where the enterprise which he represents makes a fixed place of business available to him.

5. An enterprise of one of the States shall not be deemed to have a permanent establishment in the other 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 of the States controls or is controlled by a company which is a resident of the other 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

TAXATION OF INCOME

Article 6

INCOME FROM IMMOVABLE PROPERTY

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

2. The term “immovable property” shall be defined in accordance with the laws of the 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 and rights to fixed or variable payments as consideration for the working of, or for the right to work, mineral deposits, sources and other natural resources. Ships, boats and aircraft shall not be regarded as immovable property.

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

4. Interest on debts connected with immovable property which a resident of one of the States owns in the other State shall be deductible for the purpose of calculating net income in that other State under the same conditions as apply to residents of that other State.

5. The provisions of paragraphs 1, 3 and 4 shall also apply to income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

Article 7

INCOME FROM BUSINESS

1. The profits of an enterprise of one of the States shall be taxable only in that State unless the enterprise carries on business in the other State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, tax may be imposed in the other State on the profits of the enterprise but only on so much of them as is attributable to that permanent establishment.

2. Where an enterprise of one of the States carries on business in the other State through a permanent establishment situated therein, there shall in each State be attributed to that permanent establishment the profits which it might have been expected 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, there shall be allowed as deductions expenses, including executive and general administrative expenses, which are incurred for the purposes of the permanent establishment, whether in the State in which the permanent establishment is situated or elsewhere.

4. In so far as it has been customary in one of the States 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 shall preclude that State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this article.

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

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

7. Where profits include elements of income which are 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 AND AIR TRANSPORT

1. Profits derived from the operation of ships or aircraft in international traffic shall be taxable only in the State in which the place of actual management of the enterprise is situated.

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

3. The provisions of paragraphs 1 and 2 shall likewise apply to profits derived from the operation of vessels used in fishing, sealing or whaling on the high seas.

Article 9

ASSOCIATED ENTERPRISES

Where :

- (a) An enterprise of one of the States participates directly or indirectly in the management, control or capital of an enterprise of the other State, or
- (b) The same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the States and an enterprise of the other 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 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 of the States to a resident of the other State may be taxed in that other State.

2. However, the State of which the company paying the dividends is a resident may also tax such dividends according to its own law, but the rate of the tax which it charges may not exceed 15 per cent of the gross amount of the dividends.

3. Notwithstanding the provisions of paragraph 2, the State of which the company is a resident may not levy any tax on dividends paid by the said company to a company whose capital is wholly or partly divided into shares and which is a resident of the other State and holds directly at least 25 per cent of the capital of the company paying the dividends.

4. The competent authorities of the States shall determine by agreement the mode of application of paragraphs 2 and 3.

5. The provisions of paragraphs 2 and 3 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

6. The term "dividends" as used in this article means income from shares, *jouissance* shares and *jouissance* rights, mining shares, founders' shares or other rights participating in profits, from debt-claims participating in profits, and 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.

7. The provisions of paragraphs 1, 2 and 3 shall not apply if the recipient of the dividends, being a resident of one of the States, has in the other State, of which the company paying the dividends is a resident, a permanent establishment which has actual control over the holding by virtue of which the dividends are paid. In that case, the provisions of article 7 shall apply.

8. Where a company which is a resident of one of the States receives profits or income from the other State, that 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 subject the company to a tax on undistributed profits, even if the divi-

dends 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 of the States and paid to a resident of the other State shall be taxable only in that other State.

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

3. The provisions of paragraph 1 shall not apply if the recipient of the interest, being a resident of one of the States, has in the other State, in which the interest arises, a permanent establishment with which the debt-claim from which the interest arises is actually connected. In that case, the provisions of article 7 shall apply.

4. 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 be taxable according to the law of each of the States, due regard being had to the other provisions of this Agreement.

Article 12

ROYALTIES

1. Royalties arising in one of the States and paid to a resident of the other State shall be taxable only in that other State.

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

3. The provisions of paragraph 1 shall not apply if the recipient of the royalties, being a resident of one of the States, has in the other State, in which the royalties arise, a permanent establishment with which the right or property giving rise to the royalties is actually connected. In that case, the provisions of article 7 shall apply.

4. 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 be taxable according to the law of each of the States, due regard being had to the other provisions of this Agreement.

Article 13

LIMITATION OF THE PROVISIONS OF ARTICLES 10, 11 AND 12

1. Notwithstanding the provisions of articles 10, 11 and 12, each State shall retain the right to levy taxes, according to its own law, on dividends, interest and royalties paid to international organizations, their organs or members of their staff, or to persons being members of a diplomatic or consular mission of a third State who are in the other State and are exempt therein from taxation in respect of such dividends, interest or royalties.

2. Notwithstanding the provisions of articles 10, 11 and 12, each State shall retain the right to levy taxes, according to its own law, on dividends, interest or royalties paid to a person being a member of a diplomatic or consular mission of that State who is in the other State and is exempt therein from taxation in respect of such dividends, interest or royalties.

Article 14

CAPITAL GAINS

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

2. Profits derived from the alienation of movable property forming part of the business property employed in a permanent establishment which an enterprise of one of the States has in the other State shall be taxable in that other State. The same shall apply to movable property pertaining to a fixed base which a resident of one of the States has in the other State for the practice of a profession. It shall also apply to profits derived from the alienation of such a per-

manent establishment (either alone or together with the whole enterprise) or fixed base.

3. Notwithstanding the provisions of paragraph 2, profits derived from the alienation of ships or aircraft operated in international traffic and of vessels used in fishing, sealing or whaling on the high seas, or of movable property pertaining to the operation of such ships, aircraft and vessels, shall be taxable in the State in which the place of actual management of the enterprise is situated. The provisions of article 8, paragraph 2, shall apply.

4. Profits derived from the alienation of any property or assets other than those specified in paragraphs 1, 2 and 3 shall be taxable only in the State of which the alienator is a resident.

5. The provisions of paragraph 4 shall not affect the right of each State to levy taxes, according to its own law, on profits derived from the alienation of shares or *jouissance* shares in a company whose capital is wholly or partly divided into shares and which is a resident of that State, where the profits are derived by an individual who is a resident of the other State and who has been during the last five years preceding the alienation of the shares or *jouissance* shares a resident of the first-mentioned State.

Article 15

INDEPENDENT PERSONAL SERVICES (PROFESSIONS)

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

2. The term "profession" includes, in particular, independent scientific, literary, artistic, educational or teaching activities and the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 16

INCOME DERIVED FROM EMPLOYMENT

1. Subject to the provisions of articles 17, 19, 20, 21 and 22, wages, salaries and other similar remuneration derived by a resident of one of the States from employment shall be taxable only in that State. However, if the employment is exercised in the other State, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of one of the States from employment in the other 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, 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 cost of the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this article, remuneration for employment aboard a ship or aircraft in international traffic shall be taxable only in the State of which the person receiving such remuneration is a resident. The same rule shall apply in the case of employment aboard vessels used in fishing, sealing or whaling on the high seas.

Article 17

DIRECTORS' FEES

1. Directors' fees and similar payments received by a resident of the Netherlands in his capacity as a *styremedlem* or *representantskapsmedlem* of a company which is a resident of Norway shall be taxable in Norway.

2. Remuneration and other payments received by a resident of Norway in his capacity as a *bestuurder* or *commissaris* of a company which is a resident of the Netherlands shall be taxable in the Netherlands.

Article 18

ARTISTES AND ATHLETES

Notwithstanding the provisions of articles 15 and 16, income derived by professional entertainers, such as theatre, motion picture, radio or television artistes and musicians, and by professional athletes, from their personal activities as such may be taxed in the State in which these activities are exercised.

Article 19

PENSIONS

Subject to the provisions of article 20, paragraphs 1 and 2, pensions, and other similar remuneration, paid to a resident of one of the States in consideration of past employment shall be taxable only in that State.

Article 20

PAYMENTS OUT OF PUBLIC FUNDS

1. Remuneration, including pensions, paid by, or out of funds created by, one of the States or a political sub-division or a local authority thereof to any individual in respect of services rendered to that State or sub-division or local authority thereof may be taxed in that State.

2. Pensions and all other benefits, whether periodic or non-periodic, paid by, or out of funds created by, one of the States or a political sub-division or a local authority thereof under the social insurance legislation of that State may be taxed in that State.

3. Notwithstanding paragraph 1 of this article, the provisions of articles 16, 17 and 19 shall apply to remuneration or pensions for services rendered in connexion with any trade or business carried on by one of the States or a political sub-division or a local authority thereof.

Article 21

PROFESSORS AND TEACHERS

1. A resident of one of the States who visits the other State for the purpose of teaching or engaging in scientific research at a university, college or other establishment of higher education or scientific research for a period not exceeding two years shall be taxable only in the first-mentioned State in respect of remuneration received for such teaching or research.

2. This article shall not apply to income derived from scientific research if such research is conducted not in the public interest but primarily for the private benefit of a specific person or persons.

Article 22

STUDENTS AND TRAINEES

1. (a) An individual who is a resident of one of the States at the beginning of his visit to the other State shall be exempt from taxation in that other State if he is temporarily present in that other State primarily for the purpose of :

- (i) Studying at a university or other recognized educational establishment or otherwise engaging in research of an educational nature; or
- (ii) Obtaining the practical training required to qualify him for an occupation or for a speciality within an occupation.

However, the exemption shall apply only to :

- A. Gifts from abroad for his maintenance, education, studies, research or practical training;
- B. A grant, allowance or award received from a Government, educational establishment or non-profit organization; and
- C. Income derived from personal services performed in the other State, in an amount not exceeding 3,600 guilders (in the case of services performed in the Netherlands) or 7,200 kroner (in the case of services performed in Norway) in any one fiscal year.

(b) The advantages provided for in this paragraph shall apply for such period of time as is reasonably or customarily required in order to accomplish the purpose of the visit but shall in no case be granted to an individual for a period of more than five fiscal years.

2. A resident of one of the States shall be exempt from taxation in the other State for a period not exceeding one fiscal year if he stays temporarily in the other State as an employee of, or under contract to, a person or company which is a resident of the first-mentioned State.

However, the exemption shall apply only where the primary purpose of the stay is :

- (i) To obtain technical, occupational or commercial experience with a person other than the employer and other than a company in which the employer holds 50 per cent or more of the voting stock, or
- (ii) To study at a university or other recognized educational institution in the other State.

Furthermore, the exemption shall be limited to income derived from personal services, in an amount not exceeding 18,000 guilders (in the case of services performed in the Netherlands) or 36,000 kroner (in the case of services performed in Norway).

Article 23

INCOME NOT EXPRESSLY MENTIONED

Items of income received by a resident of one of the States which are not expressly mentioned in the preceding articles of this Agreement shall be taxable only in that State.

CHAPTER IV

TAXES ON FORTUNE

Article 24

FORTUNE

1. Fortune represented by immovable property, as defined in article 6, paragraph 2, may be taxed in the State in which such property is situated.
2. Debts secured by a mortgage on immovable property which a resident of one of the States owns in the other State shall be deductible for the purpose of calculating net fortune in that other State under the same conditions as apply to residents of that other State.
3. Fortune represented by movable property forming part of the business property employed in a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the practice of a profession, may be taxed in the State in which the permanent establishment or fixed base is situated.
4. Ships and aircraft operated in international traffic and vessels used in fishing, sealing or whaling on the high seas, and movable property pertaining to the operation of such ships, aircraft and vessels, may be taxed in the State in which the place of actual management of the enterprise is situated. The provisions of article 8, paragraph 2, shall apply.
5. All other elements of fortune owned by a resident of one of the States shall be taxable only in that State.

CHAPTER V

PROCEDURE FOR THE AVOIDANCE OF DOUBLE TAXATION

Article 25

1. Each of the States may, in levying taxes on its residents, include in the basis upon which the tax is computed the items of income and fortune which under the provisions of this Agreement are taxable in the other State.

2. Subject to the application of those provisions of the domestic regulations for the avoidance of double taxation which concern the setting-off of losses, the Netherlands shall allow a deduction from the tax computed in accordance with paragraph 1. The deduction shall bear the same ratio to the amount of that tax as the total income and fortune which under articles 6, 7, 8, 9, 10 paragraph 7, 11 paragraph 3, 12 paragraph 3, 14 paragraphs 1, 2 and 3, 15, 16 paragraph 1, 17 paragraph 1, 18, 20 and 24 paragraphs 1, 3 and 4, of this Agreement is taxable in Norway bears to the total income and fortune constituting the basis referred to in paragraph 1 of this article.

In addition, a deduction from the Netherlands tax so computed shall be allowed by the Netherlands in respect of income which under article 10, paragraph 2, is taxable in Norway. The amount of the said deduction shall be the smaller of the following amounts :

- (a) The amount corresponding to the Norwegian tax;
- (b) The amount of the Netherlands tax on the said income which bears the same ratio to the amount of the tax computed in accordance with paragraph 1 of this article as the amount of the income in question bears to the amount of the income constituting the basis referred to in paragraph 1 of this article.

3. Where a resident of Norway receives income or owns fortune which under the provisions of this Agreement is taxable in the Netherlands, Norway shall, subject to the provisions of paragraphs 1 and 4 of this article, exempt such income or fortune from taxation.

4. Where a resident of Norway receives income which under the provisions of article 10, paragraph 2, is taxable in the Netherlands, Norway shall allow as a deduction from the tax on the income of the person concerned an amount corresponding to the tax paid in the Netherlands. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income derived from the Netherlands.

CHAPTER VI

SPECIAL PROVISIONS

Article 26

NON-DISCRIMINATION

1. Nationals of one of the States, whether or not they are residents of that State, shall not be subjected in the other State to any taxation or any requirement

connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

2. The term "nationals" means :

- (a) All individuals possessing the nationality of one of the States;
- (b) All bodies corporate, partnerships and associations deriving their status as such from the law in force in one of the States.

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

4. The taxation on a permanent establishment which an enterprise of one of the States has in the other 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 State to grant to residents of the other State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

5. Enterprises of one of the States whose capital is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other 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 that first-mentioned State are or may be subjected.

6. In this article the term "taxation" means taxes of every kind and description.

Article 27

AGREEMENT PROCEDURE

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

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by agreement with the competent authority of the other State, with a view to the avoidance of taxation not in accordance with this Agreement.

3. The competent authorities of the States shall endeavour to resolve by agreement any difficulties or doubts arising as to 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 this Agreement.

4. The competent authorities of the States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. Where 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.

Article 28

EXCHANGE OF INFORMATION

The competent authorities of the States shall exchange such information (being information which such authorities have in proper order at their disposal) as is necessary for carrying out the provisions of this Agreement, particularly for the prevention of fraud, and for giving effect to statutory provisions against legal avoidance in relation to the taxes which are the subject of this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment (including judicial assessment) and collection of the taxes which are the subject of this Agreement.

Article 29

ASSISTANCE IN THE COLLECTION OF TAXES

1. The States undertake to lend assistance to each other in the collection of the taxes which are the subject of this Agreement, together with interest, costs, and additions to the taxes and fines not being of a penal character.

2. In the case of applications for the collection of taxes, revenue claims of each State which have been finally determined shall be accepted for collection by the other State and collected in that State in accordance with the laws applicable to the collection of its own taxes, provided that such claims shall not enjoy priority in the latter State. Norwegian revenue claims shall be regarded as finally determined when they can no longer be altered on administrative appeal. The State to which application is made shall not be required to enforce executory measures for which there is no provision in the law of the State making the application.

3. All applications shall be accompanied by documents establishing that under the laws of the State making the application the taxes have been finally determined as provided in paragraph 2 of this article.

4. The assistance provided for in this article shall not be accorded with respect to nationals or companies of the State to which application is made.

Article 30

LIMITATION OF THE PROVISIONS OF ARTICLES 28 AND 29

The provisions of articles 28 and 29 shall not be construed as imposing on either State the obligation :

- (a) To carry out administrative measures at variance with the laws or the administrative practice of that State or of the other State;
- (b) To supply information which is not obtainable under the laws or in the normal course of the administration of that State or of the other State;
- (c) To supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy.

Article 31

DIPLOMATIC AND CONSULAR OFFICIALS

The provisions of this Agreement shall not affect the tax privileges of diplomatic or consular officials under the general rules of international law or the provisions of special agreements.

Article 32

REGULATIONS

1. The competent authorities of each State may, in accordance with the practice of that State, prescribe such regulations as are necessary to carry out the provisions of this Agreement.

2. With respect to the provisions of this Agreement relating to exchange of information and mutual assistance in the collection of taxes, the competent authorities may, by agreement, prescribe rules concerning matters of procedure, forms of application and replies thereto, conversion of currency, disposition of amounts collected, minimum amounts subject to collection, and related matters.

Article 33

TERRITORIAL EXTENSION

1. This Agreement may be extended, either in its entirety or with any necessary modifications, to

- (a) Surinam or the Netherlands Antilles, or both those countries;
- (b) Any part of Norwegian territory which has been expressly excluded from the scope of the Agreement;

if the country or territory in question imposes taxes substantially similar to those to which the Agreement applies. Any such extension shall take effect from such date, and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed upon in notes to be exchanged through the diplomatic channel.

2. Unless otherwise agreed between the two States, unilateral denunciation of the Agreement under article 36 shall not terminate the application of the Agreement to any country or territory to which it has been extended under this article.

Article 34

SUSPENSION OF THE SHIPPING AGREEMENT OF 1929

The Agreement of 11 January 1929¹ between Norway and the Netherlands for the reciprocal exemption from income tax in certain cases of profits accruing from the business of shipping shall not have effect in relation to any tax for any period for which this Agreement has effect as respects that tax.

CHAPTER VII

FINAL PROVISIONS

Article 35

ENTRY INTO FORCE

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

2. The Agreement shall enter into force upon the exchange of the instruments of ratification, and its provisions shall, subject to the provisions of paragraph 3, apply in respect of any fiscal year or accounting period which begins on or after 1 January of the year following the year in which the exchange takes place.

¹ League of Nations, *Treaty Series*, Vol. LXXXV, p. 409.

3. Article 10 shall apply to dividends paid on or after the thirtieth day following the date of the exchange of the instruments of ratification.

4. The Agreement between the Kingdom of Norway and the Kingdom of the Netherlands for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital, signed at The Hague on 29 December 1950, shall cease to have effect upon the entry into force of the provisions of this Agreement. The provisions of the first-mentioned Agreement shall, however, continue to apply in respect of any fiscal year or accounting period completed before the entry into force of the provisions of this Agreement.

Article 36

TERMINATION

This Agreement shall remain in force until it is denounced by one of the States. Either 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 1971. In that event, the Agreement shall cease to apply in respect of any fiscal year or accounting period which begins after the end of the calendar year in which notice was given.

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

DONE at The Hague, on 22 September 1966, in duplicate in the Norwegian and Dutch languages, both texts being equally authentic.

For the Kingdom of Norway :

Otto KILDAL

For the Kingdom of the Netherlands :

L. de BLOCK

PROTOCOL

On signing the Agreement concluded this day between the Kingdom of Norway and the Kingdom of the Netherlands for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and fortune, the undersigned plenipotentiaries have agreed that the following provisions shall form an integral part of the Agreement :

I

1. Where a person who under the provisions of the Agreement is a resident of the Netherlands is exempt from, or entitled to a reduction of, Norwegian taxes, a similar exemption or reduction shall apply in respect of any undistributed estate, in so far as one or more of the heirs or legatees are residents of the Netherlands.

2. Where income from an undistributed estate which under the provisions of the Agreement is subject to Norwegian taxation is payable to an heir or legatee who is a resident of the Netherlands, the Netherlands shall allow a deduction in accordance with article 25, paragraph 2, of the Agreement.

II. *Ad article 4*

Individuals living aboard a ship and having no permanent residence in either State shall be deemed to be residents of the State in which the ship has its home harbour.

III. *Ad articles 8, 14, 24 and 27*

Where an enterprise is operated by one or more co-owners having joint and several liability who are residents of one of the States and one or more co-owners having joint and several liability who are residents of the other State, the following rules shall apply : If the competent authorities of the two States agree that the place of actual management cannot be deemed to be situated in only one of the States, then profits as specified in article 8, paragraphs 1 and 3, profits as specified in article 14, paragraph 3, and fortune as specified in article 24, paragraph 4, shall be taxable only in proportion to the share held by each of the co-owners having joint and several liability, in the State of which he is a resident.

IV. *Ad article 10*

Applications for the refund of taxes collected contrary to the provisions of article 10 may be submitted to the competent authority of the State which collected the tax, within a period of three years following the end of the calendar year in which the tax was collected.

V. *Ad article 25*

If the law of one of the States makes no provision concerning the taxation of income or fortune pertaining to the sea-bed and its subsoil, as specified in article 3, paragraph 1 (*b*) or 1 (*c*), and if under the provisions of the Agreement such

income may be taxed in that State, the other State shall not be obliged to allow any deduction or exemption in respect of taxes on such income and fortune under article 25, paragraph 2 or 3.

VI. Ad article 25

If the law of one of the States makes no provision concerning the taxation of remuneration, as specified in article 20, paragraph 2, which is paid to a resident of the other State, the last-mentioned State shall not be obliged to allow any deduction or exemption in respect of taxes on such remuneration under article 25, paragraph 2 or 3.

VII. Ad article 26

The provisions of article 26 shall not be construed as obliging Norway to grant to Netherlands nationals who are not also Norwegian nationals the special tax relief granted to Norwegian nationals and to persons born of parents possessing Norwegian nationality under section 22 of the Norwegian tax law for rural areas and section 17 of the Norwegian tax law for urban areas.

VIII. Ad article 26

In the application of article 26, paragraph 4, the following provisions shall apply :

(a) Interest, royalty and other payments made by an enterprise of one of the States and attributable to a permanent establishment which that enterprise has in the other State shall be deductible for the purpose of calculating the taxable income of the permanent establishment under the same conditions as if the permanent establishment were an enterprise of that other State;

(b) Debts contracted by an enterprise of one of the States and attributable to a permanent establishment which that enterprise has in the other State shall be deductible for the purpose of calculating the taxable fortune of the permanent establishment under the same conditions as if the permanent establishment were an enterprise of that other State.

IX. Ad article 28

The obligation to exchange information shall not apply to information obtained from banks or equivalent institutions. The term "equivalent institutions" means, *inter alia*, insurance companies.

X. Ad article 29

The Netherlands shall not be required to imprison any person for the purpose of collecting taxes.

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

DONE at The Hague, on 22 September 1966, in duplicate in the Norwegian and Dutch languages, both texts being equally authentic.

For the Kingdom of Norway :

Otto KILDAL

For the Kingdom of the Netherlands :

L. de BLOCK
