



Double Taxation Avoidance Agreement between Thailand and Norway

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DEZAN SHIRA & ASSOCIATES

Corporate Establishment, Tax, Accounting & Payroll Throughout Asia

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**CONVENTION BETWEEN THE KINGDOM OF THAILAND AND
THE KINGDOM OF NORWAY FOR THE AVOIDANCE OF DOUBLE
TAXATION AND THE PREVENTION OF FISCAL EVASION WITH
RESPECT TO TAXES ON INCOME**

The Government of the Kingdom of Norway and the Government of the Kingdom of Thailand, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

CHAPTER I

SCOPE OF THE CONVENTION

Article 1

PERSONS COVERED

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

Article 2

TAXES COVERED

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Convention shall apply are in particular :
 - (a) In the case of Thailand :
 - the income tax; and
 - the petroleum income tax ;(hereinafter referred to as “Thai tax”);

(b) In the case of Norway :

- the National Tax on Income (inntektsskatt til staten);
- the County Municipal Tax on Income (inntektsskatt til fylkeskommunen);
- the Municipal Tax on Income (inntektsskatt til kommunen);
- the National Tax relating to Income from the Exploration for and the Exploitation of Submarine Petroleum Resources and Activities and Work relating thereto, Including Pipeline Transport of Petroleum Produced (skatt til staten vedrørende inntekt i forbindelse med undersøkelse etter og utnyttelse av undersjøiske petroleumforekomster og dertil knyttet virksomhet og arbeid, herunder rørledningstransport av utvunnet petroleum); and
- the National Tax on Remuneration to Non-resident Artistes (skatt til staten på honorar til utenlandske artister);

(hereinafter referred to as “Norwegian tax”).

4. The Convention shall apply also to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of significant changes which have been made in their respective taxation laws.

CHAPTER II

DEFINITIONS

Article 3

GENERAL DEFINITIONS

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

(a) the term “Thailand” means the Kingdom of Thailand and includes its maritime area adjacent to the territorial sea of the Kingdom of Thailand which by Thai legislation, and in accordance with the international law, has been or may hereafter be designated as an area within which the rights of the Kingdom of Thailand with respect to the sea-bed and subsoil and their natural resources may be exercised;

(b) the term “ Norway” means the Kingdom of Norway, including any area outside the territorial waters of the Kingdom of Norway where the Kingdom of Norway, according to Norwegian legislation and in accordance with international law, may exercise her rights with respect to the seabed and subsoil and their natural resources; the term does not comprise Svalbard, Jan Mayen and the Norwegian dependencies (“biland”);

(c) the terms “a Contracting State” and “ the other Contracting State” mean Thailand or Norway as the context requires;

(d) the term “person” includes an individual, an undivided estate, a company and any other body of persons as well as any entity treated as a taxable unit under the taxation laws in force in either Contracting State;

(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 a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(g) the term “tax” means Thai tax or Norwegian tax as the context requires;

(h) the term “national” means :

(i) any individual possessing the nationality of a Contracting State;

(ii) any legal person, partnership, association and any other entity deriving its status as such from the laws in force in a Contracting State;

(i) the term “international traffic” means any transport by a ship or aircraft except when the ship or aircraft is operated solely between places in the other Contracting State; and

(j) the term “competent authority” means, in the case of Thailand, the Minister of Finance or his authorized representative, and, in the case of Norway, the Minister of Finance or his authorized representative.

2. As regards the application of the Convention at any time by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4

RESIDENT

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of incorporation, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows :

(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 not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;

(c) if he has an 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 Contracting States shall endeavour to settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1, a person other than an individual is a resident of both Contracting States, then the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term “permanent establishment” includes especially:
 - (a) a place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a factory ;
 - (e) a workshop;
 - (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
 - (g) a farm or plantation ; and
 - (h) a warehouse, in relation to a person providing storage facilities for others.

3. The term “permanent establishment” likewise encompasses:
 - (a) a building site, a construction, assembly or installation project or a supervisory or consultancy activity connected therewith, constitutes a permanent establishment only if such site, project or activity lasts for a period of more than 6 months;
 - (b) the furnishing of services including consultancy services by a resident of one of the Contracting States through employees or other personnel, where activities of that nature continue for the same or a connected project within the other Contracting State for a period or periods aggregating more than 183 days within any twelve-month period.

4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include :
 - (a) the use of facilities solely for the purpose of storage or display 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 or display;
 - (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 of collecting information, for the enterprise ;

(e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1, 2 and 3, where a person - other than an agent of an independent status to whom paragraph 7 applies – is acting in a Contracting State, on behalf of the enterprise of the other Contracting State, the enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State, if such a person:

(a) has and habitually exercises in the first-mentioned State, an authority to conclude contracts on behalf of the enterprise; unless his activities are limited to the purchase of goods or merchandise for the enterprise;

(b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly makes deliveries on behalf of the enterprise; or

(c) has no such authority, but habitually secures orders in the first-mentioned State wholly or almost wholly for the enterprise or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it.

6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to reinsurance, be deemed to have a permanent establishment in the other State if it collects premiums in the territory of that other State or insures risks situated therein through an employee or through a representative who is not an agent of an independent status within the meaning of paragraph 7.

7. An enterprise of a 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 any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise or on behalf of that enterprise and other enterprises, which are controlled by it or have a controlling interest in it, he will not be considered an agent of independent status within the meaning of this paragraph, unless he can demonstrate that the activities are performed at arm's length conditions.

8. The fact that a company which is a resident of a 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

TAXATION OF INCOME

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term “immovable property” shall have the meaning which it has under the law 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 used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

2. 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. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

BUSINESS PROFITS

1. The profits of an enterprise of a 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 business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
4. 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.
5. 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.
6. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

SHIPPING, AIR TRANSPORT AND CONTAINERS

1. Income or profits derived by an enterprise of a Contracting State from the operation of aircraft in international traffic shall be taxable only in that Contracting State.
2. Income or profits derived by an enterprise of a Contracting State from the operation of ships in international traffic may be taxed in the other Contracting State, but the tax imposed in that other State shall be reduced by an amount equal to 50 per cent thereof.
3. Income or profits of an enterprise of a Contracting State from the use, demurrage or rental of containers (including trailers, barges, and related equipment for the transport of containers), that are incidental to income from the operation of ships or aircraft in international traffic, shall be treated for purposes of paragraphs 1 and 2 as income from the operation of ships or aircraft in international traffic.

4. The provisions of paragraphs 1, 2 and 3 shall also apply to income or profits from the participation in a pool, a joint business or an international operating agency.

5. The provisions of paragraphs 1, 3 and 4 shall apply to income or profits derived by the joint Norwegian, Danish and Swedish air transport consortium Scandinavian Airlines System (SAS), but only insofar as income or profits derived by SAS Norge ASA, the Norwegian partner of the Scandinavian Airlines System (SAS), are in proportion to its share in that organization.

Article 9

ASSOCIATED ENTERPRISES

1. Where

(a) an enterprise of a 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 a Contracting State 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, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State, and taxes accordingly, profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits, if that State considers the adjustment justified. In determining such adjustment, due regard shall be had to the other provisions of the Convention and the competent authorities of the Contracting States shall, if necessary, consult each other.

Article 10

DIVIDENDS

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

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:

(a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 10 per cent of the capital of the company paying the dividends;

(b) 15 percent of the gross amount of the dividends in all other cases.

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, mining shares, founders’ shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives income or profits from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company’s undistributed profits to a tax on the company’s undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of income or profits arising in such other State. Nothing in this paragraph shall be construed as preventing a Contracting State from imposing income tax, according to the laws of that State, on the disposal of profits made by a permanent establishment situated therein at the rate agreed in paragraph 2

(a) of this Article.

Article 11

INTEREST

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

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed :

(a) 10 per cent of the gross amount of the interest if it is received by any financial institution (including an insurance company);

(b) 15 per cent of the gross amount of the interest in other cases.

3. Notwithstanding the provisions of paragraphs 1 and 2, interest arising in a Contracting State and paid in respect of a loan made by or guaranteed or insured by the Government of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State.

For the purposes of this paragraph, the term "Government"

(a) in the case of Thailand, means the Government of the Kingdom of Thailand and shall include :

(i) the Bank of Thailand ;

(ii) the Export-Import Bank of Thailand;

(iii) the Government Saving Bank;

(iv) the Government Housing Bank;

(v) the Bank for Agriculture and Agricultural Cooperatives;

(vi) any Ministry or Department thereof;

(vii) any body of corporate wholly owned by the Government of the Kingdom of Thailand;

(viii) any local authority or statutory body; and

(ix) any institutions as may be agreed from time to time between the competent authorities of the Contracting States;

(b) in the case of Norway, means the Government of the Kingdom of Norway and shall include:

- (i) the Central Bank of Norway;
- (ii) the Norwegian Government Petroleum Fund;
- (iii) the National Insurance Fund;
- (iv) the Norwegian Guarantee Institute for Export Credits and A/S Eksportfinans but only insofar as the loan or interest is guaranteed or insured by the Government of Norway or its political subdivisions or local authorities;
- (v) any statutory body or any institution wholly owned by the Government of Norway;
- (vi) any local authority; and
- (vii) any institutions as may be agreed from time to time between the competent authorities of the Contracting States.

4. The term “interest” as used in this Article means income, from debt-claims of every kind, whether or not secured by mortgage, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as income assimilated to income from money lent by the taxation laws of the Contracting State in which the income arises. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a local 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 or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, 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 beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12

ROYALTIES

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

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed:

(a) 5 per cent of the gross amount of royalties if they are made as a consideration for the use of, or the right to use any copyright of literary, artistic or scientific work;

(b) 10 per cent of the gross amount of royalties if they are made as a consideration for the use of, or the right to use industrial, commercial or scientific equipment;

(c) 15 per cent of the gross amount of other royalties.

3. The term “royalties” as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, or films or tapes used for radio or television broadcasting, 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.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of

which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such cases the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a local 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 or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, 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 beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13

CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such a fixed base, may be taxed in that other State.

3. Gains derived by an enterprise of a Contracting State from the alienation of ships, aircraft or containers (including trailers, barges, and related equipment for the transport of containers), operated in international traffic or movable property pertaining to the operation of such ships, aircraft or containers, shall be taxable only in that State.

4. Gains derived by an individual who is a resident of a Contracting State from the alienation of shares or other rights in a company which is a resident of the other Contracting State, as well as gains from the alienation of options or other financial instruments related to such shares or rights, may be taxed in that other State, but only if the alienator has been a resident of that other State at any time during the five years

immediately preceding the alienation of the shares, rights, options or financial instruments.

5. Gains from the alienation of any property other than those referred to in the preceding paragraphs shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State. However, such income may also be taxed in the other Contracting State if:

(a) the individual is present in the other State for a period or periods exceeding in the aggregate 90 days within any twelve-month period; or

(b) the individual has a fixed base regularly available to him in that other State for the purpose of performing his activities;

but only so much thereof as is attributable to services performed in that other State.

2. The term “professional services” includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, dentists, lawyers, engineers, architects and accountants.

Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an 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 therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an 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 within any twelve-month period; 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 borne by a permanent establishment or a fixed base which the employer has in the other State.

3. The provisions of paragraph 2 shall not apply to remuneration derived by a resident of a Contracting State, in this paragraph called “the employee” and paid by or on behalf of an employer who is a resident of that State in respect of an employment exercised in the other Contracting State where:

(a) the employee renders services in the course of that employment to a person other than the employer who, directly or indirectly, supervises, directs or controls the manner in which those services are performed; and

(b) the employer is not responsible for carrying out the purposes for which the services are performed.

4. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, by an enterprise of a Contracting State may be taxed in that State. However, where remuneration is derived in respect of an employment exercised aboard a ship registered in the Norwegian International Ships’ register (N.I.S), such remuneration shall be taxable only in the Contracting State of which the recipient is a resident.

5. Where a resident of a Contracting State derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the Scandinavian Airlines System (SAS) consortium, such remuneration shall be taxable in the Contracting State of which the recipient is a resident.

Article 16

DIRECTORS’ FEES

Directors’ fees and similar payments derived by a resident of a Contracting State in his capacity as, or on behalf of, a member of the board of directors or of similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal

activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. The provisions of paragraphs 1 and 2 of this Article shall not apply to income derived from activities performed in a Contracting State by an entertainer or a sportsman, or provided by an enterprise of a Contracting State, if the visit to that Contracting State, or the enterprise providing the activities, as the case may be, is substantially supported by public fund of the other Contracting State, including any local authority, statutory body or a political subdivision thereof. In such a case the income shall be taxable only in the State of which the entertainer, sportsman or the enterprise is a resident.

Article 18

PENSIONS, ANNUITIES, PAYMENTS UNDER A SOCIAL SECURITY SYSTEM AND ALIMONY

1. Pensions (including Government pensions and payments under a social security system) and annuities paid to a resident of a Contracting State shall be taxable only in that State.

2. The term “annuity” means a stated sum payable to an individual periodically at stated times during his life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money’s worth.

3. Alimony and other maintenance payments paid to a resident of a Contracting State shall be taxable only in that State. However, any alimony or other maintenance payment paid by a resident of one of the Contracting States to a resident of the other Contracting State, shall, to the extent it is not allowable as a relief to the payer, be taxable only in the first-mentioned State.

Article 19

GOVERNMENT SERVICE

1. (a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an

individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

- (i) is a national of that State; or
- (ii) did not become a resident of that State solely for the purpose of rendering the services.

2. The provisions of Articles 15, 16 and 17 shall apply to salaries, wages and other similar remuneration other than pensions in respect of services rendered in connection with a business carried on by a Contracting State, a political subdivision or a local authority thereof.

Article 20

STUDENTS

1. Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in the first-mentioned State provided that such payments arise from sources outside that State.

2. In respect of grants, scholarships and remuneration from employment not covered by paragraph 1, a student or business apprentice described in paragraph 1 shall, in addition, be entitled during such education or training to the same exemptions, reliefs or reductions in respect of taxes available to residents of the State which he is visiting. However, if such exemption, relief or reduction is subject to limitations under domestic law based on the length of the stay, these limitations shall apply.

Article 21

OFFSHORE ACTIVITIES

1. The provisions of this Article shall apply notwithstanding any other provision of this Convention.

2. A person who is a resident of a Contracting State and carries on activities offshore in the other Contracting State in connection with the exploration or

exploitation of the seabed and subsoil and their natural resources situated in that other State shall, subject to paragraphs 3 and 4 of this Article, be deemed in relation to those activities to be carrying on business in that other State through a permanent establishment or fixed base situated therein, and be taxed according to Article 7 or Article 14 as the case may be.

3. The provisions of paragraph 2 and sub-paragraph (b) of paragraph 6 shall not apply where the activities are carried on for a period not exceeding 30 days in the aggregate in any twelve-month period. However, for the purposes of this paragraph:

(a) activities carried on by an enterprise associated with another enterprise shall be regarded as carried on by the enterprise with which it is associated if the activities in question are substantially the same as those carried on by the last-mentioned enterprise;

(b) two enterprises shall be deemed to be associated if one is controlled directly or indirectly by the other, or both are controlled directly or indirectly by a third person or persons.

4. Profits derived by an enterprise of a Contracting State from the transportation of supplies or personnel to a location, or between locations, where activities in connection with the exploration or exploitation of the seabed and subsoil and their natural resources are being carried on in a Contracting State, or from the operation of tugboats and other vessels auxiliary to such activities, shall, subject to Article 8, be taxable only in the Contracting State of which the enterprise is a resident. Except where such vessel or aircraft is operated in international traffic, the provisions of this paragraph shall not apply if the vessel or aircraft is operated by a permanent establishment in the sense of Article 5. In this case the provisions of Article 7 shall apply.

5 (a) Subject to sub-paragraph (b) of this paragraph, salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment connected with the exploration or exploitation of the seabed and subsoil and their natural resources situated in the other Contracting State may, to the extent that the duties are performed offshore in that other State, be taxed in that other State. However, such remuneration shall be taxable only in the first-mentioned State if the employment is carried on offshore for an employer who is not a resident of the other State and provided that the employment is carried on for a period or periods not exceeding in the aggregate 30 days in any twelve-month period.

(b) Salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft engaged in the transportation of supplies or personnel to a location, or between locations, where activities connected with the exploration or exploitation of the seabed and subsoil and their natural resources are being carried on in the other Contracting State, or in respect of an employment exercised aboard tugboats or other vessels operated auxiliary to such activities, shall be taxable according to Article 15.

6. Gains derived by a resident of a Contracting State from the alienation of:

- (a) exploration or exploitation rights; or
- (b) property situated in the other Contracting State and used in connection with the exploration or exploitation of the seabed and subsoil and their natural resources situated in that other State; or
- (c) shares deriving their value or the greater part of their value directly or indirectly from such rights or such property or from such rights and such property taken together, may be taxed in that other State.

In this paragraph “exploration or exploitation rights” means rights to assets to be produced by the exploration or exploitation of the seabed and subsoil and their natural resources in the other Contracting State, including rights to interests in or to the benefit of such assets.

Article 22

OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention and arising in the other Contracting State may also be taxed in that other State.

CHAPTER IV

METHOD FOR ELIMINATION OF DOUBLE TAXATION

Article 23

ELIMINATION OF DOUBLE TAXATION

1. When income or profits are subject to tax in both Contracting States, relief from double taxation shall be given in accordance with the following paragraphs of this Article.

2. In Thailand, tax payable in Norway in respect of income or profits derived in Norway shall be allowed as a credit against any tax payable in Thailand in respect of that income or profits. The credit shall not, however, exceed that part of the tax payable in Thailand as computed before the credit is given, which is appropriate to such item of income or profits.

3. In Norway, double taxation shall be eliminated as follows:

(a) Subject to the provisions of the laws of Norway regarding the allowance as a credit against Norwegian tax of tax payable in a territory outside Norway (which shall not affect the general principle hereof), where a resident of Norway derives income which, in accordance with the provisions of this Convention, may be taxed in Thailand, Norway shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Thailand.

Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Thailand;

(b) Where, in accordance with any provision of the Convention, income derived by a resident of Norway is exempt from tax in Norway, Norway may nevertheless include such income in the tax base, but shall allow as a deduction from the Norwegian tax on income that part of the income tax which is attributable to the income derived from Thailand.

(c) Where, on application by the Competent Authority of Thailand to the Competent Authority of Norway, designates a specific investment in Thailand to be an approved economic development project, the Thai tax mentioned in sub-paragraph 3 (a) of this Article shall upon approval by the Norwegian Competent Authority be deemed to include the amount of tax which under the law of Thailand and in accordance with this Convention would have been payable as tax on income but for the tax incentives granted under the law of Thailand designed to promote economic development.

(d) Sub-paragraph 3 (c) shall apply only in relation to income derived in any of the first 10 income years in relation to which this Convention has effect by virtue of sub-paragraph (b) of Article 28 and in any later income year that may be agreed in an exchange of letters for this purpose by the Competent Authorities of the Government of the Kingdom of Norway and of the Government of the Kingdom of Thailand.

(e) Where, under any provision of this Convention, income is relieved from Norwegian tax and, under the law in force in Thailand, an individual in respect of the said income is subject to tax by reference to the amount thereof which is remitted to or received in Thailand and not by reference to the full amount thereof,

then the relief to be allowed under this Convention in Norway shall apply only to so much of the income as is taxed in Thailand.

CHAPTER V

SPECIAL PROVISIONS

Article 24

NON - DISCRIMINATION

1. Nationals of a 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 the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
2. The taxation on a permanent establishment which an enterprise of a 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 a Contracting State to grant to residents of the other Contracting 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.
3. Except where the provisions of Article 9, paragraph 7 of Article 11 or paragraph 6 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.
4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned 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.
5. The provisions of this Article shall only apply to the taxes which are the subject of this Convention.

Article 25

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic laws of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the receipt of the first notification of the action resulting in taxation not in accordance with the provisions of this Convention.

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 mutual agreement, with the competent authority of the other Contracting State with a view to the avoidance of taxation which is not in accordance with the Convention.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

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

Article 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is relevant for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes imposed by the Contracting States insofar as the taxation thereunder is not contrary to the Convention. The exchange of information shall apply to taxes of every kind and description and is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes imposed on behalf of that State. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation :

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

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting 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 (ordre public).

Article 27

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

CHAPTER VI

FINAL PROVISIONS

Article 28

ENTRY INTO FORCE

1. Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Convention.

2. The Convention shall enter into force on the date of receipt of the later of these notifications and shall thereupon have effect:

(a) In Thailand:

(i) in respect of taxes withheld at the source, on amounts paid or remitted on or after the first day of January in the calendar year next following that in which the Convention enters into force;

(ii) in respect of other taxes on income, for taxable years or accounting periods beginning on or after the first day of January in the calendar year next following that in which the Convention enters into force.

(b) In Norway:

in respect of taxes on income relating to the calendar year (including accounting periods beginning in any such year) next following that in which the Convention enters into force and subsequent years.

3. The Convention between the Royal Government of Norway and the Royal Government of Thailand for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, signed in Bangkok on 9 January 1964, shall cease to have effect from the date on which this Convention becomes effective in accordance with paragraph 2 of this Article.

Article 29

TERMINATION

This Convention shall remain in force indefinitely, but either of the Contracting States may, on or before 30th June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through diplomatic channels, written notice of termination.

In such event the Convention shall cease to have effect:

(a) in Thailand :

(i) in respect of taxes withheld at the source, on amounts paid or remitted on or after the first day of January in the calendar year next following that in which the notice is given;

(ii) in respect of other taxes on income, for taxable years or accounting periods beginning on or after the first day of January in the calendar year next following that in which the notice is given.

(b) in Norway, in respect of taxes on income relating to the calendar year (including accounting periods beginning in such year) next following that in which the notice is given.

IN WITNESS WHEREOF, the undersigned duly authorized thereto, have signed this Convention.

Done in duplicate at **Bangkok** on this **31st** day of **July, Two thousand and three** Year of the Christian Era, each in the English language.

For the Government of the
Kingdom of Thailand

For the Government of the
Kingdom of Norway

(Surakiart Sathirathai)
Minister of Foreign Affairs

(Rangne Birte Lund)
Ambassador

PROTOCOL

At the signing of the Convention between the Kingdom of Thailand and the Kingdom of Norway for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, the undersigned have agreed upon the following provisions which shall form an integral part of the Convention.

1. With reference to Article 7 it is understood that nothing in this Article shall affect the application of any tax law of a Contracting State relating to the tax assessment of a person in cases where the information available to the tax authorities of that State is inadequate to determine the taxable profits of that person, provided that the result shall be in accordance with the principles contained in this Article.

2. With reference to paragraph 2 of Article 8, it is understood that the lesser of the tax rate applied by a Contracting State on income derived by an enterprise of a third state from the operation of ships in international traffic, then such a lower tax rate shall apply in relation to the other Contracting State.

3. The term “profits” in Article 7 and 9 shall refer to income or profits.

4. With reference to paragraph 2 of Article 11, if after the signature of this Convention a Contracting State concludes a Convention for the avoidance of double taxation with a third State, in which the tax on interests is agreed upon at a lower rate than in this Convention, then such a lower tax rate shall apply in relation to the other Contracting State.

IN WITNESS WHEREOF, the undersigned duly authorized thereto, have signed this Protocol.

Done in duplicate at **Bangkok** on this **31st** day of **July**, **Two thousand and three** Year of the Christian Era, each in the English language.

**For the Government of the
Kingdom of Thailand**

**For the Government of the
Kingdom of Norway**

(Surakiart Sathirathai)
Minister of Foreign Affairs

(Rangne Birte Lund)
Ambassador