

Double Taxation Avoidance Agreement between Philippines and Norway

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Overenskomst mellom Kongeriket Norge og Republikken Filippinene til unngåelse av dobbeltbeskatning og forebyggelse av skatteunndragelse med hensyn til skatter og av inntekt og formue

Vedlegg

Convention between the Kingdom of Norway and the Republic of the Philippines for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital

The Government of the Kingdom of Norway and the Government of the Republic of the Philippines desiring to conclude a Convention for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect to taxes on income and on capital, have agreed as follows:

Article 1

PERSONAL SCOPE

1. This Convention shall apply to persons who are residents of one or both of the Contracting States.
2. Notwithstanding the provisions of this Convention, the Philippines reserves the right to tax its own nationals.

Article 2

TAXES COVERED

1. This Convention shall apply to taxes on income and on capital 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 and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, 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 Norway:
 - (i) the national tax on income (inntektsskatt til staten);
 - (ii) the county municipal tax on income (inntektsskatt til fylkeskommunen);
 - (iii) the municipal tax on income (inntektsskatt til kommunen);
 - (iv) the national contributions to the Tax Equalisation Fund (fellesskatt til Skattefordelingsfondet);
 - (v) the national tax on capital (formuesskatt til staten);
 - (vi) the municipal tax on capital (formuesskatt til kommunen);
 - (vii) the national tax relating to income and capital 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 og formue i forbindelse med undersøkelse etter og utnyttelse av undersjøiske petroleumforekomster og dertil knyttet virksomhet og arbeid, herunder rørledningstransport av utvunnet petroleum);

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- (viii) the national dues on remuneration to non-resident artists (avgift til staten av honorarer som tilfaller kunstnere bosatt i utlandet);
- (ix) the seamen's tax (sjømannsskatt); (hereinafter referred to as «Norwegian tax»).
- b) in the Philippines:
 - the Philippine income tax (hereinafter referred to as «Philippine tax»).
- 4. The Convention shall also apply 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.

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:
 - a) 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»);
 - b) the term «Philippines» means the Republic of the Philippines and when used in a geographical sense means the national territory comprising the Republic of the Philippines;
 - c) the term «nationals» means:
 - (i) all individuals possessing the nationality or citizenship of a Contracting State;
 - (ii) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State;
 - d) the term «person» includes an individual, a company and any other body 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 «a Contracting State» and «the other Contracting State» mean Norway or the Philippines as the context requires;
 - g) 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;
 - h) the term «international traffic» means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
 - i) the term «competent authority» means:
 - (i) in Norway, the Minister of Finance and Customs or his authorized representative;
 - (ii) in the case of the Philippines, the Minister of Finance or his authorized representative.
2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context other-

wise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

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 management or any other criterion of a similar nature. 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 or capital situated therein.
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 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 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 in which the business 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, an oil or gas well, a quarry or any other place of extraction of natural resources;
 - g) a building site, a construction, assembly or installation project or supervisory activities connected therewith if such site, project or activities continue for a period of more than 6 months;
 - h) the furnishing of services, including consultancy services, performed within a Contracting State by an enterprise of the

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- other Contracting State through employees or other personnel, where the activities of that nature are carried out (for the same or a connected project) for a period or periods aggregating more than 6 months within a twelve-month period;
- i) premises used as a sales outlet;
 - j) a warehouse, in relation to a person providing storage facilities for others.
3. For the purposes of calculating the time limits in subparagraphs g) and h) of paragraph 2:
- 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 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. 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 other activities which have a preparatory or auxiliary character, for the enterprise.
5. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State – other than an agent of an independent status to whom paragraph 7 applies – shall be deemed to be a permanent establishment in the first-mentioned State if
- a) he has and habitually exercises in that State an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for that enterprise; or
 - b) he has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.
6. An insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other State if it collects premiums in the territory of that State or insures risks situated therein through an employee or through a representative who is not an agent of 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, where 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, he shall not be considered as an agent of independent status within the meaning of this paragraph if it is shown that the transactions between the agent and the enterprise were not made under arms-length conditions. In that case the provisions of paragraph 5 shall apply.

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 for either company a permanent establishment of the other.

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 be defined in accordance with the law of the Contracting State in which the property in question is situated.
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, including amounts in respect of the operation of a mine, quarry or of any other extraction of natural resources.
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 or has carried 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. Where an enterprise of one of the Contracting States 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 determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes 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. However, no deduction shall be allowed in respect of

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- amounts paid or charged (other than reimbursement of actual expenses) by the permanent establishment to the head office of an enterprise or any of its other offices, by way of:
- a) royalties, fees or other similar payments in return for the use of patents or other rights;
 - b) commission for specific services performed or for management; and
 - c) interest on moneys lent to the permanent establishment, except in the case of a banking institution.
4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting 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 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 AND AIR TRANSPORT

1. Profits derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.
2. Notwithstanding the provisions of paragraph 1, profits from sources within a Contracting State derived by an enterprise of the other Contracting State from the operation of ships or aircraft in international traffic may be taxed in the firstmentioned State but the tax so charged shall not exceed the lesser of
 - a) one and one-half per cent of the gross revenues derived from sources in that State; and
 - b) the lowest rate of Philippine tax imposed on such profits derived by an enterprise of a third State.
3. The provisions of paragraphs 1 and 2 shall apply to profits derived by the joint Norwegian, Danish and Swedish air transport consortium Scandinavian Airlines System (SAS), but only in so far as profits derived by Det Norske Luftfartsselskap A/S (DNL), the Norwegian partner of the Scandinavian Airlines System (SAS), are in proportion to its share in that organisation.

Article 9

ASSOCIATED ENTERPRISES

Where

- a) an enterprise of one of the Contracting States participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State or

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

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations, which differ from those which would be made between independent enterprises, then any profits which would, 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.

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 recipient is the beneficial owner of the dividends the tax so charged shall not exceed:
 - a) 15 per cent of the gross amount of the dividends if the beneficial owner is a company which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividends;
 - b) 25 per cent of the gross amount of the dividends in all other cases.
3. The provisions of paragraphs 1 and 2 shall not affect the taxation of the company on the profits out of which the dividends are paid.
4. The term «dividends» as used in this Article means income from shares or other rights, not being debtclaims, participating in profits, as well as income assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident.
5. 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.
6. Where a company which is a resident of a Contracting State derives profits or income 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 profits or income arising in such other State.

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7. Nothing in this Convention shall be construed as preventing a Contracting State from imposing in accordance with its internal law, a tax apart from the corporate income tax on remittances of profits by a branch to its head office provided that the tax so imposed shall not exceed fifteen per cent of the amount remitted.

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 law of that State; but the tax so charged shall not exceed 15 per cent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2 interest derived from sources within one of the Contracting States by a resident of the other Contracting State shall in all events be exempt from tax by the first-mentioned State if:
 - a) the interest is beneficially owned by, or is paid by, a Contracting State, a political subdivision or local authority thereof or an instrumentality, subdivision or authority of a Contracting State which is not subject to tax by that State;
 - b) the income received is from investments by both Contracting States in loans, stocks, bonds or other domestic securities, or from interest on their deposits by financing institutions owned, controlled, or enjoying refinancing from the government, and international or regional financing institutions established by the governments of both 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. 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 political subdivision, 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.

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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 for whatever reason, 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 if such resident is the beneficial owner of the royalties.
2. Such royalties may also be taxed in the Contracting State in which they arise, and according to the law of that State. However, when the royalties are taxable in the other Contracting State, the tax so charged shall not exceed
 - a) in Norway, 10 per cent of the gross amount of the royalties including rentals or the rates referred to in subparagraph 2 b) (ii) below, and
 - b) in the Philippines,
 - (i) 25 per cent of the gross amount of the royalties, including 25 per cent of the gross rentals or amount paid for the use of, or the right to use, motion picture films, films or tapes for radio or television broadcasting;
 - (ii) 7,5 per cent of the gross rentals or amount paid for the use of or the right to use containers, or
 - (iii) the lowest rate of the Philippine tax that may be imposed on royalties of the same kind paid in similar circumstances to a resident of a third State.
3. Notwithstanding the provisions of paragraph 2, the amount of tax imposed by the Philippines on the royalties paid by a company, being a resident of the Philippines, registered with the Board of Investments and engaged in preferred pioneer areas of investment under the investment incentives laws of the Philippines to a resident of Norway, who is the beneficial owner of the royalties, shall not exceed 10 per cent of the gross amount of the royalties.
4. 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, patent, trademark, 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.
5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, 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 obligation to pay the royalties was incurred, and those royalties are borne by that permanent establishment or fixed base then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

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6. Where, by reason of 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 such case, the excess part of the payment shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.
7. The provisions of paragraphs 1, 2 and 3 shall not apply if the recipient of the royalties, being a resident of one of the Contracting States, has in the other Contracting State a permanent establishment or a fixed base with which the right or property giving rise to the royalties is effectively connected. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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 fixed base, may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic, or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State of which the alienator is a resident.
4. Gains from the alienation of any property other than those referred to in paragraphs 1, 2, and 3 shall be taxable only in the Contracting State of which the alienator is a resident.
5. The provisions of paragraph 4 shall not affect the right of each of the Contracting States to levy according to its own law a tax on gains from the alienation of shares forming part of a substantial interest in a company which is a resident of that State.

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by 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 unless:
 - a) he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting State but only so much of it as is attributable to that fixed base; or

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- b) he is present in the other State for a period or periods exceeding in the aggregate 183 days in any twelve-month period in which case the income derived by the individual during such a period or periods may be taxed in the other State.

However, to the extent the abovementioned remuneration is not taxed in the State where the recipient is a resident the remuneration may be taxed in the 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, lawyers, engineers, architects, dentists and accountants.

Article 15

DEPENDENT PERSONAL SERVICES

- 1. Subject to the provisions of Articles 16, 17, 18, 19 and 20, 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 that other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period; and
 - b) the remuneration is paid by, or on behalf of, an employer who is a resident of the State of which the recipient is a resident, and whose business activities do not wholly or mainly consist of hiring out of labour; and
 - c) the remuneration is not reasonably connected with the activities of a permanent establishment or a fixed base which the employer has in that other State.

However, to the extent that the above-mentioned remuneration is exempt from tax in the firstmentioned State, or upon the application of this Article will be exempt from tax in that State, the remuneration may be taxed in the other State.

- 3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State of which the operator is a resident. Where a resident of Norway 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 only in Norway.

Article 16

DIRECTORS' FEES

Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or of a 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 ATHLETES

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 an athlete, 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 an athlete in his capacity as such accrues not to the entertainer or athlete 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 athlete are exercised.
3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from such activities as defined in paragraph 1 performed within the framework of cultural exchange between the two Contracting States, shall be taxable only in the State of which the entertainer or athlete is a resident as certified by the competent authorities of that State.

Article 18

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

1. Pensions and other similar remuneration and annuities arising in a Contracting State, as well as pensions and other payments under the Social Security System of a Contracting State may be taxed in the State of which the recipient is a resident.
2. The term «annuity» means a stated sum payable periodically at stated times during 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 received by a resident of Norway and paid by a resident of the Philippines shall be exempt from tax in Norway to the extent such payments are not deductible for the purposes of Philippine tax.

Article 19

GOVERNMENT SERVICE

1. a) 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 thereof in the discharge of functions of a governmental nature shall be taxable only in that State.
- b) However, such 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.

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

Article 20

STUDENTS AND TRAINEES

Payments which a student, trainee 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 his maintenance, education or training shall not be taxed in that State provided that such payments arise from sources outside that State.

Article 21

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.

Article 22

OFFSHORE ACTIVITIES

1. The provisions of this Article shall have effect notwithstanding any other provisions 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.
3. The provisions of paragraph 2 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;

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- 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, or if one is engaged by the other enterprise to perform a particular service.
4. Profits derived by a resident 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, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.
However, such profits arising in the Philippines may also be taxed in the Philippines but the tax so charged shall not exceed the lesser of:
- (i) 8 per cent of the gross amount received, or
 - (ii) the lowest rate of Philippine tax imposed on such profits derived by an enterprise of a third State under similar circumstances.
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 shall, to the extent that the duties are performed offshore in that other State, be taxable only in that other State provided that the employment offshore is carried on for a period exceeding 30 days in the aggregate 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 a Contracting State, or in respect of an employment exercised aboard tugboats or other vessels operated auxiliary to such activities, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.
However, such salaries, wages and similar remuneration derived in the Philippines may also be taxed in the Philippines but the tax so charged shall not exceed 15 per cent of the amount received.

Article 23

CAPITAL

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State may be taxed in that other State.
2. Capital represented by 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 by movable property pertaining to a fixed base available to a resi-

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dent of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.

3. Capital represented by ships and aircraft operated in international traffic and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State of which the owner is a resident.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 24

ELIMINATION OF DOUBLE TAXATION

In Norway:

1. Where a resident of Norway derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the Philippines, Norway shall, subject to the provisions of paragraphs 2 and 3, exempt such income or capital from tax.
2. Where a resident of Norway derives items of income which, in accordance with the provisions of Articles 8, 10, 11, 12, 16 and 22 may be taxed in the Philippines, Norway shall allow as a deduction from the tax on the income of that person an amount equal to the tax paid in the Philippines. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from the Philippines.

For the purposes of this paragraph, with respect to dividends, interest and royalties, the term «tax paid in the Philippines» shall be deemed to include any amount which would have been payable as Philippine tax if no exemption or reduction of tax had been granted under Philippine law to promote the economic development of the Philippines (Investment Incentives Policy Act of 1983, Batas Pambansa Blg. 391).

The provisions of this paragraph shall apply for a period of ten years from the date on which this Convention takes effect. The competent authorities shall consult each other in order to determine whether this period shall be extended.

3. Notwithstanding the provisions of paragraph 2 of this Article, dividends paid by a company which is a resident of the Philippines to a company being resident of Norway which controls directly or indirectly at least 10 per cent of the capital of the company paying the dividends shall be exempt in Norway from tax mentioned in subparagraphs (ii), (iii) and (iv) of paragraph 3 of Article 2. Where, in the cases mentioned in this paragraph, dividends are subject to national income tax in Norway, then such tax shall not exceed 27.8 per cent of the gross amount of the dividends.
4. Where in accordance with any provision of the Convention income derived or capital owned by a resident of Norway is exempt from tax in Norway, Norway may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

In the Philippines:

Subject to the provisions of the laws of the Philippines relating to the allowance as a credit against Philippine tax of tax paid in a

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territory outside the Philippines, Norwegian tax payable under the laws of Norway and in accordance with this Convention, whether directly or by deduction, in respect of income from sources within Norway shall be allowed, where similar tax is imposed in the Philippines, as a credit against Philippine tax payable in respect of that income. The deduction shall not, however, exceed that part of the Philippine income tax, as computed before the deduction is given, which is appropriate to the income which may be taxed in Norway.

Article 25

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 are or may be subjected.
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. Notwithstanding the preceding provisions of this Article, the Philippines may, in the promotion of necessary industry or business, limit to its citizens the enjoyment of tax incentives granted by it under the Investment Incentives Policy Act of 1983, Batas Pambansa Blg. 391.
4. 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. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.
5. 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.
6. The provisions of this Article shall not be construed as obliging Norway to grant to nationals of the Philippines the exceptional tax relief which is accorded to Norwegian nationals and persons born of parents having Norwegian nationality pursuant to Section 22 of the Norwegian Taxation Act.

Article 26

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 law 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 25, to that of the Contracting State of which he is a national. The case must be presented within two years from the first notification of the action resulting in taxation not in accordance with the provisions of the 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. Any agreement reached shall be implemented within the time limits in the domestic law of the Contracting States.
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 purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 27

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention and of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information 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 covered by the Convention. 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;

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- 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 28

DIPLOMATIC AND CONSULAR OFFICIALS

1. Nothing in this Convention shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.
2. Nevertheless, either Contracting State reserves the right to tax its own diplomatic or consular officials, regardless of the provisions of this Convention.

Article 29

ENTRY INTO FORCE

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Manila as soon as possible.
2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall effect in respect of taxes on income or on capital relating to the calendar year (including accounting periods beginning in any such year) next following that in which the Convention enters into force.

Article 30

TERMINATION

1. The present Convention shall continue in effect indefinitely but either of the Contracting States may, on the initiative of its competent authority and upon previous notification on or before 30th of June in any calendar year serve notice of its intention to terminate this Convention after the third year of its taking effect. In such event, the Convention shall cease to have effect in respect of taxes on income or on capital relating to the calendar year (including accounting periods beginning in such year) next following that in which the notice is given.
2. The provisions of the preceding paragraph notwithstanding, modification or amendment of this Convention during its life may be the subject of renegotiation between the Contracting States.

In witness whereof, the undersigned, duly authorized thereto by their respective Governments, have signed this Convention.

Vedlegg Overenskomst mellom Kongeriket Norge og Republikken Filippinene til unngåelse av dobbeltbeskatning og forebyggelse av skatteunndragelse med hensyn til skatter og av inntekt og formue

Done in duplicate at Manila this ninth day of July, 1987 in the Norwegian and English languages, each text being equally authentic.

For the
KINGDOM OF NORWAY:

Knut Mørkved

For the
REPUBLIC OF
THE PHILIPPINES:

Jaime V. Ongpin

PROTOCOL

At the signing today of the Convention between the Government of the Kingdom of Norway and the Government of the Republic of the Philippines for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and capital, the undersigned have agreed upon the following provisions which shall form an integral part of the Convention:

1. To Article 7, paragraph 1:
However, there shall likewise be attributed to that permanent establishment sales of goods or merchandise in the other Contracting State of the same or similar kind as those sold, or profits from other business activities of the same or similar kind as those effected, through that permanent establishment.
2. To Article 24, paragraph 4, sub-paragraph 2:
Taxes on capital which are paid in Norway on property located therein shall be credited in the Philippines only if the Philippines imposes a similar tax on capital.

In witness whereof, the undersigned duly authorized thereto by their respective Governments, have signed the Protocol.

Done in duplicate at Manila this ninth day of July, 1987 in the Norwegian and English languages, each text being equally authentic.

For the
KINGDOM OF NORWAY:

Knut Mørkved

For the
REPUBLIC OF
THE PHILIPPINES:

Jaime V. Ongpin
