SYNTHESISED TEXT OF

THE MULTILATERAL CONVENTION TO IMPLEMENT TAX TREATY RELATED MEASURES TO PREVENT BASE EROSION AND PROFIT SHIFTING

AND

THE COVENTION BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE KINGDOM OF NORWAY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

General disclaimer on this Synthesised text document

This document presents the synthesised text for the application of the Convention between the Kingdom of the Netherlands and the Kingdom of Norway for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, and Protocol signed on 12 January 1990, as amended by the Protocol signed on 23 April 2013 (the "Convention"), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (the "MLI") signed by the Netherlands and Norway on 7 June 2017.

The document was prepared on the basis of the MLI position of the Netherlands submitted to the Depositary upon acceptance on 29 March 2019 and of the MLI position of Norway submitted to the Depositary upon ratification on 17 July 2019. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on the Convention.

The authentic legal texts of the Convention and the MLI remain the only legal texts applicable.

The provisions of the MLI that are applicable with respect to the provisions of the Convention are included in boxes throughout the text of this document in the context of the relevant provisions of the Convention. The boxes containing the provisions of the MLI have generally been inserted in accordance with the ordering of the provisions of the OECD Model Tax Convention (as updated on 21 November 2017).

Changes to the text of the provisions of the MLI have been made to conform the terminology used in the MLI to the terminology used in the Convention (such as "Covered Tax Agreement" and "Convention", "Contracting Jurisdictions" and "States"), to ease the comprehension of the provisions of the MLI. The changes in terminology are intended to increase the readability of the document and are not intended to change the substance of the provisions of the MLI. Similarly, changes have been made to parts of provisions of the MLI that describe existing provisions of the Convention: descriptive language has been replaced by legal references of the existing provisions to ease the readability.

In all cases, references made to the provisions of the Convention or to the Convention must be understood as referring to the Convention as modified by the provisions of the MLI, provided such provisions of the MLI have taken effect.

References

- Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (provides the authentic legal texts of the MLI).
- Convention between the Kindom of the Netherlands and the Kingdom of Norway for the avoidance of double taxation and the prevention of fiscal evasion with respect tot taxes on income (provides the authentic legal text of the Convention signed on 12 January 1990, as amended by the Protocol signed on 23 April 2013).
- Signatories and parties to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (provides the MLI position of the Netherlands submitted to the Depositary upon acceptance on 29 March 2019 and the MLI position of Norway submitted to the Depositary upon ratification on 17 July 2019).

Entry into Effect of the MLI Provisions

The provisions of the MLI applicable to this Convention do not take effect on the same dates as the original provisions of the Convention. Each of the provisions of the MLI could take effect on different dates, depending on the types of taxes involved (taxes withheld at source or other taxes levied) and on the choices made by the Netherlands and Norway in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval:

29 March 2019 for the Netherlands and 17 July 2019 for Norway.

Entry into force of the MLI:

1 July 2019 for the Netherlands and 1 November 2019 for Norway.

Entry into effect of the MLI provisions:

In accordance with paragraph 1 of Article 35 of the MLI, the provisions of the MLI have effect with respect to this Convention:

a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2020; and

b) with respect to all other taxes levied by each State for taxes levied with respect to taxable periods beginning on or after 1 May 2020.

Paragraph 4 of Article 35 of the MLI does not apply.

Convention between the Kingdom of the Netherlands 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 the Netherlands

and

the Government of the Kingdom of Norway

Desiring to conclude a new Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on income,

The following paragraph 1 and paragraph 3 of Article 6 of the MLI replace the text referring to an intent to eliminate double taxation in the preamble of this Convention:

ARTICLE 6 OF THE MLI – PURPOSE OF A COVERED TAX AGREEMENT

Desiring to further develop their economic relationship and to enhance their co-operation in tax matters,

Intending to eliminate double taxation with respect to the taxes covered by this Convention without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in the Convention for the indirect benefit of residents of third jurisdictions),

Have agreed as follows:

CHAPTER I. SCOPE OF THE CONVENTION

Article 1. Personal scope

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

The following paragraphs 1 and 3 of Article 3 of the MLI apply and supersede the provisions of this Convention:

ARTICLE 3 OF THE MLI – TRANSPARANT ENTITIES

For the purposes of the Convention, income derived by or through an entity or arrangement that is treated as wholly or partly fiscally transparent under the tax law of either State shall be considered to be income of a resident of a State but only to the extent that the income is treated, for purposes of taxation by that State, as the income of a resident of that State. In no case shall the provisions of this paragraph be construed to affect a State's right to tax the residents of that State.

Article 2. Taxes covered

1. This Convention shall apply to taxes on income imposed on behalf of one of the States 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 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 petroleumsforekomster og dertil knyttet virksomhet og arbeid, herunder rørledningstransport av utvunnet petroleum),

– the national tax on remuneration to non-resident artistes (skatt til staten på honorar til utenlandske artister),

(hereinafter referred to as “Norwegian tax”);

b) in the Netherlands:

– the income tax (de inkomstenbelasting);
– the wages tax (de loonbelasting);
– the company tax (de vennootschapsbelasting) including the Government share in the net profits of the exploitation of natural resources levied pursuant to the Mining Act (Mijnbouwwet);
– the dividend tax (de dividendbelasting);

(hereinafter referred to as “Netherlands tax”).

4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the States shall notify each other of any substantial 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 “State” means Norway or the Netherlands, as the context requires; the term “States” means Norway and the Netherlands;
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 its rights with respect to the sea bed and sub-soil and their natural resources; the term does not comprise Svalbard, Jan Mayen and the Norwegian dependencies (“biland”);
c) the term “the Netherlands” means the European part of the Netherlands, including its territorial sea and any area beyond and adjacent to its territorial sea within which the Kingdom of the Netherlands, in accordance with international law, exercises jurisdiction or sovereign rights;
d) the term “national” means:
   1. any individual possessing the nationality of one of the States;
   2. any legal person, partnership and association deriving its status as such from the laws in force in one of the States;
e) the term “person” includes an individual, a company and any other body of persons;
f) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;
g) the term “enterprise” applies to the carrying on of any business;
h) the terms “enterprise of one of the States” and “enterprise of the other State” mean respectively an enterprise carried on by a resident of one of the States and an enterprise carried on by a resident of the other State;
i) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in one of the States, except when the ship or aircraft is operated solely between places in the other State;
j) the term “competent authority” means:
   1. in Norway, the Minister of Finance or the Minister’s authorized representative;
   2. in the Netherlands the Minister of Finance or his authorized representative;
k) the term “business” includes the performance of professional services and of other activities of an independent character;
l) the term “a pension fund” means any company:
   (i) which is a resident of one of the States; and
   (ii) which is operated principally to administer or provide pensions; and
   (iii)
      a) in the case of the Netherlands: which is recognised and supervised by the Central Bank of the Netherlands (De Nederlandse Bank) and the Netherlands Authority for the Financial Markets (Autoriteit Financiële Markten) according to the regulations of the Pensions Act (Pensioenwet);
      b) in the case of Norway: which has authorisation to enter into pension agreements in accordance with regulations under the supervision of the Financial Supervisory Authority of Norway (Finanstilsynet).

2. As regards the application of the Convention by one of the States any term not defined therein shall, unless the context otherwise 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 one of the States" 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, 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 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 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 States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

The following paragraph 1 of Article 4 of the MLI replaces paragraph 3 of Article 4 of this Convention:

ARTICLE 4 OF THE MLI – DUAL RESIDENT ENTITIES

Where by reason of the provisions of the Convention a person other than an individual is a resident of both States, the competent authorities of the States shall endeavour to determine by mutual agreement the State of which such person shall be deemed to be a resident for the purposes of the Convention, having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by the Convention except to the extent and in such manner as may be agreed upon by the competent authorities of the States.

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, and
f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. **[MODIFIED by paragraph 1 of Article 14 of the MLI]** A building site, a construction, assembly or installation project constitute a permanent establishment only if it lasts more than 12 months.

4. Notwithstanding the provisions of paragraphs 1, 2 and 3, where an enterprise of one of the States performs services in the other State

a) through an individual who is present in that other State for a period or periods exceeding in the aggregate 183 days in any twelve month period, and more than 50 per cent of the gross revenues attributable to active business activities of the enterprise during this period or periods are derived from the services performed in that other State through that individual, or
b) for a period or periods exceeding in the aggregate 183 days in any twelve month period, and these

services are performed for the same project or connected projects through one or more individuals who are present and performing such services in that other State

the activities carried on in that other State in performing these services shall be deemed to be carried on through a permanent establishment of the enterprise situated in that other State, unless these services are limited to those mentioned in paragraph 5 which, if performed through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph. For the purposes of this paragraph, services performed by an individual on behalf of one enterprise shall not be considered to be performed by another enterprise through that individual unless that other enterprise supervises, directs or controls the manner in which these services are performed by the individual.

5. 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, 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 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.

The following paragraph 2 of Article 13 of the MLI applies to paragraph 5 of Article 5 of this Convention:

ARTICLE 13 OF THE MLI – ARTIFICIAL AVOIDANCE OF PERMANENT ESTABLISHMENT STATUS THROUGH THE SPECIFIC ACTIVITY EXEMPTIONS (*Option A*)

Notwithstanding Article 5 of the Convention, the term "permanent establishment" shall be deemed not to include:

a) the activities specifically listed in paragraph 5 of Article 5 of the Convention as activities deemed not to constitute a permanent establishment, whether or not that exception from permanent establishment status is contingent on the activity being of a preparatory or auxiliary character;

b) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any activity not described in subparagraph a);

c) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) and b),

provided that such activity or, in the case of subparagraph c), the overall activity of the fixed place of business, is of a preparatory or auxiliary character.

The following paragraph 4 of Article 13 of the MLI applies to paragraph 5 of Article 5 of this Convention as modified by paragraph 2 of Article 13 of the MLI:

Article 5 of the Convention, as modified by paragraph 2 of Article 13 of the MLI shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same State and:

a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of Article 5 of the Convention; or

b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

provided that the business activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, constitute complementary functions that are part of a cohesive business operation.

6. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 7 applies – is acting on behalf of an enterprise and has, and habitually exercises, in one of the States an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 5 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

7. An enterprise shall not be deemed to have a permanent establishment in one of the States merely because it carries on business in that 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.

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

The following paragraph 1 of Article 15 of the MLI applies to this Convention:

ARTICLE 15 OF THE MLI – DEFINITION OF A PERSON CLOSELY RELATED TO AN ENTERPRISE

For the purposes of Article 5 of the Convention, a person is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, a person shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise.

CHAPTER III. TAXATION OF INCOME

Article 6. Income from immovable property

1. Income derived by a resident of one of the States from immovable property (including income from agriculture or forestry) situated in the other 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 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 payment 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.

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

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

Article 7. Business profits

1. Profits of an enterprise of one of the States shall be taxable only in that State unless the enterprise carries on business in the other State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits that are attributable to the permanent establishment in accordance with the provisions of paragraph 2 may be taxed in that other State.

2. For the purposes of this Article and Article 23, the profits that are attributable in each State to the permanent establishment referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise.

3. Where, in accordance with paragraph 2, a State adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the States and taxes accordingly profits of the enterprise that have been charged to tax in the other State, the other State shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment if it agrees with the adjustment made by the first-mentioned State; if the other State does not so agree, the States shall endeavour to eliminate any double taxation resulting therefrom by mutual agreement.

4. 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 a resident of one of the States from the operation of ships or aircraft in international traffic shall be taxable only in that State.

2. However, such profits may also be taxed in the other State, if the place of effective management of the enterprise is situated in that other State.

3. For the purposes of paragraphs 1 and 2, profits derived from the operation in international traffic of ships or aircraft include profits incidental thereto, such as profits derived by a domestic or international carrier from the lease of ships or aircraft, attributable to temporary capacity on a bareboat basis.

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

5. The provisions of paragraphs 1 to 4 shall likewise apply to profits derived from the operation of vessels engaged in fishing activities on the high seas.

6. The provisions of paragraphs 1, 2, 3 and 5 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9. Associated enterprises

1. Where

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

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which 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.
It is understood, however, that the fact that associated enterprises have concluded arrangements, such as costsharing arrangements or general services agreements, for or based on the allocation of executive, general administrative, technical and commercial expenses, research and development expenses and other similar expenses, is not in itself a condition as meant in the preceding sentence.

2. Where one of the States includes in the profits of an enterprise of that State – and taxes accordingly – profits on which an enterprise of the other 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 where that other State considers the adjustment justified. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the States shall if necessary consult each other.

Article 10. Dividends

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

2. However, such dividends may also be taxed in the 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 15 percent of the gross amount of the dividends.

3. Notwithstanding the provisions of paragraph 2, the State of which the company paying the dividends is a resident shall not levy a tax on dividends paid by that company, if the beneficial owner of the dividends is:

a) a pension fund; or
b) a company (other than a partnership) which is a resident of the other State and holds directly at least 10 per cent of the capital of the company paying the dividends;

The following paragraph 1 of Article 8 of the MLI applies to subparagraph b) of paragraph 3 of Article 10 of this Convention:

ARTICLE 8 OF THE MLI – DIVIDEND TRANSFER TRANSACTIONS

Subparagraph b of paragraph 3 of Article 10 of this Convention shall apply only if the ownership conditions described in those provisions are met throughout a 365 day period that includes the day of the payment of the dividends (for the purpose of computing that period no account shall be taken of changes of ownership that would directly result from a corporate reorganisation, such as a merger or divisive reorganisation, of the company that holds the shares or that pays the dividends).

4. Where dividends are derived and beneficially owned by a State, political subdivision or a local authority, such dividends shall be taxable only in that State. For the purposes of this paragraph, the term “State” shall include:

a) in the case of Norway:
   (i) the Central Bank of Norway;
   (ii) the Government Pension Fund (Global);
   (iii) the Norwegian Investment Fund for Developing Countries (Norfund); and
   (iv) a statutory body or any institution wholly or mainly owned by the Government of Norway as may be agreed from time to time between the competent authorities of the States;
b) in the case of the Netherlands:
   (i) the Central Bank of the Netherlands;
   (ii) the Dutch Finance Company for Developing Countries (FMO);
   (iii) a statutory body or any institution wholly or mainly owned by the Government of the Netherlands as may be agreed from time to time between the competent authorities of the States.

5. The provisions of paragraphs 2, 3 and 4 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

6. The term “dividends” as used in this Article means income from shares, “jouissance” shares or “jouissance” rights, mining shares, founders' shares or other rights 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. In the case of the Netherlands the term includes also income from profit sharing bonds.

7. The provisions of paragraphs 1, 2, 3 and 4 shall not apply if the beneficial owner of the dividends, being a resident of one of the States, carries on business in the other State of which the company paying the dividends is a resident, through a permanent establishment situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

8. Where a company which is a resident of one of the States derives profits or income from the other 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.

Article 11. Interest

1. Interest arising in one of the States and paid to a resident of the other State shall be taxable only in that other State if such resident is the beneficial owner of the interest.

2. 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. However, this term does not include income dealt with in Article 10. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of one of the States, carries on business in the other State in which the interest arises, through a permanent establishment situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

4. 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 State, due regard being had to the other provisions of this Convention.

Article 12. Royalties

1. Royalties arising in one of the States and paid to a resident of the other State shall be taxable only in that other State if such resident is the beneficial owner of the royalties.

2. 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, and films or tapes 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.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of one of the States, carries on business in the other State in which the royalties arise, through a permanent establishment situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case, the provisions of Article 7 shall apply.

4. 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 State, due regard being had to the other provisions of this Convention.

Article 13. Capital gains

1. Gains derived by a resident of one of the States from the alienation of immovable property referred to in Article 6 and situated in the other 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 one of the States has in the other State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.

3. Notwithstanding the provisions of paragraph 2:

a) gains derived by a resident of one of the States from the alienation of ships and aircraft operated in international traffic as well as vessels engaged in fishing activities on the high seas, and movable property pertaining to the operation of such ships, aircraft and vessels, shall be taxable only in that State;
b) however, such gains may also be taxed in the other State, if the place of effective management of the enterprise is situated in that other State. For the purposes of this sub-paragraph the provisions of paragraph 4 of Article 8 shall apply.

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 State of which the alienator is a resident.

5. The provisions of paragraph 4 shall not affect the right of each of the States to levy according to its own law a tax on gains from the alienation of shares or “jouissance” rights forming part of a substantial interest in a

company, the capital of which is wholly or partly divided into shares and which is a resident of that State, provided that:

a) the company's assets consist wholly or mainly of immovable property situated in that State, or
b) the gains are derived by an individual who is a resident of the other State and has been a resident of the first-mentioned State in the course of the last five years preceding the alienation of the shares or "jouissance" rights.

Article 14. Independent personal services

[Deleted]

Article 15. Dependent personal services

1. Subject to the provisions of Articles 16, 17, 18 and 19, salaries, wages and other similar remuneration derived by a resident of one of the States in respect of an employment shall be taxable only in that State unless the employment is exercised in the other 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 one of the States in respect of an employment exercised in the other 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 12 months' 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 almost wholly consist of hiring out of labour; and
c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in that other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived by a resident of one of the States in respect of an employment exercised aboard a ship or aircraft in international traffic or aboard vessels engaged in fishing activities on the high seas shall be taxable only in that State.

Article 16. Directors' fees

1. Directors' fees or similar remuneration derived by a resident of the Netherlands in his capacity as a member of the board of directors or of a similar organ of a company which is a resident of Norway may be taxed in Norway.

2. Directors' fees or other remuneration derived by a resident of Norway in his capacity as a "bestuurder" or a "commissaris" of a company which is a resident of the Netherlands may be taxed in the Netherlands.

3. Where the remuneration mentioned in paragraphs 1 or 2 is derived by a person who exercises activities of a regular and substantial character in a permanent establishment situated in the State other than the State of which the company is a resident and the remuneration is deductible in determining the taxable profits of that permanent establishment, then, notwithstanding the provisions of paragraphs 1 or 2 of this Article, the remuneration, to the extent to which it is so deductible, shall be taxable only in the State in which the permanent establishment is situated.

Article 17. Artistes and athletes

1. Notwithstanding the provisions of Articles 7 and 15, income derived by a resident of one of the States 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 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 and 15, be taxed in the State in which the activities of the entertainer or athlete are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities performed in one of the States by entertainers or athletes if the visit to that State is substantially supported by public funds of the other State or a political subdivision or a local authority thereof. In such a case the income shall be taxable only in the State of which the entertainer or athlete is a resident.

Article 18. Pensions, annuities, social security payments and alimony

1. Pensions or other similar remuneration, annuities, as well as lump sum payments made in lieu of a pension or other similar remuneration or annuity, arising in one of the States and paid to a resident of the other State may be taxed in the first-mentioned State.

2. Pensions paid and other payments made under the provisions of the social security legislation of one of the States to a resident of the other State may also be taxed in the first-mentioned State.

3. A pension or other similar remuneration or annuity as referred to in paragraph 1 shall be deemed to arise in one of the States if:

a) the person holding the pension obligation is a resident of that State, or has a permanent establishment situated in that State to which the pension obligation is effectively connected; or
b) the contributions or payments associated with that pension or other similar remuneration or annuity, or the entitlements received from them qualified for relief from tax in that State.
The transfer of the entitlement to a pension, other similar remuneration or annuity from a pension fund or an insurance company in that State to a pension fund or insurance company in the other State or in a third State shall not restrict in any way the taxing rights of the first-mentioned State.

4. The term “annuity” means

a) in the case of the Netherlands: an annuity the payments of which are part of taxable income from employment and dwellings (“belastbaar inkomen uit werk en woning“); and
b) in the case of Norway: 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.

5. Alimony and other maintenance payments paid to a resident of one of the States shall be taxable only in that State. However, any alimony or other maintenance payment paid by a resident of one of the States to a resident of the other 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 paid by one of the States or a political subdivision or 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 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 in respect of services rendered in connection with a business carried on by a State or a political subdivision or a local authority thereof.

Article 20. Students

Payments which a student or business apprentice who is or was immediately before visiting one of the States a resident of the other 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 that State provided that such payments arise from sources outside that State.

Article 21. Other income

1. Items of income of a resident of one of the States, 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 one of the States, carries on business in the other State through a permanent establishment situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

CHAPTER IV. TAXATION OF CAPITAL

Article 22. Capital

[Deleted]

CHAPTER V. ELIMINATION OF DOUBLE TAXATION

Article 23

1. 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 of this Article)

a) Where a resident of Norway derives income which, in accordance with the provisions of this Convention, may be taxed in the Netherlands, Norway shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in the Netherlands on that income.
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 the Netherlands.
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 the Netherlands.

2.

a) The Netherlands, when imposing tax on its residents, may include in the basis upon which such taxes are imposed the items of income which, according to the provisions of this Convention, may be taxed or shall be taxable only in Norway.
b) However, where a resident of the Netherlands derives items of income which according to Article 6, Article 7, Article 8, paragraph 7 of Article 10, paragraph 3 of Article 11, paragraph 3 of Article 12, paragraphs 1, 2 and 3 (sub-paragraph b) of Article 13, paragraph 1 of Article 15, Article 16, paragraphs 1, 2 and 5 (second sentence) of Article 18, paragraph 1 (sub-paragraph a) of Article 19, paragraph 2 of Article 21 and Article 24 of this Convention may be taxed or shall be taxable only in Norway and are included in the basis referred to in sub-paragraph a, the Netherlands shall exempt such items of income by allowing a reduction of its tax. This reduction shall be computed in conformity with the provisions of the Netherlands law for the avoidance of double taxation. For that purpose the said items of income shall be deemed to be included in the amount of the items of income which are exempt from Netherlands tax under those provisions.

The following paragraph 2 of Article 5 of the MLI applies to subparagraph b of paragraph 2 of Article 23 of this Convention with respect to the residents of the Netherlands:

ARTICLE 5 – APPLICATION OF METHODS FOR ELIMINATION OF DOUBLE TAXATION (*Option A*)

Subparagraph b of paragraph 2 of Article 23 of the Convention shall not apply where Norway applies the provisions of the Convention to exempt income derived or capital owned by a resident of the Netherlands from tax or to limit the rate at which such income may be taxed. In the latter case, the Netherlands shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Norway. 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 which may be taxed in Norway.

c) Further, the Netherlands shall allow a reduction from the Netherlands tax so computed for the items of income which according to paragraph 2 of Article 10, paragraph 5 of Article 13 and Article 17 of this Convention may be taxed in Norway to the extent that these items are included in the basis referred to in sub-paragraph a. The amount of this reduction shall be equal to the tax paid in Norway on these items of income, but shall, in case the provisions of the Netherlands law for the avoidance of double taxation provide so, not exceed the amount of the reduction which would be allowed if the items of income so included were the sole items for which the Netherlands gives a reduction under the provisions of the Netherlands law for the avoidance of double taxation.
This sub-paragraph shall not restrict allowance now or hereafter accorded by the provisions of the Netherlands law for the avoidance of double taxation, but only as far as the calculation of the amount of the reduction of Netherlands tax is concerned with respect to the aggregation of income from more than one country and the carry forward of the tax paid in Norway on the said items of income to subsequent years.
d) Notwithstanding the provisions of sub-paragraph b, the Netherlands shall allow a reduction from the

Netherlands tax for the tax paid in Norway on items of income which according to paragraph 1 of Article 7, paragraph 7 of Article 10, paragraph 3 of Article 11, paragraph 3 of Article 12 and paragraph 2 of Article 21 of this Convention may be taxed in Norway to the extent that these items are included in the basis referred to in sub-paragraph a, insofar as the Netherlands under the provisions of the Netherlands law for the avoidance of double taxation allows a reduction from the Netherlands tax of the tax levied in another country on such items of income. For the computation of this reduction the provisions of sub-paragraph c of this paragraph shall apply accordingly.

The following paragraph 2 of Article 3 of the MLI applies and supersedes the provisions of this Convention:

ARTICLE 3 OF THE MLI – TRANSPARANT ENTITIES

Article 23 of the Convention shall not apply to the extent that such provision allows taxation by that other State solely because the income is also income derived by a resident of that other State.

CHAPTER VI. OFFSHORE ACTIVITIES

Article 24

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

2. An enterprise of one of the States which carries on activities offshore in the other State in connection with the exploration or exploitation of the sea bed and sub-soil and their natural resources situated in that other State shall, subject to paragraphs 3 and 4 of this Article, be deemed to be carrying on, in respect of those activities, business in that other State through a permanent establishment situated therein.

3. The provisions of paragraph 2 of this Article shall not apply where the activities referred to therein are carried on in the other State for a period or periods not exceeding in the aggregate 30 days in any 12 months' period. For the purposes of this paragraph:

a) where an enterprise carrying on activities referred to in paragraph 2 of this Article in the other State is associated with another enterprise carrying on substantially similar activities there, the former enterprise shall be deemed to be carrying on all such activities of the latter enterprise, except to the extent that those activities are carried on at the same time as its own activities;
b) an enterprise shall be regarded as associated with another enterprise if one participates directly or indirectly in the management, control or capital of the other or if the same persons participate directly or indirectly in the management, control or capital of both enterprises.

4. Profits derived by a resident of one of the States from the transportation of supplies or personnel to a location, or between locations, where activities in connection with the exploration or exploitation of the sea bed and sub-soil and their natural resources are being carried on in one of the States, or from the operation of tugboats and other vessels auxiliary to such activities, shall be taxable only in the State in which the place of effective management of the enterprise is situated.

5.

a) Subject to sub-paragraph b of this paragraph, salaries, wages and other similar remuneration derived by a resident of one of the States in respect of an employment connected with the exploration or exploitation of the sea bed and sub-soil and their natural resources situated in the other State may, to the extent that the employment is exercised offshore in that other State, be taxed in that other State provided that the employment is exercised offshore for a period or periods exceeding in the aggregate 30 days in any 12 months' period.
b) Salaries, wages and other similar remuneration derived by a resident of one of the States 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 sea bed and sub-soil and their natural resources are being carried on in one of the States, or in respect of an employment exercised aboard tugboats or other vessels operated auxiliary to such activities, shall be taxable only in the State of which the employee is a resident.

6. Gains derived by a resident of one of the States from the alienation of rights to assets to be produced by the exploration or exploitation of the sea bed and sub-soil and their natural resources situated in the other State, including rights to interests in or to the benefit of such assets, or from the alienation of shares deriving their value or the greater part of their value directly or indirectly from such rights, may be taxed in that other State.

CHAPTER VII. SPECIAL PROVISIONS

Article 25. Non-discrimination

1. Nationals of one of the States shall not be subjected in the other State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the States.

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

3. The taxation on a permanent establishment which an enterprise of one of the States has in the other State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging one of the States to grant to residents of the other State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

4. Except where the provisions of Article 9, paragraph 4 of Article 11, or paragraph 4 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of one of the States to a resident of the other 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.

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

6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 26. Mutual agreement procedure

1. Where a person considers that the actions of one or both of the 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 State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

The following first sentence of paragraph 1 of Article 16 of the MLI replaces the first sentence of paragraph 1 of Article 26 of this Convention:

ARTICLE 16 OF THE MLI - MUTUAL AGREEMENT PROCEDURE

Where a person considers that the actions of one or both of the States result or will result for that person in taxation not in accordance with the provisions of this Convention, that person may, irrespective of the remedies provided by the domestic law, present the case to the competent authority of either State.

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 State, with a view to the avoidance of taxation which is not in accordance with the Convention.

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

5. In the event that the competent authorities reach an agreement in the sense of paragraphs 2 and 3, taxes shall be imposed or refund of taxes shall be allowed in accordance with such agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the States.

6. Where,

a) under paragraph 1, a person has presented a case to the competent authority of one of the States on the basis that the actions of one or both of the States have resulted for that person in taxation not in accordance with the provisions of this Convention, and
b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 within two years from the presentation of the case to the competent authority of the other State,

any unresolved issues arising from the case shall be submitted to arbitration if the person so requests. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either State. Unless a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision or the competent authorities agree on a different solution within six months after the decision has been communicated to them, the arbitration decision shall be binding on both States and shall be implemented notwithstanding any time limits in the domestic laws of these States. The competent authorities of the States shall by mutual agreement settle the mode of application of this paragraph.

Article 27. Exchange of information

1. The competent authorities of the States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by one of the States 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) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. 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. Notwithstanding the foregoing, information received by either State may also be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on one of the States the obligation:

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

4. If information is requested by a State in accordance with this Article, the other State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 28. Assistance in the collection of taxes

1. The States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the States may by mutual agreement settle the mode of application of this Article.

2. The term “revenue claim” as used in this Article means an amount owed in respect of taxes of every kind and description imposed on behalf of the States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Convention or any other instrument to which the States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.

3. When a revenue claim of a State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other State. That revenue claim shall be collected by the requested State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State that met the conditions allowing that other State to make a request under this paragraph.

4. When a revenue claim of a State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other State. That other State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection.

5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a State for purposes of paragraph 3 or 4 shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition, a revenue claim accepted by a State for the purposes of paragraph 3 or 4 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other State.

6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a State shall not be brought before the courts or administrative bodies of the other State.

7. Where, at any time after a request has been made by a State under paragraph 3 or 4 and before the other State has collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be

a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, or
b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection, the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request.

8. In no case shall the provisions of this Article be construed so as to impose on a State the obligation:

a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other State;
b) to carry out measures which would be contrary to public policy (ordre public);
c) to provide assistance if the other State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice;
d) to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other State.

Article 29. Limitation of articles 27 and 28

[Deleted]

Article 30. Diplomatic agents and consular officers

1. Nothing in this Convention shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

2. For the purposes of the Convention an individual, who is a member of a diplomatic or consular mission of one of the States in the other State or in a third State and who is a national of the sending State, shall be deemed to be a resident of the sending State, but only if he is subjected therein to the same obligations in respect of

taxes on income as are residents of that State.

3. The Convention shall not apply to international organizations, to organs or officials thereof and to individuals who are members of a diplomatic or consular mission of a third State, being present in one of the States and who are not subjected in either State to the same obligations in respect of taxes on income as are residents of that State.

The following paragraph 1 of Article 7 of the MLI applies and supersedes the provisions of this Convention:

ARTICLE 7 OF THE MLI – PREVENTION OF TREATY ABUSE
(*Principal purposes test provision*)

Notwithstanding any provisions of the Convention, a benefit under the Convention shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of the Convention.

Article 31. Regulations

1. The competent authorities of the States shall by mutual agreement settle the mode of application of paragraphs 2, 3 and 4 of Article 10.

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

3. The competent authorities of each of the States, in accordance with the practices of that State, may prescribe regulations necessary to carry out the other provisions of this Convention.

Article 32. Territorial extension

1. This Convention may be extended, either in its entirety or with any necessary modifications, to Aruba or the Caribbean part of the Netherlands (the islands of Bonaire, Sint Eustatius and Saba), if the part of the Kingdom of the Netherlands concerned imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed in notes to be exchanged through diplomatic channels.

2. Unless otherwise agreed the termination of the Convention shall not also terminate any extension of the Convention to any part(s) of the Kingdom of the Netherlands to which it has been extended under this Article.

CHAPTER VIII. FINAL PROVISIONS

Article 33. Entry into force

1. This Convention shall enter into force on the thirtieth day after the latter of the dates on which the respective Governments have notified each other in writing that the formalities constitutionally required in their respective States have been complied with, and its provisions shall have effect:

a) in respect of withholding tax on dividends derived on or after the first day of January in the calendar year next following that in which this Convention enters into force;
b) in respect of taxes, other than the withholding tax on dividends, for taxable years and periods beginning on or after the first day of January in the calendar year next following that in which this Convention enters into force.

2. The Convention between the Kingdom of Norway and the Kingdom of the Netherlands for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed at The Hague on 22 September 1966, and the Agreement dated 11 January 1929 between the Netherlands and Norway for the reciprocal exemption from income tax, in certain cases, of profits accruing from the business of shipping, shall terminate upon the entry into force of this Convention. However, the provisions of the 1966 Convention shall continue in effect until the provisions of this Convention, in accordance with the provisions of paragraph 1 of

this Article, shall have effect.

Article 34. Termination

This Convention shall remain in force until terminated by one of the Contracting Parties. Either Party may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the expiration of a period of five years from the date of entry into force. In such event the Convention shall cease to have effect:

a) in of withholding tax on dividends derived on or after the first day of January in the calendar year next following that in which the notice of termination is given;
b) in respect of taxes, other than the withholding tax on dividends, for taxable years and periods beginning on or after the first day of January in the calendar year next following that in which the notice of termination is given.

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

DONE at Oslo this 12th day of January 1990, in duplicate, in the Netherlands, Norwegian and English languages, the three texts being equally authentic. In case there is any divergence of interpretation between the Netherlands and Norwegian texts, the English text shall prevail.

For the Government of the Kingdom of the Netherlands

(sd.) VAN GEEN

For the Government of the Kingdom of Norway

(sd.) JAN FLATLA

Protocol

At the moment of signing the Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, this day concluded between the Kingdom of the Netherlands and the Kingdom of Norway the undersigned have agreed upon the following provisions which shall form an integral part of the Convention.

I

1. Where under the provisions of the Convention a resident of the Netherlands is exempt or entitled to relief from Norwegian tax, similar exemption or relief shall be applied to the undivided estates of deceased persons in so far as one or more of the beneficiaries is a resident of the Netherlands.

2. In so fas as the income of an undivided estate of a deceased person under the provisions of the Convention is liable to Norwegian tax and accrues to a beneficiary who is a resident of the Netherlands, the Netherlands shall allow a reduction or deduction in conformity with the provisions of paragraph 2 of Article 23 of the Convention.

IA. Ad Articles 1 and 4

1. It is understood that a person (other than an individual) that is a subject of the tax laws (as meant in Article 2 of this Convention) of one of the States shall be regarded as liable to tax in that State, even when all elements of income attributable to that person are exempted from tax where the person meets all the requirements for exemption specified in the domestic tax law.

2. Notwithstanding the provisions of Articles 1 and 4 of the Convention and the foregoing provisions of this Article, the competent authorities of the States shall by mutual agreement decide to which extent a resident of one of the States that is subject to a preferential regime shall not be entitled to the benefits of this Convention. A company which is treated as a "vrijgestelde beleggingsinstelling" (tax exempt investment institution) as meant in the Netherlands Corporate Income Tax Act 1969 shall not be entitled to the benefits of Articles 10, 11, 12, paragraph 4 of Article 13 and paragraph 1 of Article 21 of the Convention and the corresponding Articles of the Protocol to the Convention.

IB. Ad Articles 1 and 26

[MODIFIED by paragraph 1 of Article 3 of the MLI] If questions arise regarding the application of the provisions of this Convention with respect to items of income, profits or gains derived by or through a person that is fiscally transparent under the laws of either State, then the competent authorities of the States shall in mutual agreement decide how double taxation or double exemption of such items of income, profits or gains will be avoided.

II. Ad Article 4

An individual living aboard a ship without any real domicile in either of the States shall be deemed to be a resident of the State in which the ship has its home harbour.

III. Ad Article 5

For the purposes of paragraph 3 of Article 5:

a) separate building projects or construction activities should not be combined for the purpose of calculation of the period;
b) building projects can normally be considered as separate if they are being carried out for different principals, unless they can be considered to comprise a single unit economically;
c) different projects carried out on behalf of one and the same principal should, however, be treated as one, if they are being carried out under a single contract;
d) projects being carried out for one and the same principal under more than one contract should also be treated as a single unit if carried out as a single project. This can be the case:
   (i) *in time,* i.e. if the different projects are carried out simultaneously or immediately after one another without interruption.
   (ii) *in location,* if the projects, even though carried out on various sites, actually form part of a greater whole, and there has been no significant interruption of construction work.

The following paragraph 1 of Article 14 of the MLI replaces Protocol III. Ad Article 5 of this Convention:

ARTICLE 14 OF THE MLI – SPLITTING-UP OF CONTRACTS

For the sole purpose of determining whether the twelve-month period referred to in paragraph 3, of Article 5 of the Convention has been exceeded:

a) where an enterprise of a State carries on activities in the other State at a place that constitutes a building site, construction project, installation project or other specific project identified in paragraph 3 of Article 5 of the Convention, and these activities are carried on during one or more periods of time that, in the aggregate, exceed 30 days without exceeding the period referred to in paragraph 3 of Article 5 of the Convention; and

b) where connected activities are carried on in that other Contracting State at the same building site, construction project, installation project or other specific project identified in paragraph 3 of Article 5 of the Convention during different periods of time, each exceeding 30 days, by one or more enterprises closely related to the first-mentioned enterprise,

these different periods of time shall be added to the aggregate period of time during which the first-mentioned enterprise has carried on activities at that building site, construction project, installation project or other specific project identified in paragraph 3 of Article 5 of the Convention.

IV. Ad Article 7

[Deleted]

V. Ad Articles 8 and 13

Where the enterprise is carried on by one or more partners jointly and severally responsible and resident in one of the States and by one or more partners jointly and severally responsible and resident in the other State and the competent authorities of both States agree that it is not feasible to determine that the place of effective management is situated in one of the States only, profits as mentioned in paragraphs 1, 5 and 6 of Article 8, gains as mentioned in paragraph 3 of Article 13 shall be taxable, in proportion to the share which each of the partners jointly and severally responsible is holding, only in the State of which that partner is a resident.

VI. Ad Article 10

Application for the restitution of tax levied not in accordance with the provisions of Article 10 have to be lodged with the competent authority of the State having levied the tax within a period of five years after the expiration of the calendar year in which the tax has been levied.

VII. Ad Articles 11 and 23

In the event that one of the States should introduce a withholding tax on interest, that State shall inform the other State of the introduction of that tax and enter into negotiations with a view to agreeing to such amendments to Articles 11 and 23 as may be appropriate.

VIII. Ad Article 18

Where before the date on which this Amending Protocol to the Convention comes into effect, a resident of one of the States derives a pension or other similar remuneration, or an annuity arising in the other State, or a pension or other payment under the social security legislation of the other State, and who continues after that date to derive such pension, remuneration, annuity or social security payment, the provisions of Article 18 of the Convention before the entry into force of this Amending Protocol shall remain applicable after the date of the entry into force of this Amending Protocol, unless the person receiving the pension, remuneration, annuity or social security payment elects for application of the provisions of Article 18 of the Convention as amended by this Protocol. Such election has to be made to the tax authorities of both States within two years from the date this Amending Protocol comes into effect and is irrevocable.

IX. Ad Article 23

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X. Ad Article 23

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XI. Ad Article 25

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XII. Ad Article 25

For the purposes of the application of paragraph 3 of Article 25 interest, royalties and other expenses incurred by an enterprise of one of the States and attributable to a permanent establishment, which it has in the other State, are deductible for the computation of the taxable profits of such permanent establishment on the same conditions as if it were an enterprise of that other State.

XIII. Ad Article 26

1. The provisions of paragraph 6 of Article 26 shall not apply where a norm price for petroleum has been determined under the Norwegian Petroleum Tax Act.

2. In case Norway in a tax convention after the entry into force of this Amending Protocol with any country would agree to a provision concerning arbitration without a condition as mentioned in paragraph 1, this condition shall automatically no longer apply as from the date of entry into force of that other convention.

XIV. Ad Article 27

1. The provisions of Article 27 shall apply accordingly to information that is relevant for carrying out the income-related regulations under the laws of either State by the authorities of that State concerned with the implementation, administration or enforcement of these income-related regulations.

2. Any information received under paragraph 1 in connection with Article 27 of this Convention shall be used only for the purpose of the determination and levying of the contributions and the determination and granting of the benefits under the income-related regulations as meant in paragraph 1.

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

DONE at Oslo this 12th day of January 1990, in duplicate, in the Netherlands, Norwegian and English languages, the three texts being equally authentic. In case there is any divergence of interpretation between the Netherlands and Norwegian texts, the English text shall prevail.

For the Government of the Kingdom of the Netherlands

(sd.) VAN GEEN

For the Government of the Kingdom of Norway

(sd.) JAN FLATLA