**Convention**
**between**
**The Kingdom of Norway**
**and**
**The Republic of Kazakhstan**
**for the avoidance of double taxation and the**
**prevention of fiscal evasion with respect to**
**taxes on income and on capital**
**(Oslo, 3 April 2000)**

The Kingdom of Norway and the Republic of Kazakhstan confirming their desire to develop and strengthen the economic, scientific, technical and cultural co-operation between both States, and desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, 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 Contracting States.

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 regional 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 the case of Kazakhstan:

(i)the tax on income of legal persons and individuals;

(ii)the tax on the property of legal persons and individuals,

(hereinafter referred to as "Kazakhstan tax");

b)in the case of Norway:

(i) the national tax on income;

(ii)the county municipal tax on income;

(iii)the municipal tax on income;

(iv)the national contributions to the Tax Equalisation Fund;

(v)the national tax on capital;

(vi)the municipal tax on capital;

(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; and

(viii)the national dues on remuneration to non-resident artistes;

(hereinafter referred to as "Norwegian tax").

4.The Convention shall apply also to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of the Convention in addition to, or in place of, the existing taxes.

**CHAPTER II**

**DEFINITIONS**

Article 3

GENERAL DEFINITIONS

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

a)(i)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 territories in Antarctica ("biland");

(ii)the term "Kazakhstan" means the Republic of Kazakhstan. When used in a geographical sense, the term "Kazakhstan" includes the territorial waters, and also the exclusive economic zone and continental shelf in which Kazakhstan, for certain purposes, may exercise sovereign rights and jurisdiction in accordance with international law and in which the law relating to Kazakhstan tax are applicable.

b)the term "person" includes an individual, a company and any other body of persons;

c)the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes, and in the case of Kazakhstan includes a joint stock company, a limited liability company or any other legal entity which is liable to a tax as a body corporate.

d)the terms "a Contracting State" and "the other Contracting State" mean Norway or Kazakhstan as the context requires;

e)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;

f)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;

g)the term "competent authority" means:

(i)in Kazakhstan, the Ministry of Finance or its authorized representative;

(ii)in Norway, the Minister of Finance and Customs or his authorized representative.

h)the term "nationals" means:

(i)all individuals possessing the nationality 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;

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

Article 4

RESIDENT

1.For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature and also includes that State and any regional or local authority thereof. It shall include also any pension or other employee benefit plan, and any charitable organisation, established under the law of a Contracting State.

This term however 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 it shall be deemed to be a resident of the State in which its place of effective management is situated.

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.The term "permanent establishment" also includes:

a)a building site or construction or installation or assembly project, or supervisory services connected therewith, but only if such site or project lasts for more than twelve months, or such services continue for more than twelve months; and

b)an installation or structure used for the exploration of natural resources, or supervisory services connected therewith, or a drilling rig, but only if such use lasts for more than six months, or such services continue for more than six months; and

c)the furnishing of services, including consultancy services, through employees or other personnel engaged for such purposes, but only where the activities of that nature continue (for the same or a connected project) within the country for more than twelve months.

4.Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

a)the use of facilities solely for the purpose of storage, 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.

5.Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State 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 4 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.

6.An enterprise shall not be deemed to have a permanent establishment in a Contracting State 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.

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

**CHAPTER III**

**TAXATION OF INCOME**

Article 6

INCOME FROM IMMOVABLE PROPERTY

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

2.The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships 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 and to income from immovable property used for the performance of independent personal services.

Article 7

BUSINESS PROFITS

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

a)that permanent establishment;

b)sales in that other State of goods or merchandise of the same kind as those sold through that permanent establishment; or

c)other business activities carried on in that other State of the same kind as those effected through that permanent establishment.

2.Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3.In 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. The permanent establishment shall not be allowed a deduction for amounts paid to its head office or any of the other offices of the resident by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or by way of interest on moneys lent to the permanent establishment.

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 contained 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.Where the information available to or readily obtainable by the competent authority of a Contracting State is not adequate to determine the profit or expenses of the permanent etablishment, profits may be calculated in accordance with the tax laws of that State. For purposes of this paragraph, information will be considered to be readily obtainable if the taxpayer provides the information to the requesting competent authority within 91 days of a written request by the competent authority for such information.

7.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.

8.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 of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that Contracting State.

2.The provisions of paragraph 1 shall also apply to profits derived from the participation in a pool, a joint business or in an international operating agency.

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 insofar 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 a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

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

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

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

b)15 per cent of the gross amount of the dividends in all other cases.

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

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

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

5.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.

6.Nothing in this Convention shall be construed as preventing a Contracting State from imposing on the earnings of a company attributable to a permanent establishment in that State, a tax in addition to the tax which would be chargeable on the earnings of a company which is a resident of that State, provided that any additional tax so imposed shall not exceed 5 per cent of the amounts of such earnings which have not been subjected to such additional tax in previous taxation years. For the purpose of this provision, the term "earnings" means the profits, including any gains, attributable to a permanent establishment in a Contracting State in a year and previous years after deducting therefrom all taxes, other than the additional tax referred to herein, imposed on such profits by that State.

Article 11

INTEREST

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

2.However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3.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.

4.Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be exempt from tax in that State if:

a)the interest is paid in respect of a bond, debenture or other similar obligation of the government of that Contracting State or of a regional or local authority thereof, provided that the interest is beneficially owned by a resident of the other Contracting State;

b)the interest is paid from a debtor resident in Kazakhstan to a resident of Norway in respect of a loan made, guaranteed or insured, or a credit extended, guaranteed or insured by the Central Bank of Norway, the Norwegian Guarantee Institute for Export Credits or A/S Eksportfinans or any other institution as may be agreed from time to time between the competent authorities of the Contracting States;

c)the interest is paid from a debtor resident in Norway to a resident of Kazakhstan in respect of a loan made, guaranteed or insured, or a credit extended, guaranteed or insured by the National Bank of the Republic of Kazakhstan or Eximbank or any other institution as may be agreed from time to time between the competent authorities of the Contracting States;

5.The provisions of paragraph 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 (Business Profits) or Article 14 (Independent Personal Services), 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 regional or local authority thereof or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7.Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

8.The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment.

Article 12

ROYALTIES

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

2.However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient and the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3.Notwithstanding paragraph 2 of this Article the beneficial owner of royalties in respect of leasing, as defined in paragraph 4 of this Article, may elect to be taxed, in the Contracting State in which the royalties arise, as if the right or property in respect of which such royalties are paid is effectively connected with a permanent establishment or fixed base in that Contracting State. In such case the provisions of Article 7 (Business Profits) or Article 14 (Independent Personal Services) of this Convention, as the case may be, shall apply to the income and deductions (other than capital allowances) attributable to such right or property.

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 of literary, artistic or scientific work including computer programs, cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information (know-how) concerning industrial, commercial or scientific experience, and payments for the use of, or the right to use, industrial, commercial or scientific equipment.

5.The provisions of paragraph 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 (Business Profits) or Article 14 (Independent Personal Services), as the case may be, shall apply.

6.Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a regional or local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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 royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of the Convention.

8.If in any convention for the avoidance of double taxation concluded by Kazakhstan with a third State, being a member of the Organisation for Economic Co-operation and Development (OECD) at the date of signature of this Convention, Kazakhstan after that date would agree to exclude any kind of rights or property from the definition contained in paragraph 4 of this Article or exempt royalties arising in Kazakhstan from Kazakhstan tax on royalties or to limit the rates of tax provided in paragraph 2, such definition or exemption or lower rate shall automatically apply as if it had been specified in paragraph 4 or paragraph 2, respectively.

9.The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the rights in respect of which the royalties are paid to take advantage of this Article by means of that creation or assignment.

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 (Income from Immovable Property) and situated in the other Contracting State may be taxed in that other State.

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

a)shares, other than shares in which there is substantial and regular trading on an approved Stock Exchange, deriving their value or the greater part of their value directly or indirectly from immovable property situated in the other Contracting State, or

b)an interest in a partnership or trust the assets of which consist principally of immovable property situated in the other Contracting State, or of shares referred to in sub-paragraph a) above,

may be taxed in that other State.

3.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.

4.Gains derived by a resident of a Contracting State 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 that Contracting State.

5.Gains from the alienation of shares or other corporate rights of a company which is a resident of a Contracting State, and gains from the alienation of any other financial instruments which are subject in that State to the same taxation treatment as gains from the alienation of such shares or other rights, derived by an individual who was a resident of that State and who after acquiring such shares, rights or financial instruments has become a resident of the other Contracting State, may be taxed in the first-mentioned State if the alienation of the shares, rights or financial instruments occurs at any time during the period of five years next following the date on which the individual has ceased to be a resident of the first-mentioned State.

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

Article 14

INDEPENDENT PERSONAL SERVICES

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

a)the individual is present in the other State for a period or periods exceeding in the aggregate 183 days in any period of twelve months; or

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

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

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

Article 15

DEPENDENT PERSONAL SERVICES

1.Subject to the provisions of Articles 16 (Directors Fees), 18 (Pensions, Annuities, Payments under a Social Security System and Alimony) and 19 (Government Service), 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 period of twelve months; 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 activity does not consist of the 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 in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the enterprise operating the ship or aircraft is a resident.

4.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 the Contracting State of which the recipient is a resident.

Article 16

DIRECTORS' FEES

Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as 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 SPORTSMEN

1.Notwithstanding the provisions of Articles 14 (Independent Personal Services) and 15 (Dependent Personal Services), income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

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

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

Article 18

PENSIONS, ANNUITIES, PAYMENTS UNDER A SOCIAL

SECURITY SYSTEM AND ALIMONY

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

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

Article 19

GOVERNMENT SERVICE

1.a)Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a regional or local authority thereof to an individual in respect of services rendered to that State or regional or local authority shall be taxable only in that State.

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

(i)is a national of that State; or

(ii)did not become a resident of that State solely for the purpose of rendering the services.

2.The provisions of Articles 15 (Dependent Personal Services) and 16 (Directors' Fees) shall apply to salaries, wages and other similar remuneration other than pensions in respect of services rendered in connection with a business carried on by a Contracting State or a regional or local authority thereof.

Article 20

STUDENTS

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

Article 21

OFFSHORE ACTIVITIES

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

2.A person who is a resident of a Contracting State and carries on activities offshore in the other Contracting State in connection with the exploration or exploitation of the seabed and subsoil and their natural resources situated in that other State shall, subject to paragraphs 3 and 4 of this Article, be deemed in relation to those activities to be carrying on business in that other State through a permanent establishment or fixed base situated therein.

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 months period. However, for the purposes of this paragraph:

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

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

4.Profits derived by 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, shall be taxable only in the Contracting State of which the enterprise is a resident.

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

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

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

a)exploration or exploitation rights; or

b)property situated in the other Contracting State and used in connection with the exploration or exploitation of the seabed and subsoil and their natural resources situated in that other State; or

c)shares deriving their value or the greater part of their value directly or indirectly from such rights or such property or from such rights and such property taken together,

may be taxed in that other State.

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

Article 22

OTHER INCOME

1.Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

2.The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6 (Income from Immovable Property), 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 (Business Profits) or Article 14 (Independent Personal Services), as the case may be, shall apply.

**CHAPTER IV**

**TAXATION OF CAPITAL**

Article 23

CAPITAL

1.Capital represented by immovable property referred to in Article 6 (Income from Immovable Property), 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 resident 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 or aircraft owned by a resident of a Contracting State and operated in international traffic, and by movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that Contracting State.

4.All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

**CHAPTER V**

**METHODS FOR ELIMINATION OF DOUBLE TAXATION**

Article 24

ELIMINATION OF DOUBLE TAXATION

In accordance with the provisions and subject to the limitations of the laws of the Contracting States (as may be amended from time to time without changing the general principle thereof):

a)Where a resident of a Contracting State derives income which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned Contracting State shall allow:

i)as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in the other Contracting State;

ii)as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in the other State;

Such deduction shall in no case, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable to the income or capital which may be taxed in the other Contracting State;

b)Where in accordance with any provision of the Convention, income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, that State 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.

**CHAPTER VI**

**SPECIAL PROVISIONS**

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. This provision shall, notwithstanding the provisions of Article 1 (Personal Scope), also apply to persons who are not residents of one or both of the Contracting States.

2.Stateless persons who are residents 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.

3.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.

4.Except where the provisions of Article 9, paragraph 7 of Article 11 or paragraph 7 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 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 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 (Non-discrimination), to that of the Contracting State of which he is a national. The case must be presented within three years from the receipt of the first notification of the action resulting in taxation not in accordance with the provisions of 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 notwithstanding any 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. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 27

EXCHANGE OF INFORMATION

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

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

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

b)to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

c)to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 28

ASSISTANCE IN COLLECTION

1.The competent authorities of the Contracting States undertake to lend assistance to each other in the collection of taxes, together with interest, costs, and civil penalties relating to such taxes, referred to in this Article as a "revenue claim".

2. Requests for assistance by the competent authorities of a Contracting State in the collection of a revenue claim shall include a certification by such authority that, under the laws of that State, the revenue claim has been finally determined. For the purposes of this Article, a revenue claim is finally determined when a Contracting State has the right under its internal law to collect the revenue claim and the taxpayer has no further rights to restrain collection.

3.Claims which are the subject of requests for assistance shall not have priority over taxes owing in the Contracting State rendering assistance and the provisions of paragraph 1 of Article 26 (Mutual Agreement Procedure)shall also apply to any information which, by virtue of this Article, is supplied to the competent authority of a Contracting State.

4.A revenue claim of a Contracting State that has been accepted for collection by the competent authority of the other Contracting State shall be collected by the other State as though such claim were the other State's own revenue claim as finally determined in accordance with the provisions of its laws relating to the collection of its taxes.

5.Amounts collected by the competent authority of a Contracting State pursuant to this Article shall be forwarded to the competent authority of the other Contracting State. However, except where the competent authorities of the Contracting States otherwise agree, the ordinary costs incurred in providing collection assistance shall be borne by the first-mentioned State and any extraordinary costs so incurred shall be borne by the other State. As soon as a Contracting State anticipates that extraordinary costs may be incurred, it shall so advise the other Contracting State and indicate the estimated amount of such costs.

6.Where the tax claim of a Contracting State has not been finally determined by reason of it being subject to appeal or other proceedings, that State may, in order to protect its revenues, request the other Contracting State to take such interim measures for conservancy on its behalf as are available to the other State under the laws of that other State. If such request is accepted by the other State, such interim measures shall be taken by that other State as if the taxes owed to the first-mentioned State were the own taxes of that other State.

7. A request under this Article shall only be made by a Contracting State to the extent that sufficient property of the taxpayer owing the taxes is not available in that State for recovery of the taxes owed.

8. No assistance shall be provided under this Article for a revenue claim of a Contracting State in respect of a taxpayer to the extent that the revenue claim relates to a period during which the taxpayer was not a resident of one or the other Contracting State.

9.Notwithstanding the provisions of Article 2 (Taxes Covered) of this Convention , the provisions of this Article shall apply to taxes of every kind and description, except custom duties and taxes.

10. Nothing in this Article shall be construed as imposing on either Contracting State the obligation to carry out administrative measures of a different nature from those used in the collection of its own taxes or that would be contrary to its public policy (ordre public).

Article 29

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR

POSTS

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

**CHAPTER VII**

**FINAL PROVISIONS**

Article 30

ENTRY INTO FORCE

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

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

a)in respect of taxes withheld at source on dividends, interest or royalties, for amounts paid or credited on or after the first day of the second month following the month in which the Convention enters into force;

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

Article 31

TERMINATION

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

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

Done in duplicate at Oslo this 3rd day of April 2000, in the Norwegian, Kazakh, Russian and English languages, all texts being equal authentic. In the case of divergence between the texts, the English text shall prevail.

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| **For the Government of** **the Kingdom of Norway** **Karl Eirik Schjøtt-Pedersen** **(sign.)** | **For the Government of****the Republic of Kazakhstan****Mazhit T. Esenbaev****(sign.)** |