

P.U. (A) 182/1972
Signed: 23 December 1970
Effective: 1 January 1968

**AGREEMENT BETWEEN THE ROYAL NORWEGIAN GOVERNMENT AND
THE GOVERNMENT OF MALAYSIA FOR THE AVOIDANCE OF DOUBLE
TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT
TO TAXES ON INCOME**

The Royal Norwegian Government and Government of Malaysia,

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed as follows:

Article I

1. The taxes which are the subject of this Agreement are:

(a) in Malaysia --

the income tax, the supplementary income tax and the petroleum income tax;

(hereinafter referred to as "Malaysian tax");

(b) in Norway --

(i) National income taxes, including tax equalization dues and special income tax in aid of developing countries;

(ii) Municipal income tax;

(iii) Seamen's tax;

(hereinafter referred to as "Norwegian tax").

2. This Agreement shall also apply to any other taxes of a substantially similar character to those referred to in the preceding paragraph imposed in either Contracting State after the date of signature of this Agreement or by the Government of any territory to which this Agreement is extended under Article XXIV.

Article II

1. In this Agreement, unless the context otherwise requires:

- (a) the term "Malaysia" means the Federation of Malaysia, and includes any area adjacent to the territorial waters of Malaysia which in accordance with international law has been or may hereafter be designated under the laws of Malaysia concerning the Continental Shelf, as an area within which the rights of Malaysia with respect to the sea bed and sub-soil and their natural resources may be exercised;
- (b) the term "Norway" means the Kingdom of Norway, including any area adjacent to the territorial waters of Norway which by Norwegian legislation, and in accordance with international law, has been or may hereafter be designated as an area within which the rights of Norway with respect to the sea bed and subsoil and their natural resources may be exercised; the term does not comprise Spitsbergen (including Bear Island), Jan Mayen and the Norwegian dependencies outside Europe;
- (c) the terms "one of the Contracting States" and "the other Contracting State" mean Malaysia or Norway, as the context requires;
- (d) the term "tax" means Malaysian tax or Norwegian tax, as the context requires;
- (e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (f) the term "individual" means a natural person;
- (g) the term "person" includes an individual, a company and a body of persons, but does not include a partnership, and in the case of Malaysia, also includes a Hindu joint family and a corporation sole;
- (h) the terms "resident of one of the Contracting States" and "resident of the other Contracting State" mean a resident of Malaysia or a resident of Norway, as the context requires;
- (i) the terms "Malaysian enterprise" and "Norwegian enterprise" mean respectively an industrial, mining, commercial, timber, plantation, or agricultural enterprise or undertaking carried on by a resident of Malaysia and an industrial, mining, commercial, timber, plantation or agricultural enterprise or undertaking carried on by a resident of Norway;
- (j) the terms "enterprise of one of the Contracting States" and "enterprise of the other Contracting State" mean a Malaysian enterprise or a Norwegian enterprise, as the context requires;

- (k) the terms "income of a Malaysian enterprise" and "income of a Norwegian enterprise" do not include rents or royalties in respect of literary or artistic copyrights, motion picture films or of tapes for television or broadcasting or of mines, oil wells, quarries, or other places of extraction of natural resources, or of timber or forest produce, or income in the form of dividends, interest, rents, royalties, or capital gains, or fees or other remuneration derived from the management, control or supervision of the trade, business or other activity of another enterprise or concern, or remuneration for labour or personal services, or income derived from the operation of ships or aircraft;

- (l) (i) subject to this sub-paragraph, the term "permanent establishment" in relation to an enterprise means a fixed place of business in which the business of the enterprise is wholly or partly carried on;
 - (ii) a permanent establishment shall include especially:
 - (aa) a place of management;
 - (bb) a branch;
 - (cc) an office;
 - (dd) a factory;
 - (ee) a workshop;
 - (ff) a mine, oil well, quarry or other place of extraction of natural resources;
 - (gg) a building site or construction or assembly project which exists for more than six months;
 - (hh) a farm or plantation;
 - (ii) a place of extraction of timber or forest produce;
 - (iii) the term "permanent establishment" shall not include:
 - (aa) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

- (bb) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - (cc) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - (dd) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
 - (ee) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise;
- (iv) an enterprise of one of the Contracting States shall be deemed to have a permanent establishment in the other Contracting State if:
- (aa) it carries on supervisory activities in that other Contracting State for more than six months in connection with a construction, or assembly project which is being undertaken in that other Contracting State;
 - (bb) it carries on a business which wholly or partly consists of providing the services of public entertainers of the kind referred to in paragraph 2 of Article XII in that other Contracting State;
- (v) subject to sub-paragraph 1 (l) (vi) of this Article where a person acts in one of the Contracting States on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State if:
- (aa) he has, and habitually exercises in that first-mentioned Contracting State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or
 - (bb) he maintains in the first-mentioned Contracting State a stock of goods or merchandise belonging to the

enterprise from which he regularly fills orders on behalf of the enterprise; or

- (cc) he habitually secures orders in the first-mentioned Contracting State wholly or partly for the enterprise itself or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it;
- (vi) an enterprise of one of the Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other Contracting State through a broker, general commission agent or any other agent of independent status acting in the ordinary course of his business;
- (vii) the fact that a company which is a resident of one of the Contracting States controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other;
- (m) the term "taxation authorities" means, in the case of Malaysia, the Minister of Finance or his authorised representative; and in the case of Norway, the Minister of Finance and Customs or his authorised representative, and in the case of any territory to which this Agreement is extended under Article XXIV the competent authority for the administration in such territory of the taxes to which this Agreement applies.

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

Article III

1. In this Agreement, unless the context otherwise requires:

- (a) the term "resident of Malaysia" means --
 - (i) an individual who is ordinarily resident in Malaysia, or

- (ii) a person other than an individual who is resident in Malaysia, for the basis year for a year of assessment for the purposes of Malaysian tax;
- (b) the term "resident of Norway" means --
 - (i) an individual who is ordinarily resident in Norway, or
 - (ii) an individual who is subject to the system of prepayment of tax, or
 - (iii) a person other than an individual who is resident in Norway, for the basis year for a year of assessment for the purposes of Norwegian tax.

2. Where by reason of the provisions of paragraph 1 of this Article an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:

- (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);
- (b) if the Contracting 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a citizen;
- (d) if he is a citizen of both Contracting States or of neither of them, the taxation authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

Article IV

1. (a) The income of a Malaysian enterprise shall not be taxable in Norway unless the enterprise carries on business in Norway through a permanent establishment situated in Norway. If the enterprise carries on business as

aforesaid, tax may be imposed in Norway on the income of the enterprise but only so much of that income as is derived from Norway.

(b) The income of a Norwegian enterprise shall not be taxable in Malaysia unless the enterprise carries on business in Malaysia through a permanent establishment situated in Malaysia. If the enterprise carries on business as aforesaid, tax may be imposed in Malaysia on the income of the enterprise but only on so much of that income as is derived from Malaysia.

2. Where an enterprise of one of the Contracting States carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the income 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 income of a permanent establishment, there shall be allowed as deductions all expenses including executive and general administrative expenses, which would be deductible if the permanent establishment were an independent enterprise, in so far as they are reasonably allocable to the permanent establishment, whether incurred in the Contracting State in which the permanent establishment is situated or elsewhere.

4. No income shall be attributed to a permanent establishment by reason of the mere purchase and transportation by that permanent establishment of goods or merchandise for the enterprise.

Article V

Where--

- (a) an enterprise of one of the Contracting States participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State; or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the Contracting States and of 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 income 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 income of that enterprise and taxed accordingly.

Article VI

1. Notwithstanding the provisions of Article IV, the income of an enterprise of one of the Contracting States from the operation of ships or aircraft in international traffic may be taxed in both Contracting States:

Provided that --

- (a) where a Norwegian enterprise operating ships or aircraft in international traffic derives income from such operations carried on in Malaysia, the tax charged in Malaysia on such income shall be reduced by an amount equal to fifty per cent thereof and the reduced amount of the Malaysian tax payable on the income shall be allowed as a credit against the Norwegian tax charged in respect of such income;
- (b) where a Malaysian enterprise operating ships or aircraft in international traffic derives income from such operations carried on in Norway, the tax charged in Norway on such income shall be reduced by an amount equal to fifty per cent thereof and the reduced amount of the Norwegian tax payable on the income shall be allowed as a credit against the Malaysian tax charged in respect of such income.

2. This Article shall likewise apply to income arising from participation in shipping or aircraft pools of any kind by such enterprise engaged in shipping or aircraft transport operations.

Article VII

1. Dividends paid by a company resident in Norway to a resident of Malaysia who is subject to Malaysian tax in respect thereof shall be exempt from any tax in Norway which is chargeable on dividends in addition to the tax chargeable in respect of the income of the company.

2. Dividends paid by a company resident in Malaysia to a resident of Norway who is subject to Norwegian tax in respect thereof shall be exempt from any tax in Malaysia which is chargeable on dividends in addition to the tax chargeable in respect of the income of the company: Provided that nothing in this paragraph shall affect the provisions of the Malaysian law under which the tax in respect of a dividend paid by a company resident in Malaysia from which Malaysian tax has been, or has been deemed to be, deducted may be adjusted by reference to the rate of tax appropriate to the Malaysian year of assessment immediately following that in which the dividend was paid.

3. Where a company which is a resident of one of the Contracting States derives profits or income from sources within the other Contracting State, there shall not be imposed in that other Contracting State any form of taxation on dividends paid by the company to persons not resident in that other Contracting State, or any

tax in the nature of an undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of one of the Contracting States, has in the other Contracting State, in which the company paying the dividends is resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case Article IV shall apply.

5. If the system of taxation applicable in either of the Contracting States to the income and distributions of companies is altered, the taxation authorities may consult each other in order to determine whether it is necessary for this reason to amend the provisions of paragraphs 1 and 2 of this Article.

Article VIII

1. Royalties derived from one of the Contracting States by a resident of the other Contracting State who is subject to tax in that other Contracting State in respect thereof shall be exempt from tax in the first-mentioned Contracting State.

2. The term "royalties" as used in this Article means a payment of any kind derived and received as consideration for the use of, or the right to use, any copyright, 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 but does not include any royalty or other amount paid in respect of literary or artistic copyrights or of motion picture films or of tapes for television or broadcasting or of the operations of a mine, oil well, quarry or other places of extraction of natural resources or of timber or forest produce.

3. Sums derived by a resident of one of the Contracting States from the other Contracting State from the alienation of any right or property from which royalties (as defined in paragraph 2 of this Article), are or may be derived, shall be exempt from tax in that other Contracting State.

4. Paragraphs 1 and 3 of this Article shall not apply if the recipient of the royalties, or sums, being a resident of one of the Contracting States, has in the other Contracting State from which the royalties or sums are derived a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case Article IV shall apply.

5. Where owing to a special relationship between the payer and the recipient or both of them and some other person, the amount of the royalties paid, having regard to the use, right, property or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient

in the absence of such relationship, and dealing with each other at arm's length, this Article shall apply only to the last-mentioned amount. In that 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 Agreement.

6. Royalties shall be treated as derived from the Contracting State in which the property in respect of which the royalties are paid is used.

7. Sums derived from the alienation of any right or property from which royalties are or may be derived shall be treated as derived from the Contracting State in which such right or property is or is intended to be used.

8. The exemption provided for in paragraphs 1 and 3 of this Article shall, where the royalties or sums are derived from Malaysia, apply only if such royalties or sums are approved by the Government of Malaysia.

Article IX

1. Remuneration paid by the Government of one of the Contracting States to any individual in respect of an employment may be taxed in that Contracting State. Where such remuneration is paid to a citizen of that Contracting State who is not a citizen of the other Contracting State, such remuneration shall be taxable only in the first-mentioned Contracting State.

2. Any pension paid by the Government of one of the Contracting States to any individual may be taxed in that Contracting State. If the individual is a resident of the other Contracting State, the pension may be taxed in that other Contracting State.

3. The provisions of this Article shall not apply to remuneration and pensions in respect of an employment in connection with any business carried on by the Government of a Contracting State. In such a case the provisions of Articles X, XI, XII, XIII, XIV and XV shall apply.

4. Nothing in this Agreement shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.

Nevertheless, each Contracting State reserves the right to tax its own diplomatic or consular officials, regardless of the provisions of this Agreement.

5. For the purposes of this Article, the word "Government" shall include any State Government, or local or statutory authority of either Contracting State.

Article X

1. Subject to the provisions of this Article and Articles IX, XI, XII, XIII, XIV, and XV, salaries, wages and other similar remuneration derived by a resident of one of the Contracting States in respect of an employment shall be taxable only in that Contracting 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 Contracting State.

2. In relation to remuneration of a director of a company derived from the company, this Article and Article XI shall apply as if the remuneration were remuneration of an employee in respect of an employment. Notwithstanding the previous provisions of this Article, directors' fees and similar payments derived by a resident of one of the Contracting States in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other Contracting State.

3. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic operated by an enterprise of one of the Contracting States may be taxed in that Contracting State.

Article XI

1. An individual who is a resident of Malaysia shall be exempt from Norwegian tax on income in respect of an employment exercised in Norway in any calendar year if --

- (a) he is present within Norway for a period or periods not exceeding in the aggregate 183 days during that year; and
- (b) any period for which he is present within Norway during that year does not form part of a continuous period of more than 183 days throughout which he is present within Norway; and
- (c) the services are performed for or on behalf of an employer who is a resident of Malaysia; and
- (d) the income is subject to Malaysian tax; and
- (e) the income is not directly deductible from the income for Norwegian tax purposes of a permanent establishment in Norway of that employer.

2. An individual who is a resident of Norway shall be exempt from Malaysian tax on income in respect of an employment exercised in Malaysia in any calendar year if --

- (a) he is present within Malaysia for a period or periods not exceeding in the aggregate 183 days during that year; and
- (b) any period for which he is present within Malaysia during that year does not form part of a continuous period of more than 183 days throughout which he is present within Malaysia; and
- (c) the services are performed for or on behalf of an employer who is a resident of Norway; and
- (d) the income is subject to Norwegian tax; and
- (e) the income is not directly deductible from the income for Malaysian tax purposes of a permanent establishment in Malaysia of that employer.

Article XII

1. The provisions of Article XI shall not apply to the income derived from one of the Contracting States from an employment exercised by a public entertainer (such as stage, motion-picture, radio or television artist, musician, and athlete) being a resident of the other Contracting State whose visit to that first-mentioned Contracting State is not directly or indirectly supported, wholly or substantially, from the public funds of the Government of the other Contracting State.

2. Notwithstanding anything contained in this Agreement where the services mentioned in paragraph 1 are provided in one of the Contracting States by an enterprise of the other Contracting State then the income derived from providing those services by such enterprise may be taxed in the first-mentioned Contracting State unless the enterprise is directly or indirectly supported, wholly or substantially, from the public funds of the Government of the other Contracting State in connection with the provisions of such services.

3. For the purposes of this Article the term "Government" shall have the same meaning as in paragraph 5 of Article IX.

Article XIII

1. Any pension (other than a pension of the kind referred to in paragraph 2 of Article IX) or any annuity derived by an individual who is a resident of one of the Contracting States from sources within the other Contracting State shall be taxable only in the first-mentioned Contracting State.

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

3. The term "pension" means a periodical payment made, whether voluntarily or otherwise, in consideration for services rendered or by way of compensation for injuries received.

Article XIV

An individual who is a resident of one of the Contracting States immediately before making a visit to the other Contracting State, and who makes such visit at the invitation of a university, college, school or other similar recognised educational institution in that other Contracting State, solely for the purposes of teaching or research or both at such educational institution for a period not exceeding two years from the date of his first arrival in that other Contracting State in connection with that visit to that other Contracting State, shall be exempt from tax in that other Contracting State on his remuneration for such teaching or research.

Article XV

1. An individual who is a resident of one of the Contracting States immediately before making a visit to the other Contracting State and is temporarily present in the other Contracting State solely as a student at a recognised university, college, school or other similar recognised educational institution in that other Contracting State or as an approved business or technical apprentice therein, for a period not exceeding two years from the date of his first arrival in that other Contracting State in connection with that visit, shall be exempt from tax in that other Contracting State on --

- (a) any income not derived from that other Contracting State; and
- (b) any income derived from the other Contracting State in respect of services rendered in that other Contracting State with a view to supplementing the resources available to him for such purposes, not exceeding the sum of 3,000 Malaysian dollars or the equivalent in Norwegian currency during any calendar year.

2. An individual who is a resident of one of the Contracting States immediately before making a visit to the other Contracting State and is temporarily present in the other Contracting State for the purposes of study, research or training solely as a recipient of a grant, allowance or award from the Government of either of the Contracting States or from a scientific, educational, religious or charitable organisation or under a technical assistance programme entered into the Government of either of the Contracting States for a period not exceeding two years from the date of his first arrival in that other Contracting State in connection with that visit shall be exempt from tax in that other Contracting State on --

- (a) the amount of such grant, allowance or award; and

- (b) any income derived from that other Contracting State in respect of services in that other Contracting State if the services are performed in connection with his study, research, training or incidental thereto.

3. An individual who is a resident of one of the Contracting States immediately before making a visit to the other Contracting State and is temporarily present in that other Contracting State solely as an employee of, or under contract with, the Government or an enterprise of the first-mentioned Contracting State solely for the purpose of acquiring technical, professional or business experience for a period not exceeding twelve months from the date of his first arrival in that other Contracting State in connection with that visit shall be exempt in that other Contracting State on --

- (a) any income derived from the first-mentioned Contracting State; and
- (b) any remuneration, so far as it is not in excess of 5,000 Malaysian dollars or the equivalent in Norwegian currency as the case may be, for personal services rendered in that other Contracting State, provided such services are in connection with his studies or training or incidental thereto;

Provided that where that individual is an employee of, or under contract with an enterprise of that other Contracting State, this sub-paragraph shall apply only in respect of approved employees.

4. In this Article "approved" means approved by the Government of the Contracting State in which the individual will be temporarily present.

5. For the purposes of this Article the term "Government" shall have the same meaning as in paragraph 5 of Article IX.

Article XVI

1. The Government of Malaysia shall be exempt from Norwegian tax in respect of any income derived by that Government from Norway.

2. The Government of Norway shall be exempt from Malaysian tax in respect of any income derived by that Government from Malaysia.

3. For the purposes of paragraphs 1 and 2, the term "Government" --

- (a) in the case of Malaysia shall include --
 - (i) the Governments of the States,
 - (ii) the Bank Negara Malaysia,

- (iii) such institutions, the capital of which is wholly owned by the Government of Malaysia or the Governments of the States as may be agreed from time to time between the two Contracting States;
- (b) in the case of Norway shall include --
- (i) Norges Bank (the Bank of Norway),
 - (ii) such institutions, the capital of which is wholly owned by the Government of Norway as may be agreed from time to time between the two Contracting States.

Article XVII

1. Interest derived from one of the Contracting States may be taxed in that Contracting State.
2. Notwithstanding paragraph 1 of this Article, interest derived from one of the Contracting States by a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State, if the loan or other indebtedness in respect of which the interest is paid is approved after the signature of this Agreement by the Government of the first-mentioned Contracting State.
3. Where the person paying the interest, being a resident of one of the Contracting States, has in the other Contracting State a permanent establishment in connection with which the indebtedness (or, in the case of a banking or financial institution, deposits made with it) on which the interest is paid was incurred, and that interest is borne by that permanent establishment, that interest shall be deemed to be derived from that other Contracting State.

Article XVIII

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.
2. The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case include rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, oil wells, quarries and other natural resources.
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 XIX

A resident of one of the Contracting States who does not carry on business in the other Contracting State through a permanent establishment situated therein shall be exempt in that other Contracting State from any tax on gains from the sale, transfer, or exchange of capital assets.

Article XX

1. The laws of each Contracting State shall continue to govern the taxation of income in that State except where express provision to the contrary is made in this Agreement. Where income is subject to tax in both Contracting States, relief from double taxation shall be given in accordance with the following paragraphs of this Article.

2. Subject to the provisions of the law of Malaysia regarding the allowance as a credit against Malaysian tax of tax payable in any country other than Malaysia, Norwegian tax payable, whether directly or by deduction, in respect of income from sources within Norway shall be allowed as a credit against Malaysian tax payable in respect of that income. Where such income is a dividend paid by a company which is a resident of Norway to a resident of Malaysia the credit shall take into account Norwegian tax payable in respect of its profits by the company paying the dividend.

3. Where a person being a resident of Norway derives income from Malaysia other than profits to which the provisions of Article VI apply and that income in accordance with the provisions of this Agreement is subject to tax in Malaysia, or consists of gains or profits from the alienation of immovable property in Malaysia, Norway shall exempt such gains, profits or income from tax.

4. In the case of royalties, as defined in paragraph 2 of Article VIII, or in the case of any interest on any loan or other indebtedness of the kind mentioned in paragraph 2 of Article XVII, there shall, where such income is derived from --

- (a) Norway, be allowed as a credit against any Malaysian tax payable in respect of that income;
- (b) Malaysia, be allowed as a credit against any Norwegian tax payable in respect of that income;

an amount equal to 50 per cent of the tax which would have been payable but for paragraph 1 of Article VIII or paragraph 2 of Article XVII.

5. Notwithstanding the provision of paragraph 3 of this Article a resident of Norway shall be exempted from Norwegian tax on income or dividends which have been exempted under the provisions of sections 21, 22 and 26 respectively of the Investment Incentives Act, 1968, of Malaysia.

6. The provision of paragraph 5 of this Article shall apply equally to any other provision which may subsequently be made granting an exemption which is agreed by the taxation authorities of the Contracting States to be of a substantially similar character to the provisions referred to in paragraph 5 of this Article, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character.

Article XXI

1. The taxation authorities of the Contracting States shall exchange such information (being information which is available under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of this Agreement for the prevention of fraud or underpayment of taxes by reasons other than fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than persons, including a court, concerned with the assessment and collection of those taxes or the determination of appeals in relation thereto or to persons with respect to whom the information relates.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States the obligations:

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

Article XXII

1. Citizens of one of the Contracting States 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 citizens of that other Contracting State in the same circumstances are or may be subjected.

2. The taxation on a permanent establishment which an enterprise of one of the Contracting States has in the other Contracting State shall not be less favourably levied in that other Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same or similar activities.

3. Enterprises of one of the Contracting States, 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 Contracting 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 Contracting State are or may be subjected.

4. Nothing in this Article shall be construed as obliging:

- (a) Malaysia to grant to citizens of Norway not resident in Malaysia those personal allowances, reliefs and reductions for tax purposes which are by law available only to citizens of Malaysia and to such other persons as may be specified therein who are not resident in Malaysia;
- (b) Norway to grant to Malaysian citizens the exceptional tax relief which is accorded to Norwegian citizens and persons born of parents having Norwegian citizenship pursuant to Article 22 of the Norwegian Taxation Act for the Rural Districts and Article 17 of the Norwegian Taxation Act for the Urban Districts.

5. In this Article the term "taxation" means taxes of every kind and description which are the subject of this Agreement.

Article XXIII

1. Where a person who is a resident of one of the Contracting States considers that the actions of one or both of the Contracting States result or will result in taxation not in accordance with this Agreement he may, notwithstanding the remedies provided by the taxation laws in force in the Contracting States, appeal to the taxation authorities of the first-mentioned Contracting State.

2. The taxation authorities of the first-mentioned Contracting State shall endeavour, if it is proved to their satisfaction that the appeal is justified and they are not themselves able to arrive at an appropriate solution, to come to an agreement with the taxation authorities of the other Contracting State with a view to avoidance of taxation which is not in accordance with this Agreement.

3. The taxation authorities of the Contracting States may communicate with each other directly for the purpose of giving effect to this Agreement and for resolving any difficulty or doubt as to the application or interpretation of this Agreement or for the exchange of information within the meaning of Article XXI.

Article XXIV

This Agreement may be extended, either in its entirety or with modifications, to any territory for whose foreign relations either Contracting State is responsible and which imposes taxes, or in which are imposed taxes, substantially similar in character to those which are the subject of this Agreement and 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 between the Contracting States in notes to be exchanged for this purpose.

Article XXV

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

2. Upon the exchange of the instruments of ratification, this Agreement shall have effect --

(a) in Malaysia --

as respects Malaysian tax for the year of assessment beginning on 1st January, 1968, and subsequent years of assessment;

(b) in Norway --

as respects Norwegian tax for the year of assessment (ligningsaret) beginning on 1st January, 1968, and subsequent years of assessment.

Article XXVI

1. This Agreement shall continue in effect indefinitely, but either of the Contracting Governments may, on or before 30th June in any calendar year not earlier than the year 1971, give to the other Contracting Government, through diplomatic channels, written notice of termination and in such event this Agreement shall cease to be effective --

(a) in Malaysia --

as respects Malaysian tax for the year of assessment next following that in which such notice is given and subsequent years of assessment;

(b) in Norway --

as respects Norwegian tax for the year of assessment (ligningsaret) next following that in which such notice is given and subsequent years of assessment.

IN WITNESS whereof the undersigned, duly authorised thereto, have signed this Agreement.

Done in duplicate at Kuala Lumpur this twenty third day of December of the year one thousand nine hundred and seventy in the English language.

NOTES EXCHANGED AT THE TIME OF SIGNATURE OF THE AGREEMENT BETWEEN THE GOVERNMENT OF MALAYSIA AND THE ROYAL NORWEGIAN GOVERNMENT FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME,

DECEMBER 23, 1970.

Kuala Lumpur
23rd December, 1970

Excellency,

I have the honour to refer to the Agreement between the Government of Malaysia and the Royal Norwegian Government for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect of Taxes on Income signed today at Kuala Lumpur and to confirm on behalf of the Government of Malaysia the following understanding reached during the course of negotiations for the conclusion of the said Agreement:

1. Where a dividend was paid by a company which was resident in both Malaysia and Singapore and the meeting at which the dividend was declared was held in Malaysia, or where a dividend was paid by a company which was resident in Singapore and at the time of payment of that dividend the company declared itself to be a resident of Malaysia for the purpose of Article VII of the Agreement between the Government of Malaysia and the Government of the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed in Singapore on 26th December, 1968, the dividend shall be deemed to have been paid by a company resident in Malaysia.

2. Where a dividend was paid by a company which was resident in both Malaysia and Singapore and the meeting at which the dividend was declared was held in Singapore, or where a dividend was paid by a company which was resident in Malaysia and at the time of payment of that dividend the company declared itself to be a resident of Singapore for the purposes of Article VII of the Agreement between the Government of Malaysia and the Government of the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes Income signed in Singapore on 26th December, 1968, the dividend shall be deemed to have been paid by a company not resident in Malaysia.

I have further the honour to request Your Excellency to confirm the foregoing understanding on behalf of the Royal Norwegian Government.

I avail myself of this opportunity to extend to Your Excellency the assurance of my highest consideration.

TAN SIEW SIN,
Minister of Finance

HIS EXCELLENCY
MR. OLAF TELLEFSEN
AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF
THE ROYAL NORWEGIAN GOVERNMENT TO MALAYSIA

Kuala Lumpur
23rd December, 1970

Excellency,

I have the honour to acknowledge the receipt of Your Excellency's Note of this date which reads as follows:

"I have the honour to refer to the Agreement between the Government of Malaysia and the Royal Norwegian Government for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed today at Kuala Lumpur and to confirm on behalf of the Government of Malaysia the following understanding reached during the course of negotiations for the conclusion of the said Agreement:

1. Where a dividend was paid by a company which was resident in both Malaysia and Singapore and the meeting at which the dividend was declared was held in Malaysia, or where a dividend was paid by a company which was resident in Singapore and at the time of payment of that dividend the company declared itself to be a resident of Malaysia for the purposes of Article VII of the Agreement

between the Government of Malaysia and the Government of the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed in Singapore on 26th December, 1968, the dividend shall be deemed to have been paid by a company resident in Malaysia.

2. Where a dividend was paid by a company which was resident in both Malaysia and Singapore and the meeting at which the dividend was declared was held in Singapore, or where a dividend was paid by a company which was resident in Malaysia and at the time of payment of that dividend the company declared itself to be a resident of Singapore for the purposes of Article VII of the Agreement between the Government of Malaysia and the Government of the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed in Singapore on 26th December, 1968, the dividend shall be deemed to have been paid by a company not resident in Malaysia.

I have further the honour to request Your Excellency to confirm the foregoing understanding on behalf of the Royal Norwegian Government."

I have further the honour to confirm that the Royal Norwegian Government accepts the proposal contained in Your Excellency's Note, and to agree that the same and the present reply shall be regarded as constituting an agreement between the two Governments.

I avail myself of this opportunity to extend to Your Excellency the assurance of my highest consideration.

OLAF TELLEFSEN
Ambassador of Norway