

L.N. 183 of 2004

**SPECIFICATION OF ARRANGEMENTS (GOVERNMENT OF
THE KINGDOM OF NORWAY) (AVOIDANCE OF
DOUBLE TAXATION ON INCOME FROM
SHIPPING OPERATION) ORDER**

(Made by the Chief Executive in Council under section 49
of the Inland Revenue Ordinance (Cap. 112))

1. Declaration under section 49

For the purposes of section 49 of the Ordinance, it is declared—

- (a) that the arrangements specified in section 2 have been made with the Government of the Kingdom of Norway with a view to affording relief from double taxation in relation to income tax and other taxes of a similar character imposed by the laws of the Kingdom; and
- (b) that it is expedient that those arrangements should have effect.

2. Arrangements specified

The arrangements specified for the purposes of section 1(a) are the arrangements in Articles 1 to 6 of the Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Kingdom of Norway for the Avoidance of Double Taxation on Income, Profits or Capital from Shipping Transportation done in duplicate at Hong Kong on 16 October 2003 in the English language, the text of which Articles is reproduced in the Schedule.

SCHEDULE

[s. 2]

ARTICLES 1 TO 6 OF THE AGREEMENT BETWEEN THE GOVERNMENT OF
THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S
REPUBLIC OF CHINA AND THE GOVERNMENT OF THE KINGDOM
OF NORWAY FOR THE AVOIDANCE OF DOUBLE
TAXATION ON INCOME, PROFITS OR CAPITAL
FROM SHIPPING TRANSPORTATION

ARTICLE 1**Taxes covered**

- (1) The existing taxes to which this Agreement shall apply are:
- (a) in the case of the Hong Kong Special Administrative Region: profits tax;
 - (b) in the case of Norway:
 - (i) the National Tax on Income (inntektsskatt til Staten);
 - (ii) the County Municipal Tax on Income (inntektsskatt til fylkeskommunen);
 - (iii) the Municipal Tax on Income (inntektsskatt til kommunen);
 - (iv) the National Tax on Capital (formuesskatt til Staten);
 - (v) the Municipal Tax on Capital (formuesskatt til kommunen).
- (2) This Agreement shall apply also to any identical or substantially similar taxes which are imposed by either Contracting Party after the date of signature of this Agreement in addition to, or in place of, the existing taxes referred to in paragraph (1) of this Article. The competent authorities shall notify each other of any substantial changes which have been made in their respective taxation laws.

ARTICLE 2**General definitions**

- (1) For the purposes of this Agreement, unless the context otherwise requires:
- (a) the term "Contracting Party" means the Hong Kong Special Administrative Region or the Kingdom of Norway, as the context requires;
 - (b) the term "person" includes a corporation, a partnership, a trust or any other body of persons, whether incorporated or unincorporated;

- (c) the term “enterprise of a Contracting Party” means:
- (A) in the case of the Hong Kong Special Administrative Region, a business carried on by a person as an owner of ships, and
- (i) the business is managed and controlled in the Hong Kong Special Administrative Region; or
 - (ii) the person is a company incorporated in the Hong Kong Special Administrative Region;
- (B) in the case of Norway, any enterprise which, under the laws of Norway, is liable to tax therein by reason of domicile, residence, place of management or any other criterion of a similar nature;
- (d) the term “international traffic” means any transport by a ship, except when the ship is operated solely between places in the area of the other Contracting Party;
- (e) the term “competent authorities” means:
- (i) the Commissioner of Inland Revenue of the Hong Kong Special Administrative Region or his authorized representative or any person or body authorized to perform any functions or similar functions at present exercisable by him; and
 - (ii) the Minister of Finance of the Kingdom of Norway or his authorized representative.

(2) As regards the application of this Agreement by a Contracting Party, any term not defined in this Agreement shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting Party concerning the taxes to which this Agreement applies.

ARTICLE 3

Shipping transport

- (1) Income or profits derived from the operation of ships in international traffic by an enterprise of a Contracting Party shall be exempt from income tax, profits tax and all other taxes imposed on income or profits in the area of the other Contracting Party.
- (2) The provisions of paragraph (1) of this Article shall also apply to income or profits from the participation in a pool, a joint business or in an international operating agency.
- (3) Capital and assets of an enterprise of a Contracting Party relating to the operation of ships in international traffic shall be exempt from all taxes on capital and assets imposed in the area of the other Contracting Party.

(4) Gains from the alienation of ships operated in international traffic and movable property pertaining to the operation of such ships which are received by an enterprise of a Contracting Party shall be exempt from any tax on gains imposed in the area of the other Contracting Party.

(5) For the purposes of this Article, the term “income or profits derived from the operation of ships in international traffic” includes revenues and gross receipts from the operation of ships for the transport of persons, livestock, goods, mail or merchandise including the lease of ships operated in international traffic on a full (time or voyage) or bareboat basis.

ARTICLE 4

Mutual agreement procedure

The competent authorities shall endeavour to resolve by consultation any difficulties or doubts arising as to the interpretation or application of this Agreement.

ARTICLE 5

Entry into force

Each Contracting Party shall notify the other the completion of the procedures required by its law for the bringing into force of this Agreement. This Agreement shall enter into force on the date of the later of these notifications and shall thereupon have effect:

(a) in the Hong Kong Special Administrative Region:

for the year of assessment beginning on or after 1 April in the year in which this Agreement enters into force;

(b) in Norway:

for the calendar year (including accounting periods beginning in any such year) in which this Agreement enters into force.

ARTICLE 6

Termination

This Agreement shall remain in force indefinitely but either Contracting Party may terminate the Agreement by giving written notice of termination at least six months before the end of any calendar year. In such event, this Agreement shall cease to have effect:

(a) in the Hong Kong Special Administrative Region:

for any year of assessment beginning on or after 1 April in the calendar year next following that in which notice is given;

(b) in Norway:

for any calendar year (including accounting periods beginning in such year) next following that in which the notice is given.

LAM Chik-ting, Tony
Clerk to the Executive Council

COUNCIL CHAMBER
16 November 2004

Explanatory Note

An agreement dated 16 October 2003 has been made between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Kingdom of Norway for the avoidance of double taxation on income, profits or capital from shipping transportation ("Agreement"). This Order specifies the arrangements in Articles 1 to 6 of the Agreement as double taxation relief arrangements under section 49 of the Inland Revenue Ordinance (Cap. 112) and declares that it is expedient that those arrangements should have effect. The effect of such a declaration is that the arrangements have effect in relation to tax under the Inland Revenue Ordinance (Cap. 112) notwithstanding anything in any enactment.