

**AGREEMENT BETWEEN THE STATES OF GUERNSEY AND THE FAROES
FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO
ENTERPRISES OPERATING SHIPS OR AIRCRAFT IN INTERNATIONAL
TRAFFIC**

The States of Guernsey and the Government of the Faroes,

- desiring to conclude an agreement for the avoidance of double taxation with respect to enterprises operating ships or aircraft in international traffic,
- considering that the Government of the Faroes concludes this agreement on behalf of the Kingdom of Denmark pursuant to the Act on the Conclusion of Agreements under International Law by the Government of the Faroes,

have agreed as follows:

**ARTICLE 1
DEFINITIONS**

1. For the purposes of this Agreement, unless the context otherwise requires:
 - (a) the term "the Faroes" means the landmass of the Faroes and their territorial waters and any area outside the territorial waters where the Faroes according to Faroese legislation and in accordance with international law, may exercise rights with respect to the seabed and subsoil and their natural resources;
 - (b) the term "Guernsey" means Guernsey, Alderney and Herm, including the territorial sea adjacent to those islands, in accordance with international law;
 - (c) the term "person" includes an individual, a company and any other body of persons;
 - (d) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - (e) the term "resident of a Party" means any person, who under the law of that Party 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;
 - (f) the term "enterprise of a Party" means an enterprise, carried on by a resident of a Party;
 - (g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Party, except when the ship or aircraft is operated solely between places in the other Party;
 - (h) the term "income derived from the operation of ships or aircraft in international traffic" means revenues, gross receipts and profits

derived from:

- (i) such operation of ships or aircraft for the transport of passengers or cargo;
- (ii) the rental on a charter basis of ships or aircraft where the rental is ancillary to the operation of ships or aircraft in international traffic;
- (iii) the sale of tickets or similar documents and the provision of services connected with such operation, either for the enterprise itself or for any other enterprise, where such sale of tickets or similar documents or provision of services is directly connected with or ancillary to the operation of ships or aircraft in international traffic;
- (iv) the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise, where the use, maintenance or rental is directly connected with or ancillary to the operation of ships or aircraft in international traffic;
- (v) interest on funds deposited directly in connection with the operation of ships or aircraft in international traffic;
- (i) the term "competent authority" means:
 - i) in the case of the Faroes the Minister of Finance or his authorised representative or the authority which is designated as a competent authority for the purpose of this Agreement;
 - ii) in the case of Guernsey, the Administrator of Income Tax or his delegate.

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

ARTICLE 2 AVOIDANCE OF DOUBLE TAXATION

1. Income derived from the operation of ships or aircraft in international traffic by an enterprise of a Party shall be taxable only in that Party.

2. Gains derived from the alienation of ships or aircraft or movable property pertaining to the operation of ships and aircraft in international traffic by an enterprise of a Party shall be taxable only in that Party.

3. The provisions of paragraphs 1 and 2 shall also apply to income and gains derived by an enterprise of a Party from the participation in a pool, a joint business or an international operating agency.

ARTICLE 3 MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Parties, present his case to the competent authority of the Party of which he is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

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 Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Parties.

3. The competent authorities of the Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.

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

ARTICLE 4 ENTRY INTO FORCE

1. This Agreement shall enter into force on the thirtieth day after the latter of the dates on which each of the Parties has notified the other in writing that the procedures required by its law have been complied with. The Agreement shall have effect on taxes chargeable for any tax year beginning on or after the first day of January of the calendar year next following that in which this Agreement enters into force.

2. Notwithstanding paragraph 1 of this Article, the Agreement shall only be applicable when the Agreement signed on 28 October 2008 between the States of Guernsey and the Government of the Faroes for the exchange of information relating to tax matters shall have effect.

ARTICLE 5 TERMINATION

1. This Agreement shall remain in force until terminated by either Party. Either

Party may terminate the Agreement by giving written notice of termination at least three months before the end of any calendar year. In such event, the Agreement shall cease to have effect on taxes chargeable for any tax year beginning on or after the first day of January of the calendar year next following the end of the three months period.

2. Notwithstanding paragraph 1 of this Article, this Agreement will be terminated, without giving notice of termination, on the date of termination of the Agreement signed on 28 October 2008 between the States of Guernsey and the Government of the Faroes for the exchange of information relating to tax matters.

In witness whereof the undersigned being duly authorised thereto have signed this Agreement.

Done at *Helsinki*, this *28th* day of *October* 200*8*, in duplicate in the English language.

FOR THE STATES OF
GUERNSEY:

Lynne Teet

FOR THE GOVERNMENT OF
THE FAROES:

Jensgaard