هيئة الزكاة والضريبة والجمارك
Zakat, Tax and Customs Authority

CONVENTION BETWEEN

THE GOVERNMENT OF THE KINGDOM OF SAUDI ARABIA

AND THE GOVERNMENT OF THE REPUBLIC OF INDIA

FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF TAX EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the Kingdom of Saudi Arabia and the Government of the Republic of India, desiring to conclude a Convention for the avoidance of double taxation and the prevention of tax evasion with respect to taxes on income and with a view to promoting economic cooperation between the two countries, have agreed as follows:

Article 1

PERSONS COVERED

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 imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, and taxes on the total amounts of wages or salaries paid by enterprises.

3. The existing taxes to which the Convention shall apply are in particular:

   a. in the case of the Kingdom of Saudi Arabia:

      - The Zakat
      - The income tax including the natural gas investment tax;

      (hereinafter referred to as " Saudi tax").

b. in the case of India:

- The income tax, including any surcharge thereon

(hereinafter referred to as "Indian tax");

4. The provisions of this Convention shall also apply to any identical or substantially similar taxes which are imposed by either contracting state after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities in both Contracting States shall notify each other of any significant changes that have been made in their respective taxation laws.

Article 3

GENERAL DEFINITIONS

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

a. the term "Kingdom of Saudi Arabia" means the territory of the kingdom of Saudi Arabia which also includes the area outside the territorial waters, where the Kingdom of Saudi Arabia exercises its sovereign and jurisdictional rights in their waters, seabed, subsoil and natural resources by virtue of its law and the international law;

b. the term "India" means the territory of India and includes the territorial sea and airspace above it, as well as any other maritime zone in which India has sovereign rights, other jurisdiction, according to the Indian law and in accordance with international law, including the U.N. Agreement on the Law of the Sea;

c. the term "a Contracting State" and "the other Contracting State" mean the Republic of India or the Kingdom of Saudi Arabia as the context requires;

d. the term "person" includes an individual, a company , any other body of persons.

e. the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;

f. 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;

g. 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;

h. the term "competent authority" means:

(i) In the case of India: The Finance Minister, Government of India or his authorized representative;

(ii) In the case of the Kingdom of Saudi Arabia, the Ministry of Finance represented by the Minister of Finance or his authorized representative;

i. the term "national" means:

(i) any individual possessing the nationality of a Contracting State;

(ii) any legal person, partnership or association deriving its 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 that it has at that time under the law of that State for the purposes of the taxes to which this 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

   (a) Any person who, under the laws of that State, is liable to taxes in that state by reason of his domicile, residence, place of management or any other criterion of a similar nature. 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.

   (b) The government of any of the two contracting states or any of its political subdivision or local authorities.

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 as follows:

   a) he shall be deemed to be a resident only 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 the Contracting States, he shall be deemed to be a resident only of the Contracting State with which his personal and economic relations are closer (centre of vital interests);

   b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he does not have a permanent home available to him in either Contracting State, he shall be deemed to be a resident only of the Contracting State in which he has a habitual abode;

   c) if he has a habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident only of the Contracting State of which he is a na-tional;

   d) if he is a national of both Contracting 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 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 only 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;

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

3. The term "permanent establishment" also includes:

   (a) A building site, a construction, assembly or installation project, or supervisory activities, in connection therewith, but only where such site, project or activities continue for a period of more than 182 days;

   (b) The furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than 182 days within any 12-month period.

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 or display 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 or display;

   (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 subparagraphs (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 7 applies - is acting in a Contracting State 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 in respect of any activities which that person undertakes for the enterprise, if such a person:

   a) has and habitually exercises in that State an authority to conclude contracts in the name of 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, or

b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise;

c) habitually obtains orders in the first-mentioned State, wholly or almost wholly for the enterprise itself.

6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.

7. An enterprise of a contracting state shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other 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. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.

8. 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.

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 Contracting State.

2. The term "immovable property" shall have the meaning provided for in the laws of the Contracting State in which the property in question is situated. This 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, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 of this Article 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 of this Article 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 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 the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business 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. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, 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, except in the case of a banking enterprise, by way of income from debt-claim with regard to moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the

permanent establishment to the head office of the enterprise or any of its other offices, 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, except in the case of a banking enterprise, by way of income from debt-claim with regard to moneys lent to the head office of the enterprise or any of its other offices.

4. 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.

5. 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.

6. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

SHIPPING AND AIR TRANSPORT

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

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

3. The term "profits derived from the operation of ships or aircraft in international traffic" includes profits derived from the use or rental of containers and related equipment used in international transport that is incidental to income from the operation of ships or aircraft in international traffic.

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

5. Nothing contained in the foregoing provisions of this Article shall affect the existing Agreement between the Kingdom of Saudi Arabia and the Republic of India for Avoidance of Double Taxation by reciprocal exemption of taxes on income on the Activities of Air Transport Enterprises signed on 14.11.1991 in respect of Air India and Saudi Arabian Airlines Corporation.

Article 9

ASSOCIATED ENTERPRISES

1. 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.

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on

those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

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 Contracting 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 5 percent of the gross amount of the dividends. 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 "jouissance" shares or "jouissance" rights, 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 or Article 14, 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.

Article 11

INCOME FROM DEBT-CLAIMS

1. Income from debt-claims 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 income from debt-claims may also be taxed in the Contracting State in which it arises and according to the laws of that Contracting State, but if the beneficial owner of the income from debt-claims is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the income from debt-claims.

3. Notwithstanding the provisions of paragraph 2, income from debt-claims arising in a Contracting State shall be exempt from tax in that State, provided that it is derived and beneficially owned by:

   a) the Government, a political sub-division or a local authority of the other Contracting State; or

   b)

      (i) in the case of India, the Reserve Bank of India, the Export-Import Bank of India, the National Housing Bank ; and

      (ii) in the case of the Kingdom of Saudi Arabia, the Saudi Arabian Monetary Agency; or

c) any other financial institution wholly owned directly, and controlled by the Government of the other Contracting State.

4. The term "Income from Debt-Claims" as used in this Article means income from government securities and bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits; and debt-claims of every kind as well as all other income included as income from moneys lent under the taxation laws of the State in which the income arises. Penalty charges for late payment shall not be regarded as income from debt-claims for the purpose of this Article.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of income from Debt-Claims, being a resident of a Contracting State, carries on business in the other Contracting State in which the income from debt claims 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 such income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Income from debt-claims shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying such income, 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 such income is paid was incurred, and such income is borne by such permanent establishment or fixed base, then such income 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 income from debt-claims, 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.

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 Contracting State, but if 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. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. 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 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is 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.

6. 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 this Convention.

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 and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of 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 Contracting State.

Gains 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 the Contracting State of which the alienator is a resident.

3. Gains from the alienation of shares of the capital stock of a company the property of which consists directly or indirectly principally of immovable property situated in a Contracting State may be taxed in that State.

4. Gains from the alienation of shares other than those mentioned in paragraph 4 in a company which is a resident of a Contracting State may be taxed in that State.

5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3, 4 and 5, 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 a independent character shall be taxable only in that State except in the following circumstances when such income may also be taxed in the other Contracting State:

   a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or

   b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any 12 - month period commencing or ending in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed 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, surgeons, dentists and accountants.**

Article 15

DEPENDENT PERSONAL SERVICE

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21, 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 the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and

   b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and

   c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the 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, by an enterprise of a Contracting State may be taxed in that State.

Article 16

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State 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 State.

Article 17

ARTISTES AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 14 and 15, 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 sportsperson, 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 sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

3. The provisions of paragraphs 1 and 2, shall not apply to income from activities performed in a Contracting State by entertainers or sportspersons if the activities are substantially supported by public funds of one or both of the Contracting States or of political subdivisions or local authorities thereof or takes place under a cultural agreement or arrangement between the Governments of the Contracting States. In such a case, the income shall be taxable only in the Contracting State of which the entertainer or sportsperson is a resident.

Article 18

PENSIONS

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 19

GOVERNMENT SERVICE

1.

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

b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that other 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.

a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that other State.

3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages and other similar remuneration and to pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20

STUDENTS

1. Payments, besides grants, loans and scholarships, which a student, trainee or 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.

2. Payments received by a student, trainee or 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 Contracting State solely for the purpose of his education or training and which constitute remuneration in respect of services performed in that other Contracting State are not taxable in that other State, provided the services are connected with education or training and are necessary for maintenance purposes.

3. The benefits of this Article shall extend only for such period of time as may be reasonable or customarily required to complete the education or training undertaken, but in no event shall any individual have the benefits of this Article, for more than six consecutive years from the date of his first arrival in that other State.

Article 21

TEACHERS AND RESEARCHERS

1. A teacher or researcher who is or was a resident of the Contracting State immediately before being invited to or visiting the other Contracting State for the purpose of teaching or engaging in research, or both, at a university, college or other similar institution in that other Contracting State shall be exempt from tax in that other State on any remuneration for such teaching or research for a period not exceeding two years from the date of his arrival in that other State.

2. This Article shall apply to income from research only if such research is undertaken by the individual in the public interest.

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 Contracting State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of 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 or Article 14, as the case may be, shall apply.

Article 23

METHODS FOR ELIMINATION OF DOUBLE TAXATION

Double taxation shall be eliminated as follows:

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

Such deduction shall not, however, exceed that portion of the tax as computed before the deduction is given, which is attributable, as the case may be, to the income which may be taxed in the other Contracting State.

2. Where in accordance with any provision of the Convention income derived by a resident of a Contracting State is exempt from tax in that Contracting State, that Contracting State may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

Article 24

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. 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 this 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 this Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of both Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this 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 25

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information re-ceived 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) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to the taxes covered by this Convention. 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 26

OTHER PROVISIONS

1. Nothing in this Convention shall affect the application of the domestic provisions to prevent tax evasion.

2. An enterprise of a Contracting State shall not be entitled to the benefits of this Convention if the main purpose or one of the main purposes of the creation of such enterprise was to obtain the benefits under this convention that would not otherwise be available.

3. The case of legal entities not having bonafide business activities shall be covered by the provisions of this Article.

Article 27

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.

Article 28

ENTRY INTO FORCE

1. The Contracting States shall notify each other in writing, through diplomatic channels, of the completion of the procedures required by the respective laws for the entry into force of this Convention.

2. This Convention shall enter into force on the first day of the second month following the month in which the later of these notifications was received.

3. The provisions of this Convention shall have effect:

   a) In India, in respect of income derived in any fiscal year beginning on or after the first day of April next following the calendar year in which the Convention enters into force; and

   b) In Saudi Arabia:

      i) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January next following the Calendar Year in which the Convention enters into force; and

      ii) with regard to other taxes, in respect of taxable years beginning on or after the first day of January next following the calendar year in which the Convention enters into force.

Article 29

TERMINATION

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

1. In India, in respect of income derived in any fiscal year on or after the first day of April next following the calendar year in which the notice is given;

2. In Saudi Arabia

   (i) with regard to taxes withheld at source, in respect of amounts paid or credited after the end of the calendar year in which such notice is given; and

   (ii) with regard to other taxes, in respect of taxable years beginning after the end of the calendar year in which such notice is given.

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

DONE in duplicate at New Delhi, this 25th day of January, 2006, corresponding to 25 -12 -1426h, each in the Hindi, Arabic and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

For the Government of the
Kingdom of Saudi Arabia

IBRAHIM A. AL-ASSAF
Minister of Finance

For the Government of the
Republic of India

PRANAB MUKHERJEE
Defence Minister

PROTOCOL

The Kingdom of Saudi Arabia and the Republic of India on signing at New Delhi, on 25th January, 2006, the Convention for the Avoidance of Double Taxation and the Prevention of Tax Evasion with respect to taxes on Income have agreed upon the following provisions which shall form an integral part of the said Convention.

1. With regard to para 2(d) of Article 3 the term 'person' shall include the state, its political sub-division or local authorities and any other entity which is treated as a taxable unit under the taxation laws in force in the respective Contracting States.

2. It is understood that for the purposes of Article 2, the term "tax" means Indian or Saudi tax, as the context requires, but shall not include any penalty or fine imposed relating to those taxes.

3. For the purposes of Article 3, the term "fiscal year" means:

(iii in the case of India: the financial year beginning on the 1st day of April;

(iv in the case of Saudi Arabia: taxable year as determined in the law and regulation of the Kingdom of Saudi Arabia.

4. It is understood that for the purposes of para 1(b) Article 4, the term 'resident' shall include:

(a) the legal institutions and agencies of the Government, wholly owned directly, and controlled by the Government.

(b) In the case of the Kingdom of Saudi Arabia, an individual who is an Indian national and is present in the Kingdom of Saudi Arabia for a period or periods totaling in the aggregate at least 183 days in the fiscal year concerned.

(c) A legal person organized under the laws of a Contracting State and that is generally exempt from tax in that State and is established and maintained in that State either:

i) Exclusively for a religious, charitable, educational, scientific, or other similar purpose; or

ii) To provide pensions to employees pursuant to a plan.

5. For the purposes of para 2 of Article 5, Permanent Establishment shall include the following:

a) a sales outlet;

b) a farm, plantation or other place where agricultural, forestry, plantation or related activities are carried on.

6. For the purposes of paragraph 6 of Article 5, the person, who is not an agent of independent status and whose activities may create a Permanent Establishment for the insurance enterprise, may be either individual or company and need not be resident of, nor have a place of business in, the state in which it acts for the enterprise.

7. With regard to Article 7, the term 'business profits' in the case of a Contracting State means the profits from business as defined under the laws of that Contracting State.

8. In respect of Article 7, it is understood that: -

(i) the business profits derived by an enterprise of a Contracting State whether through a permanent establishment situated in the other Contracting State or otherwise from the exportation of merchandise to the other Contracting State shall not be taxed in that other Contracting State. Where export contracts include other activities carried on in the other Contracting State, profits derived by the Permanent Establishment from such activities may be taxed in the other Contracting State but only so much of the profits as is attributable to the permanent establishment, relating to such other activities and any portion of these activities executed outside the other Contracting State shall not be taken into consideration in determining the profits of the permanent establishment.

(ii) In the case of contracts for survey, constructions or installations, the profits of a permanent establishment shall not be determined on the total amount of the contract, but shall be



determined only on the basis of that part of the contract, which is effectively carried out by the permanent establishment in the state where the permanent establishment is situated and any portion of the contract executed outside the other Contracting State shall not be taken into consideration in determining the profits of the permanent establishment.

9. For the purposes of Para 3 of Article 7, the deductions of expenses to be allowed by a Contracting State shall be in accordance with the provisions of and subject to the limitations of the tax laws of that Contracting State. In case India removes this restriction in any of its Conventions after the date of signing of this Convention, the two sides shall review this issue.

10. For the purposes of Article 21, an individual shall be deemed to be a resident of a Contracting State if he is resident in that State in the fiscal year in which he visits the other Contracting State or in the immediately preceding fiscal year.

11. For the purposes of this Convention, the Zakat shall be treated as a tax on income.

12. In the case of the Kingdom of Saudi Arabia, the methods for elimination of double taxation in Article 23 will not prejudice the provisions of the Zakat collection regime with regard to Saudi nationals.

13. It is understood that information referred to in Article 25, will include evidence available with a Contracting State, requested by the other Contracting State.

14. When Saudi Arabia introduces a provision in its domestic law regarding assistance in collection of taxes to other treaty partners or agrees to extend such assistance to any other treaty partner, then the competent authorities of the two Contracting States shall by mutual agreement settle the mode of application for extending assistance in the collection of tax to each other.

15. It is understood that the two Contracting States will review the provisions of this Convention after a period of 5 years from the date on which this Convention enters into force in order to consider the inclusion of an Article on 'Fees for Technical Services' within the scope of this Convention.

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

DONE in duplicate at New Delhi, this 25th day of January, 2006, corresponding to 25 -12 -1426h, each in the Hindi, Arabic and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

For the Government of the Kingdom of Saudi Arabia

IBRAHIM A. AL-ASSAF
Minister of Finance

For the Government of the Republic of India

PRANAB MUKHERJEE
Defence Minister