هيئة الزكاة والضريبة والجمارك
Zakat, Tax and Customs Authority

CONVENTION BETWEEN

# THE GOVERNMENT OF THE KINGDOM OF SAUDI ARABIA AND THE GOVERNMENT OF THE GRAND DUCHY OF LUXEMBOURG

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

The Government of the Kingdom of Saudi Arabia and the Government of the Grand Duchy of Luxembourg

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of tax evasion with respect to taxes on income and on capital,

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

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

3. The existing taxes to which this Convention shall apply are in particular:
   a) in the case of the Kingdom of Saudi Arabia:
      (i) the Zakat; and
      (ii) the income tax including the natural gas investment tax;
      (hereinafter referred to as the "Saudi Tax");

b) in the case of the Grand Duchy of Luxembourg:

(i) the income tax on individuals;

(ii) the corporation tax;

(iii) the capital tax; and

(iv) the communal trade tax;

(hereinafter referred to as "Luxembourg tax").

4. This Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities of the 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, sea bed, sub-soil and natural resources by virtue of its law and international law;

b) the term "Luxembourg" means the Grand Duchy of Luxembourg and, when used in a geographical sense, means the territory of the Grand Duchy of Luxembourg;

c) the terms "a Contracting State" and "the other Contracting State" mean the Kingdom of Saudi Arabia or the Grand Duchy of Luxembourg as the context requires;

d) the term "person" includes an individual, a company and any other body of persons, including the State, its administrative subdivisions or local authorities;

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 that has its place of effective management in 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 the Kingdom of Saudi Arabia, the Ministry of Finance represented by the Minister of Finance or his authorised representative;

(ii) in the case of Luxembourg, the Minister of Finance or his authorised 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 this 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 any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of incorporation, place of management or any other criterion of a similar nature, and also includes that State and any administrative subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

2. Where by reason of the provisions of paragraph 1 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 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 has not 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 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 only of the Contracting State of which he is a national;

   **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, and

   **f)** any place of extraction of natural resources.

3. The term "permanent establishment" also includes:

   **a)** a building site, a construction, a dredging project or assembly or installation project, or supervisory activities, in connection therewith, but only where such site, project or activities continue for a period more than 6 months;

   **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 a Contracting State for a period or periods aggregating more than 6 months 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, display or delivery of goods or merchandise belonging to the enterprise;

b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e) , provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character;

g) the sale of goods or merchandise belonging to the enterprise displayed at an occasional temporary fair or exhibition alter the closing of the said fair or exhibition.

5. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, where a person - other than an agent of an independent status to whom paragraph 6 of this Article applies - is acting in a Contracting State on behalf of an enterprise of the other Contracting State and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that Contracting State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 of this Article which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise 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.

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

## 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 which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, 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 of this Article, 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-claims 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-claims with regard to moneys lent to the head office of the enterprise or any of its other offices.

4. Notwithstanding other provisions, the business profits derived by an enterprise of a Contracting State 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 through a permanent establishment in the other Contracting State profits derived from such activities may be taxed in the other Contracting State.

5. The term "business profits" includes, but is not limited to income derived from manufacturing, mercantile, banking, insurance, from the Operation of inland transportation, the furnishing of services and the rental of tangible personal movable property. Such a term does not include the performance of personal services by an individual either as an employee or in an independent capacity.

6. Each Contracting State shall apply its domestic law with regard to insurance activities.

7. 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 from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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 harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

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

## 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 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 beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent 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 of this Article 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 of this Convention, 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 beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.

2. The term "income from debt-claims" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as income from debt-claims for the purpose of this Article.

3. The provisions of paragraph 1 of this Article shall not apply if the beneficial owner of the 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 of this Convention, as the case may be, shall apply.

4. 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 such income, 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

   a) 5 per cent of the gross amount of the royalties which are paid for the use of, or the right to use, industrial, commercial or scientific equipment;

   b) 7 per cent of the gross amount of the royalties in all other cases.

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 paragraphs 1 and 2 of this Article 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 of this Convention, 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 of this Convention 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 State.

3. 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 in which the place of effective management of the enterprise is situated.

4. 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.

5. Gains from the alienation of shares other than those mentioned in paragraph 4 representing a participation of at least 25 per cent in a company which is a resident of a Contracting State may be taxed in that State.

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

## Article 14

## INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State 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 twelve-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, dentists and accountants.

## Article 15

## DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21 of this Convention, 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 of this Article, 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 may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

## 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 of this Convention, 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 of this Convention, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

3. Paragraphs 1 and 2 of this Article shall not apply to income derived by a resident of a Contracting State from activities exercised in the other Contracting State if the visit to that other State is supported wholly or mainly by public funds of the first-mentioned State, a political subdivision or a local authority thereof, or takes place under a cultural agreement or arrangement between the Governments of the Contracting States. In such case, the income shall be taxable only in the Contracting State of which the entertainer or sportsperson is a resident.

## Article 18

## PENSIONS

Pensions and other similar payments arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in the first-mentioned State.

## Article 19

## GOVERNMENT SERVICE

1.

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

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

(i) is a national of that State; or

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

2. The provisions of Articles 15, 16 and 17 of this Convention shall apply to salaries, wages and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or an administrative subdivision, a local authority or statutory body thereof.

## Article 20

## TEACHERS AND RESEARCHERS

1. An individual who is or was a resident of a Contracting State immediately before making a visit to the other Contracting State and who, at the invitation of an university, college, school, or other similar educational institution or scientific research institution, visits that other Contracting State solely for the purpose of teaching or research or both at such educational or research institution, shall be exempt from tax in that other State on any remuneration derived from such teaching or research for a period not exceeding two years.

2. The provision of paragraph 1 of this Article shall not apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.

## Article 21

## STUDENTS

Payments which a student or business 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.

## Article 22

## OTHER INCOME

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

2. The provisions of paragraph 1 of this Article shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6 of this Convention, 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 of this Convention, as the case may be, shall apply.

## Article 23

## CAPITAL

1. Capital represented by immovable property referred to in Article 6 of this Convention, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other Contracting State.

2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other Contracting State.

3. Capital represented by ships and aircraft operated by an enterprise of a Contracting State in international traffic and by movable property pertaining to the operation of such ships and aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

## Article 24

## ELIMINATION OF DOUBLE TAXATION

Double taxation shall be eliminated as follows:

1. In the case of the Kingdom of Saudi Arabia:

   a) where a resident of the Kingdom of Saudi Arabia derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Luxembourg, the Kingdom of Saudi Arabia shall, subject to the provisions of sub-paragraph b) of paragraph 2 of this Article, exempt such income or capital from tax;

   b) where a capital company which is a resident of the Kingdom of Saudi Arabia derives items of income which, in accordance with the provisions of this Convention, may be taxed in Luxembourg, the Kingdom of Saudi Arabia shall allow as a deduction from the tax on the income of that capital company an amount equal to the tax paid in Luxembourg. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from Luxembourg;

   c) the methods for elimination of double taxation will not prejudice to the provisions of the Zakat collection regime as regards Saudi nationals.

2. In the case of Luxembourg:

a) Subject to the provisions of Luxembourg law regarding the elimination of double taxation which shall not affect the general principle hereof:

b) where a resident of Luxembourg derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Saudi Arabia, Luxembourg shall, subject to the provisions of sub-paragraphs b), c) and d), exempt such income or capital from tax, but may, in order to calculate the amount of tax on the remaining income or capital of the resident, apply the same rates of tax as if the income or capital had not been exempted;

c) where a resident of Luxembourg derives income which, in accordance with the provisions of Articles 7, 10, 12, 13(2) and 17 may be taxed in Saudi Arabia, Luxembourg shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Saudi Arabia, but only, with respect to Articles 7 and 13(2), if the business profits and the capital gains are not derived from activities in agriculture, industry, infrastructure and tourism in Saudi Arabia. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from Saudi Arabia;

d) where a company which is a resident of Luxembourg derives dividends from Saudi Arabia sources, Luxembourg shall exempt such dividends from tax, provided that the company which is a resident of Luxembourg holds directly at least 10 per cent of the capital of the company paying the dividends since the beginning of the accounting year and if this company is subject in Saudi Arabia to an income tax corresponding to the Luxembourg corporation tax. The above-mentioned shares in the Saudi Arabia company are, under the same conditions, exempt from the Luxembourg capital tax. This exemption under this sub-paragraph shall also apply notwithstanding that the Saudi Arabia company is exempted from tax or taxed at a reduced rate in Saudi Arabia and if these dividends are derived out of profits from activities in agriculture, industry, infrastructure or tourism in Saudi Arabia;

e) the provisions of sub-paragraph a) shall not apply to income derived or capital owned by a resident of Luxembourg where Saudi Arabia applies the provisions of this Convention to exempt such income or capital from tax or applies the provisions of paragraph 2 of Articles 10 and 12 to such income.

## Article 25

## 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 the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

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

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

## Article 26

## EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is not contrary to this Convention. The exchange of information is not restricted by Article 1 of this Convention.

2. Any information received under paragraph 1 of this Article 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, the determination of appeals in relation to the taxes referred to in paragraph 1 of this Article, or the oversight of the above. 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.

3. In no case shall the provisions of paragraphs 1 and 2 of this Article 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.

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 of this Article be construed to permit a Contracting State to decline to supply information upon request solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

## 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, that the procedures required by its law for the entry into force of this Convention have been fulfilled. This Convention shall enter into force on the first day of the second month following the month in which the latter of these notifications was received.

2. This Convention shall have effect:

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

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

## Article 29

## TERMINATION

1. This Convention shall remain in force until terminated by a Contracting State. Either of the Contracting States may terminate this Convention, through the diplomatic channels, by giving to the other Contracting State written notice of termination at least six months before the end of any calendar year beginning after the expiration of a period of five years from the date of its entry into force.

2. This Convention shall cease to have effect:

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

   b) 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, being duly authorised thereto, have signed this Convention.

Done in duplicate at Riyadh this 27th day of JUMADA'II 1434H corresponding to the 7th day of May 2013, in the Arabic, French 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 Grand Duchy of Luxembourg**

**Luc Frieden**

**Minister of Finance**

# PROTOCOL

At the moment of signing the Convention between the Government of the Kingdom of Saudi Arabia and the Government of the Grand Duchy of Luxembourg for the avoidance of double taxation and the prevention of tax evasion with respect to taxes on income and on capital, the undersigned have agreed that the following provisions shall form an integral part of the Convention:

I. **With reference to Article 4 of the Convention:**

1. A legal person organized under the laws of a Contracting State and that is generally exempt from tax or not liable to tax in that State and is established and maintained in that State either:

   **c)** for a religious, charitable, educational, scientific, or other similar purpose; or

   **d)** to provide pensions or other similar benefits to employees

   shall be considered as a resident of that Contracting State.

2. A collective investment vehicle which is established in a Contracting State shall be considered as a resident of the Contracting State in which it is established and as the beneficial owner of the income it receives.

II. **With reference to Article 26 of the Convention:**

1. The competent authority of the applicant State shall provide the following information to the competent authority of the requested State when making a request for information under the Convention to demonstrate the foreseeable relevance of the information to the request:

   **a)** the identity of the person under examination or investigation;

   **b)** a statement of the information sought including its nature and the form in which the applicant State wishes to receive the information from the requested State;

   **c)** the tax purpose for which the information is sought;

d) grounds for believing that the information requested is held in the requested State or is in the possession or control of a person within the jurisdiction of the requested State;

e) to the extent known the name and address of any person believed to be in possession of the requested information;

f) a statement that the applicant State has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

2. It is understood that paragraph 5 of Article 26 of the Convention does not require the Contracting States to exchange information on a spontaneous or automatic basis.

3. It is understood that the information received under Article 26 of the Convention by a Contracting State shall be used only for the purpose of carrying out the provisions of the Convention or of the administration or enforcement of the domestic laws concerning taxes covered by the Convention.

III. **General:**

In the case in which the Kingdom of Saudi Arabia will introduce an income tax applicable to its nationals who are residents of the Kingdom of Saudi Arabia, or the existing tax will be modified accordingly, then the two Contracting States shall enter into negotiations in order to introduce in the Convention an article on non-discrimination.

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

Done in duplicate at Riyadh this 27th day of JUMADA'II 1434H corresponding to the 7th day of May 2013, in the Arabic, French 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 Grand Duchy of Luxembourg**

**Luc Frieden**

**Minister of Finance**