هيئة الزكاة والضريبة والجمارك
Zakat, Tax and Customs Authority

CONVENTION BETWEEN

THE GOVERNMENT OF THE KINGDOM OF SAUDI ARABIA

AND THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS

FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION

OF TAX EVASION WITH RESPECT TO TAXES ON INCOME

PREAMBLE

The Government of the Kingdom of Saudi Arabia

and

the Government of the Kingdom of the Netherlands,

DESIRING to conclude a convention for the avoidance of double taxation and the prevention of tax evasion with respect to taxes on income,

Have agreed as follows:

CHAPTER I

Scope of the Convention

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 or administrative 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, 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:

- the Zakat,
- the income tax, including the natural gas investment tax,

(hereinafter referred to as the "Saudi tax");

(b) In the case of the Kingdom of the Netherlands:

- de inkomstenbelasting (income tax),
- de loonbelasting (wages tax),
- de vennootschapsbelasting (company tax) including the Government share in the net profits of the exploitation of natural resources levied pursuant to the Mijnbouwwet (the Mining Act),
- de dividendbelasting (dividend tax),

(hereinafter referred to as "Netherlands tax").

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

CHAPTER II

Definitions

Article 3

General definitions

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

(a) the terms "a Contracting State" and "the other Contracting State" mean the Kingdom of Saudi Arabia or the Kingdom of the Netherlands, as the context requires;

(b) 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;

(c) the term "the Netherlands" means the part of the Kingdom of the Netherlands that is situated in Europe, including its territorial sea, and any area beyond the territorial sea within which the Netherlands, in accordance with international law, exercises jurisdiction or sovereign rights;

(d) the term "person" includes any natural person, any company and any other body of persons, including inter alia bodies politic, (the State, its political or administrative sub-division or local authorities), partnerships, trusts and foundations;

(e) the term "company" means any juridical person or any entity which is treated as a juridical person 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 "national" means:

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

ii) any legal person, partnership and association deriving its status as such from the laws in force in a Contracting State;

(h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which 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;

(i) 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 authorized representative;

ii) in the case of the Netherlands, the Minister of Finance or his authorized representative.

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:

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

(b) the Government of any of the two Contracting States or any of its legal institutions, agencies or its local authorities;

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

ii) to provide pensions or other similar benefits to employees pursuant to a pension plan.

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.

2. Where by reason of the provisions of paragraph (1) of this Article, an individual is considered to be 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 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 in which his personal and economic relations are closer ("center 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 purpose 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 but is not limited to:

   (a) a place of management;

   (b) a branch;

   (c) an office;

   (d) a factory;

   (e) a workshop;

   (f) a mine, 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 six 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 six months within any 12-month period;

   (c) a person acting in one of the two Contracting States on behalf of an enterprise of the other Contracting State - other than an agent of an independent status to whom the provisions of paragraph 5 of this Article apply - if this person has in the first mentioned Contracting State an authority to conclude contracts in the name of that enterprise and habitually

exercises such authority in it, in respect of any activities which that person undertakes for the enterprise.

4. Notwithstanding the preceding provisions of this Article a permanent establishment does not include:

(a) the use of facilities for the sole 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 for the sole purpose of storage, display or delivery;

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

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

(e) the maintenance of a fixed place of business for the sole purpose of advertising, conducting scientific research, or similar activities of preliminary or auxiliary nature for the enterprise;

(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. An enterprise in one of the two Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that this broker or agent is acting in the ordinary course of his business.

6. An enterprise in one of the two Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on at the end of a trade exhibition or conference in the other Contracting State sale of goods or merchandise it displayed at that trade exhibition or conference.

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.

CHAPTER III

Taxation of income

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 under the law 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 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. The term "business profits" includes, but is not limited to, income derived from manufacturing, mercantile, banking, insurance, the operation of inland transportation, the furnishing of services, including studies or surveys of a scientific, geological or technical nature and the rental of tangible personal movable property. Such a term does not include income derived from the performance of personal services by an individual in an independent capacity.

5. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

6. 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 of the other Contracting State.

7. 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.

8. 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 term "profits from the operation of ships or aircraft in international traffic" includes:

   (i) profits derived from rental on a full (time or voyage) basis of a ship or aircraft used in international transport;

   (ii) profits derived from the rental on a bareboat basis of a ship or aircraft used in international transport;

   (iii) profits derived from the use or rental of containers and related equipment used in international transport that is directly connected or ancillary to income from the international operation of a ship or aircraft.

4. 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.

5. The provisions of this Convention shall not affect the application of the provisions of the agreement between the Government of the Kingdom of Saudi Arabia and the Government of the Kingdom of the Netherlands for reciprocal exemption of taxes levied on income and profits of air transport enterprises from the exercise of air transport in international traffic and their employees, signed at Riyadh on 16 January 1991 ('air agreement'). In the event of any differences between the two, the air agreement shall prevail.

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 taxed accordingly- profits on which an enterprise of the other Contracting State has been charged to a 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 beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:

   (a) 5 percent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10% (ten percent) of the capital of the company paying the dividends;

   (b) 10 percent of the gross amount of the dividends in all other cases.

   The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this paragraph. The provisions of 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 subject 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 a 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 law of that State, but if the recipient is the beneficial owner of the income from debt-claims, the tax so charged shall not exceed 5 percent of the gross amount of the income from debt-claims. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2 of this Article, income from debt-claims arising in a Contracting State and paid to a resident of the other Contracting State, being the beneficial owner of such income, shall be taxable only in that other Contracting State if such income:

(a) is paid by the Government of a Contracting State, a political or administrative subdivision or local authority thereof; or

(b) is paid to the Government of the other Contracting State, a political or administrative subdivision or a local authority thereof; or

(c) is paid to the central bank of the other Contracting State or a corporate body (including financial institutions) controlled or owned by that State, a political or administrative subdivision or local authority thereof.

4. 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.

5. The provisions of paragraphs 1 and 2 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 from debt-claims is paid is effectively connected with such permanent establishment or fixed base. In such a 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 that State itself, a political or administrative subdivision, a local authority or 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 State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed7 percent of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term "royalties" as used in this Article means payment 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 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 a 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 that State itself, a political or administrative subdivision, a local authority or 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. Capital 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. Capital gains derived by a resident of a Contracting State from the alienation of movable property that form part of the business property of a permanent establishment of the alienator in the other Contracting State or is closely connected with the performance of independent personal services (to which Article 14 applies) by the alienator in that other State, including capital gains arising from the alienation of such a permanent establishment, may be taxed in that other State.

3. Capital gains derived by a resident of a Contracting State from the alienation of shares in a company may be taxed in the State in which the company exists unless the beneficial owner of the shares is a company (other than a partnership) which holds directly or indirectly at least 10% of the capital of the company and such shares have been acquired after the signing of this Convention.

4. Subject to provisions of paragraph 3 of this Article, with respect to investments made prior to the signing of this Convention, in case of a corporate reorganization, amalgamation, division, or a similar transaction, whereby the final ownership of the shares does not change, it is allowed for postponement of taxation of any capital gains generated until the actual disposition of such shares, and such taxation shall apply to all capital gains realized from the beginning date of investment until the date on which the final alienation of investment is made.

5. 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. If the place of effective management of a shipping enterprise is aboard a ship, then for the purposes of this paragraph 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.

6. Capital gains derived 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 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 he is present in the other Contracting State 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 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 Contracting State unless the employment is exercised in the other Contracting State. In this case, remuneration derived from such employment may be taxed in that other Contracting State if:

   (a) he recipient is present in the other Contracting State for a period or periods exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, or

   (b) the remuneration is paid by, or on behalf of, an employer who is a resident of the other Contracting State, or

   (c) the remuneration is borne by a permanent establishment or a fixed base which the employer has in the other State.

2. Notwithstanding the preceding provisions of this Article, the remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft operating 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, 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. 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 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 and annuities

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

2. Any pension and other payment paid out under the provisions of a social security system of a Contracting State to a resident of the other Contracting State, shall be taxable only in the first-mentioned State.

3. Notwithstanding the provision of paragraph 1 of this Article, if this pension or other similar remuneration is not periodic in nature, is paid in respect of past employment in the other Contracting State and is paid out before the date on which the pension commences, or if a lump-sum payment is made in lieu of the right to an annuity before the date on which the annuity commences, the payment or this lump-sum may also be taxed in the Contracting State from which it is derived.

Article 19

Government service

1.

   a) 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 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.

a) Any pension paid by, or out of funds created by, a Contracting State or a political or administrative subdivision or a local authority thereof to any 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 national of and a resident of that State.

3. The provisions of Articles 15, 16 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 which a student or trainee who is or was a resident of a Contracting State immediately before visiting the other Contracting State and who is present in the other Contracting State for the purpose of education or training, receives for the purpose of his maintenance, education or training shall not be taxable in that other State, provided that the payments are transferred from sources outside that other State.

2. A student or trainee who is or was a resident of a Contracting State immediately before visiting the other Contracting State and who is present in the other Contracting State for the purpose of education or training shall, in respect of payments received by such student or trainee and which constitute remuneration in respect of services performed in that other Contracting State, be entitled in that other State to the same exemptions, relief or reductions in respect of taxes available to residents of that Contracting State, provided the services are connected with his education or training or are necessary for maintenance purposes.

Article 21

Teachers and researchers

1. Remunerations which a teacher or researcher who is or was resident in a Contracting State immediately prior to being invited to the other Contracting State for the purpose of teaching or conducting research receives in respect of such activities shall not be taxed in that Contracting State for a period not exceeding two years.

2. This Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

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 provision 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, 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.

CHAPTER IV

Elimination of double taxation

Article 23

Methods for elimination of double taxation

The method of elimination of double taxation will be as follows:

1. In case of the Netherlands:

   (a) when the Netherlands imposes a tax on its residents, it may include in the basis upon which such taxes are imposed the items of income which, according to the provisions of this Convention, may or shall be only taxable in the Kingdom of Saudi Arabia.

   (b) However, where a resident of the Netherlands derives items of income which according to Article 6, Article 7, paragraph 4 of Article 10, paragraph 5 of Article 11, paragraph 4 of Article 12, paragraphs 1 and 2 of Article 13, paragraph 1 of Article 14, paragraph 1 of Article 15, paragraphs 1 (a) and 2 (a) of Article 19 and paragraph 2 of Article 22 of this Convention may be taxed in the Kingdom of Saudi Arabia and are included in the basis referred to in paragraph 1 (a), the Netherlands shall exempt such items of income by allowing a reduction of its tax. This reduction shall be computed in conformity with the provisions of the Netherlands law for the avoidance of double taxation. For that purpose, the said items of income shall be deemed to be included in the amount of the items of income which are exempt from Netherlands tax under those provisions.

   (c) Further, the Netherlands shall allow a deduction from the Netherlands tax so computed for the items of income which according to paragraph 2 (b) of Article 10, paragraph 3 of Article 13, Article 16, paragraphs 1 and 2 of Article 17 and paragraph 3 of Article 18 of this Convention may be taxed in the Kingdom of Saudi Arabia to the extent that these items are included in the basis referred to in paragraph 1 (a). The amount of this deduction shall be

equal to the tax paid in the Kingdom of Saudi Arabia on these items of income, but shall, in case the provisions of the Netherlands law for the avoidance of double taxation provide so, not exceed the amount of the deduction which would be allowed if the items of income so included were the sole items of income which are exempt from Netherlands tax under the provisions of the Netherlands law for the avoidance of double taxation.

(d) This paragraph shall not restrict allowance now or hereafter accorded by the provisions of the Netherlands law for the avoidance of double taxation, but only as far as the calculation of the amount of the deduction of Netherlands tax is concerned with respect to the aggregation of income from more than one country and the carry forward of the tax paid in the Kingdom of Saudi Arabia on the said items of income to subsequent years.

(e) Notwithstanding the provisions of paragraph 1 (b) of this Article, the Netherlands shall allow a deduction from the Netherlands tax for the tax paid in the Kingdom of Saudi Arabia on items of income which according to Article 7, paragraph 4 of Article 10, paragraph 5 of Article 11, paragraph 4 of Article 12 and paragraph 2 of Article 22 of this Convention may be taxed in the Kingdom of Saudi Arabia to the extent that these items are included in the basis referred to in paragraph 1 (a), insofar as the Netherlands under the provisions of the Netherlands law for the avoidance of double taxation allows a deduction from the Netherlands tax of the tax levied in another country on such items of income. For the computation of this deduction the provisions of paragraph 1 (c) of this Article shall apply accordingly.

2. In case of the Kingdom of Saudi Arabia:

(a) where a resident of the Kingdom of Saudi Arabia derives income which, in accordance with the provisions of this Convention, may be taxed in the Netherlands, the Kingdom of Saudi Arabia shall, subject to the provisions of paragraph 2 (b) of this Article, exempt such income from tax.

(b) where a resident of the Kingdom of Saudi Arabia derives items of income which, in accordance with the provisions of Articles 10, 11, 12 and paragraphs 3 and 4 of Article 13 may be taxed in the Netherlands, the Kingdom of Saudi Arabia shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in the Netherlands. 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 the Netherlands.

(c) In the case of the Kingdom of Saudi Arabia, the methods for elimination of double taxation will not prejudice to the provisions of the Zakat collection regime as regards Saudi nationals.

CHAPTER V

Special provisions

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 shall by mutual agreement settle the appropriate mode of application of this Convention and, especially, the requirements to which the residents of a Contracting State shall be subjected in order to obtain, in the other State, the tax reliefs or exemptions provided for by this Convention.

Article 25

Exchange of information

1. The competent authorities of the Contracting States shall exchange through diplomatic channels 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 this Convention. The exchange of information is not restricted by Article 1. Any information received 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) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to taxes. 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 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 (ordre public).

Article 26

Diplomatic and consular officers

Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions, or members of consular missions, or of members of permanent missions to international organizations under the general rules of international law or under the provisions of special agreements.

Article 27

Entry into force

1. Each Contracting State shall notify the other Contracting State through diplomatic channels of the completion of the procedures required by its laws for entry into force of this Convention. This Convention shall enter into force as of the first day of the second month following that month in which the last notice was given.

2. The provisions of this Convention shall apply:

(a) in respect of taxes withheld at source, to amounts paid on or after the first day of January in any calendar year next following that in which the Convention enters into force;

(b) in respect of other taxes on income, to taxes chargeable for any taxable period beginning on or after the first day of January in any calendar year next following that in which the Convention enters into force.

Article 28

Termination

1. This Convention shall remain in force indefinitely but either Contracting States may terminate this Convention through diplomatic channels, by giving the other Contracting State written notice of termination not later than 30 June of any calendar year starting ten years after the year in which this Convention entered into force.

2. In such event the provisions of this Convention shall apply for the last time:

   (a) in respect of taxes withheld at source, to amounts paid on or before 31 December of the calendar year in which the notice of termination of this Convention was given;

   (b) in respect of other taxes on income, to taxes chargeable for any taxable period beginning on or before 31 December in the calendar year in which the notice of termination of this Convention was given.

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

DONE in duplicate at Riyadh on 13/10/1429 corresponding to 13/10/2008 in the Arabic, Netherlands, 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

Acting Minister of Finance

Abdulaziz ibn Abdullah Al-Khoiter

For the Government of
Netherlands

Minister of Economic Affairs

Maria van der Hoeven

PROTOCOL

At the moment of signing the Convention for the avoidance of double taxation and the prevention of tax evasion with respect to taxes on income, this day concluded between the Government of the Kingdom of Saudi Arabia and the Government of the Kingdom of the Netherlands, the undersigned have agreed that the following provisions shall form an integral part of the Convention.

I. Ad Article 4

1. The competent authorities will by mutual agreement settle which legal persons may be considered as residents of a Contracting State as meant in sub-paragraph c (i) of paragraph 1 of Article 4.

2. An individual living aboard a ship without any real domicile in either of the Contracting States shall be deemed to be a resident of the Contracting State in which the ship has its home harbour.

II. Ad Article 5

The following are also deemed to be a permanent establishment:

1. Any substantial activity (such as maintenance, training and installation) included in a contract for export of goods and merchandise carried on in a Contracting State. However, the business profits derived from the export of the goods and merchandise shall not be subject to tax in that Contracting State.

2. Any offshore activities (defined as activities carried on the continental shelf of a Contracting State in connection with the exploration or exploitation of the seabed and its sub-soil and their natural resources).

3. The rights to explore or extract and exploitation rights of natural resources, including rights to interests in, or to the benefits of, assets to be produced by such exploration or exploitation/ extraction.

III. Ad Article 7

1. In the case of contracts for survey, constructions, supply 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. Any portion of the contract executed outside the Contracting State in which the permanent establishment is situated shall not be taken into consideration in determining the profits of that permanent establishment.

2. Each Contracting State may apply its domestic legislation with regard to insurance activities.

IV. Ad Article 9

Any transaction or any agreement between associated enterprises may be reviewed to ensure whether or not the condition as meant in paragraph 1 of this article is fulfilled, but would not, merely because of the relation between the two enterprises, be considered conflicting with the arm's length principle.

V. Ad paragraph 2 (a) Article 10

In case of a significant change of the system on withholding tax on dividends in one of the two Contracting States after the moment of signing this Convention, the Contracting States shall enter into negotiations to insert an anti-abuse provision in the Convention.

VI. Ad Article 16

It is understood that the term "the board of directors of a company" means persons, who are nominated as such by the general meeting of shareholders or by any other competent body and are charged with the general management of the company and the supervision thereof, respectively.

VII. Ad Article 18

Notwithstanding paragraph 1 the other Contracting State may also tax those items of income if they are exempt in the State of residence and until the article has been renegotiated between the two Contracting States when the State of residence introduces such a tax.

VIII. Ad Articles 10, 13 and 23

Notwithstanding Articles 10 and 13 dividends and capital gains accumulated in the period an individual was a resident of the Netherlands before he has become a resident of the Kingdom of Saudi Arabia, may be taxed in the Netherlands according to the laws of the Netherlands 10 years after the emigration of the individual. The Kingdom of Saudi Arabia will apply Article 23 only for that part of such income of the individual that has been accumulated before the individual left the Netherlands if the assessment has been issued on his emigration and insofar the tax has been collected.

IX. General

1. Where tax has been levied at source in excess of the amount of tax chargeable under the provisions of Articles 10, 11 or 12, applications for the refund of the excess amount of tax have to be lodged with the competent authority of the State having levied the tax, within a period of five years after the expiration of the calendar year in which the tax has been levied.

2. As soon as the laws or regulations of the Kingdom of Saudi Arabia give to residents of other countries, except countries that are member of the Gulf Cooperation Counsel and the Arabic League, national treatment with regard to taxation such national treatment will automatically be provided to residents or former residents of the Netherlands.

3. The Kingdom of Saudi Arabia shall with respect to its national laws and regulations treat nationals or residents of the Netherlands for taxation purposes not less favourable than residents or nationals from third countries except countries that are member of the Gulf Cooperation Counsel and the Arabic League.

4. In case the Kingdom of Saudi Arabia introduces any form of dispute resolution mechanism, including binding dispute resolution, with any country in a tax convention the Contracting States shall enter into negotiations to insert an Article concerning dispute resolution.

5. In case the Kingdom of Saudi Arabia introduces an Article concerning the assistance in recovery with any country in a tax convention the Contracting States shall enter into negotiations to insert an Article for the assistance and support in the collection of the taxes to which this Convention applies.

6. Profits which are exempt for a limited period of time not exceeding ten years from tax on income in Saudi Arabia under the provisions of encouragement of its investment laws shall be deemed to be subject to a tax on income for the purpose of the application of the participation exemption by the Netherlands.

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

DONE in duplicate at Riyadh on 13/10/1429 corresponding to 13/10/2008, in the Arabic, Netherlands 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	For the Government of Netherlands
Acting Minister of Finance	Minister of Economic Affairs
Abdulaziz ibn Abdullah Al-Khoiter	Maria van der Hoeven