Signed on: 12 October 2018

AGREEMENT

BETWEEN
THE GOVERNMENT OF THE UNITED ARAB EMIRATES

AND
THE GOVERNMENT OF THE REPUBLIC OF BOTSWANA
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

The Government of the United Arab Emirates and the Government of the Republic of Botswana;

Desiring to promote their mutual economic relations through the conclusion between them of an Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income;

Intending to conclude an Agreement for the elimination of double taxation with respect to taxes on income without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third States).

Have agreed as follows:

Article 1
Persons covered

1. This Agreement shall apply to persons who are residents of one or both of the Contracting States.

2. For the purposes of this Agreement, income derived by or through an entity or arrangement that is treated as wholly or partly fiscally transparent under the tax law of either Contracting State shall be considered to be income of a resident of a Contracting State but only to the extent that the income is treated, for purposes of taxation by that State, as the income of a resident of that State.

Article 2
Taxes Covered

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property as well as taxes on the total amounts of wages or salaries paid by enterprises.
3. The existing taxes to which this Agreement shall apply are:
    a) In the case of United Arab Emirates:
        (i) the income tax;
        (ii) the corporate tax,
        (hereinafter referred to as "United Arab Emirates tax");

    b) In the case of the Republic of Botswana:
        (i) the income tax; and
        (ii) the capital gains tax charged under the Income Tax Act.
        (hereinafter referred to as "Botswana tax").

4. This Agreement shall apply also to any identical or substantially similar taxes, which are imposed under the laws of a Contracting State after the date of signature of this Agreement 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, which have been made in their respective taxation laws.

Article 3
Income from Hydrocarbons and Mineral resources

Notwithstanding any other provision of this Agreement nothing shall affect the right of either of the Contracting States, or of any of their local Governments or local authorities thereof to apply their domestic laws and regulations related to the taxation of income and profits derived from hydrocarbons and mineral resources situated in the territory of the respective Contracting State, as the case may be.

Article 4
General definitions

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

a) The terms "a Contracting State" and " the other Contracting State" mean the United Arab Emirates or Botswana as the context requires;

b) The term "the United Arab Emirates" when used in a geographical sense, means the territory of the United Arab Emirates which is under its sovereignty as well as the area outside the territorial water, airspace and submarine areas over which the United Arab Emirates exercises sovereign and jurisdictional rights in respect of any activity carried on in its water, sea bed, subsoil, in connection with the exploration for or the exploitation of natural resources by virtue of its law and international law;

c) the term "Botswana" means the Republic of Botswana including its territorial waters and air space;

d) The term "person" includes an individual , an estate, a trust, a company or any other entity which is treated as a person for tax purposes according to the laws and regulations of either Contracting State;

e) The term "national" means:

(i) any individual possessing the nationality of a Contracting State:
(ii) any legal person, association or other entity deriving its status as such from the laws in force in a Contracting State or of a political subdivision or a local government thereof ;

f) The term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;

g) the term "recognized pension fund" of a State means an entity or arrangement established in that State that is treated as a separate person under the taxation laws of that State and:
(i) that is established and operated exclusively or almost exclusively to administer or provide retirement benefits and ancillary or incidental benefits to individuals and that

is regulated as such by that State or one of its political subdivisions or local authorities; or

(ii) that is established and operated exclusively or almost exclusively to invest funds for the benefit of entities or arrangements referred to in subdivision (i).

h) 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;

i) the term "enterprise" applies to the carrying on of any business;

j) The term “international traffic” means any transport by aircraft operated by an enterprise of a Contracting State, except when the aircraft is operated solely between places in the other Contracting State;

k) The term "business" includes the performance of professional services and of other activities of an independent character;

l) The term "qualified government entity" means the Central bank of a Contracting State and any person, agency, institution, authority, fund, enterprise, organization or any other entity owned or controlled directly or indirectly by a Contracting State or political subdivision or local government thereof.

m) the term “tax” means the United Arab Emirates tax or Botswana tax, as the context requires;

n) the term “competent authority” means:

(i) in the case of the United Arab Emirates, the Minister of Finance or an authorized representative of the Minister of Finance;

(ii) in the case of Botswana, the Minister responsible for finance represented by the Commissioner General of the Botswana Unified Revenue Service or an authorised representative of the Commissioner General.

2. As regards the application of the provisions of this Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, or the competent authorities agree to a different meaning pursuant to the provisions of Article 26, have the meaning which it has at that time under the law of that State for the purposes of the taxes to which this Agreement 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 5
Resident

1. For the purposes of this Agreement, the term "resident of a Contracting State" means:
   a) in the case of the United Arab Emirates:

      i) an individual who is a United Arab Emirates national and other individuals liable for tax by reason of his domicile and residence under the laws of the United Arab Emirates;
      ii) any person other than an individual that is incorporated or otherwise recognized under the laws of the United Arab Emirates or any political subdivision or local government thereof.

   b) in the case of Botswana, the term 'resident of a Contracting State' means any person who, under the laws of Botswana, is liable to tax therein by reason of that person's domicile, residence, place of incorporation, place of management or any other criterion of a similar nature, and also includes Botswana or any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in Botswana in respect only of income from sources in Botswana.
2. For the purposes of paragraph 1, a resident of a Contracting State includes:

   a) the Government of that Contracting State and any political subdivision or local Government or local authority thereof;
   b) any person other than an individual owned or controlled directly or indirectly by that State or any political subdivision or local government or local authority thereof;
   c) a qualified government entity;
   d) a recognized pension fund; and
   e) charities or religious, educational and cultural organizations.

3. Where by reason of the provisions of paragraph 1 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 (center of vital interests);

   (b) if the Contracting State in which he has his center 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 a habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident only of the Contracting State of which he is a national;

   (d) If his status cannot be determined under the provisions of subparagraph c), the competent authorities of the Contracting States shall settle the question by mutual agreement.

4. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavour to determine by mutual agreement the Contracting State of which such person shall be deemed to be a resident for the purposes of the Agreement, having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by this Agreement except to the extent and in such manner as may be agreed upon by the competent authorities of the Contracting State.

Article 6
Permanent Establishment

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term " permanent establishment' includes especially:

a) a place of management;
b) a branch;
c) an office;
d) a factory;
e) a workshop;
f) A mine, an oil or gas well, a quarry or any other place of extraction or exploitation of natural resources or any activities related thereof.

3. The term “permanent establishment” shall be deemed to include:

a) a building site, a construction, assembly or installation project or any supervisory activity in connection with such site or project, but only where such site, project or activity continues for a period of more than nine months within any twelve-month period;

b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by an enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the Contracting State for a period or periods aggregating more than 183 days within any twelve-month period; and

c) for an individual, the performing of services in a Contracting State by that individual, but only if the individual’s stay in that State, for the purpose of performing those services, is for a period or periods aggregating more than 183 days;

d) an installation or structure used in connection with the exploration of natural resources provided that the installation or structure continues for a period of not less than ninety days.

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 subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 9 applies – is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:

a) has, and habitually exercises in the first-mentioned Contracting State, an authority to conclude contracts in the name of such enterprise, unless the activities of such person are limited to those mentioned in paragraph 6 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;

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

c) habitually secures orders in the first-mentioned Contracting State, exclusively or almost exclusively for the enterprise itself or for such enterprise and other enterprises, which are controlled by it or have a controlling interest in it;

d) in so acting, he manufactures or processes in that Contracting State for the enterprise goods or merchandise belonging to the enterprise.

6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through an employee or through a person other than an agent of an independent status to whom paragraph 9 applies.

7. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other Contracting State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise and other enterprises, which are controlled by it or have a controlling interest in it, he will not be considered an agent of an independent status within the meaning of this paragraph.

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

Article 7
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. The tax so charged shall be reduced to 50% if beneficiary owner of the income derived from immovable property is the State itself or local authorities, political subdivision, local Governments or local financial institutions are belong to the Contracting State.

2. The term "immovable property" shall have the meaning, which it has under the national laws 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 laws respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right of work, mineral deposits, sources and other natural resources. 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 income from immovable property of an enterprise.

Article 8
Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that Contracting State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated in that other Contracting State. If the enterprise carries on or has carried on business in that manner, the profits of the enterprise may be taxed in the other Contracting State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions those deductible expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere, taking into consideration any applicable law or regulations in the concerned Contracting State. 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 interest on moneys lent to the head office of the enterprise or any of its other offices.

4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

5. 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. 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.

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

Article 9
Air Transport

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

2. For the purposes of this Article profits from the operation of aircraft in international traffic include profits from the rental on a bareboat basis of aircraft.

3. The provisions of paragraph 1 shall also apply to profits derived from:

    a) the participation in a pool, a joint business or an international operating agency;
    b) selling of tickets on behalf of another enterprise; and
    c) income deriving from deposits at the bank, bonds, shares, stocks and other debentures.

4. For greater certainty Article 8 shall not be applied on the operation of aircrafts in international traffic.

Article 10
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 Contracting State -and taxes accordingly -profits on which an enterprise of the other Contracting State has been charged to tax in that other Contracting State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Contracting State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Contracting State shall make an appropriate adjustment to the amount of the profits subjected to tax. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall, if necessary, consult each other.

3. The provisions of paragraph 2 shall not apply where judicial, administrative or other legal proceedings have resulted in a final ruling that by actions giving rise to an adjustment of profits under paragraph 1, one of the enterprises concerned is liable to penalty with respect to fraud, gross negligence or wilful default.

Article 11
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 the 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:

   (a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company the capital of which is wholly or partly divided into shares which holds directly at least 10 per cent of the capital of the company paying the dividends;

   (b) 7.5 per cent 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 these limitations.

   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 taxation laws of the Contracting State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated in that other Contracting State and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 8 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 Contracting 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 Contracting State who is the beneficial

owner of the dividends or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other Contracting 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 Contracting State.

6. The provision of paragraphs 4 and 5 shall not apply if the beneficial owner of the dividends is the State itself, local government, local authority or their financial institutions. Such income shall be subject to tax at the State of residence.

Article 12
Interest

1. Interest 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 interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 7.5 per cent of the gross amount of the interest.

   The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term "interest" 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, as well as income which is subjected to the same taxation treatment as income from money lent by the taxation laws of the Contracting State in which the income arises. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated in that other Contracting State situated in that other Contracting State, and the debt-claim in respect of which the interest is paid is

effectively connected with such permanent establishment. In such case the provisions of Article 8 shall apply.

5. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that Contracting State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner of the interest, or between both of them and some other person, the amount of the interest, 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 Agreement.

7. The provisions of paragraph 4, 5 and 6 shall not be applied if the beneficial owner of the interest being the state itself, political subdivision, local Government or local authority or their financial institutions. Such income shall be taxable only at the state of residence.

Article 13
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 beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 7.5 per cent 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 payments of any kind received as a consideration for the use of, or the right to use, any copyright (including the copyright of literary, artistic, scientific work, broadcasts or cinematograph films,

motion pictures or movies), 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 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 in that other Contracting State, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 8 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that Contracting 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 in connection with which the right or property in respect of which the royalties are paid is effectively connected, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner of the royalties 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 Agreement.

Article 14
Capital Gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 7 and situated in the other Contracting State may be taxed in that other Contracting 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, including such gains from the alienation of

such a permanent establishment (alone or with the whole enterprise), may be taxed in that other Contracting State.

3. Gains derived by an enterprise of a Contracting State from the alienation of aircrafts operated in international traffic or movable property pertaining to the operation of such aircrafts shall be taxable only in that Contracting State.

4. Gains derived by a resident of a Contracting State from the alienation of shares or comparable interests, such as interests in a partnership or trust, may be taxed in the other Contracting State if, at any time during the 365 days preceding the alienation, these shares or comparable interests derived more than 50 per cent of their value directly or indirectly from immovable property, as defined in Article 7, situated in that other State, unless it is listed in a recognized stock market.

5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3 shall be taxable only in the Contracting State of which the alienator is a resident.

6. For the purpose of the interpretation of this Article, it is understood that property referred to in paragraph 5 shall mean bonds, debentures and other comparable interest in a company and such like property shall be taxable only at the State where the alienator is resident.

Article 15
Fees for Technical Services

1. Fees for technical services arising in a Contracting State which are derived by a resident of the other Contracting State may be taxed in that other State.

2. However, subject to the provisions of Articles 9, 17 and 18, fees for technical services arising in a Contracting State may also be taxed in the Contracting State in which they arise and subject to the laws of that State, but if the beneficial owner of the fees is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the fees.

3. The term “fees for technical services” as used in this Article means any payment in consideration for any service of a managerial, technical or consultancy nature, unless the payment is made:

   (a) to an employee of the person making the payment;

(b) for teaching in an educational institution or for teaching by an educational institution; or

(c) by an individual for services for the personal use of an individual.

4. The provisions of paragraphs 1 and 2 of this Article shall not apply if the beneficial owner of the fees for technical services, being a resident of a Contracting State, carries on business in the other Contracting State in which the fees for technical services arise, through a permanent establishment situated therein and the technical fees are effectively connected with such permanent establishment. In such case, the provisions of Article 8 shall apply.

5. For the purposes of this Article, subject to paragraph 6, fees for technical services shall be deemed to arise in a Contracting State if the payer is a resident of that State or if the person paying the fees, whether that person is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the obligations to pay the fees was incurred, and such fees are borne by the permanent establishment.

6. For the purposes of this Article, fees for technical services shall be deemed not to arise in a Contracting State if the payer is a resident of that State and carries on business in the other Contracting State or a third State through a permanent establishment situated in that other State or the third State and such fees are borne by that permanent establishment.

Article 16
Income from Employment

1. Subject to the provisions of Articles 17, 19 and 20, 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. If the employment is so exercised, such remuneration as is derived there from may be taxed in that other Contracting State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State shall be taxable only in the first-mentioned Contracting State if all the following conditions are met:

a) The recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in 12 month period commencing or ending in the fiscal year concerned;

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

c) The remuneration is not borne by a permanent establishment or a fixed base, which the employer has in the other Contracting State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard an aircraft operated in international traffic by an enterprise of a Contracting State shall be taxable only in that Contracting State.

4. An individual who is both a national of a Contracting State and an employee of an enterprise of that Contracting State the principal business of which consists of the operation of aircraft in international traffic and who derives remuneration in respect of duties performed in the other Contracting State shall be taxable only in that Contracting State on remuneration derived from his employment with that enterprise.

5. The provisions of paragraphs 1, 2 and 3 of this Article shall likewise apply in respect of salaries, wages and other similar remuneration and pensions paid by a government owned institution performing functions of a governmental nature which:

(a) in the case of the United Arab Emirates:
  (i) the Government of the United Arab Emirates;
  (ii) a local government of the United Arab Emirates (Abu Dhabi, Dubai, Sharjah, Ras al Khaima, Fujairah, Umm al Quwain and Ajman);
  (iii) the following financial institutions particularly but not exclusively:
    a. the Abu Dhabi Investment Council;
    b. Abu Dhabi Investment Authority;
    c. Emirates Investment Authority;
    d. Dubai Investment Corporation;
    e. Mubadala Investment Company; and
    f. any other statutory body or institution or instrumentality wholly owned by the Government of the United Arab Emirates, at the federal or local level, that should be communicated through diplomatic channels.

(b) in the case of Botswana:

a. Bank of Botswana;
b. Botswana Investment and Trade Centre;
c. National Development Bank;
d. Botswana Development Corporation; and
e. any other statutory body or institution or instrumentality wholly owned by the Government of the Republic of Botswana, that should be communicated through diplomatic channels.

Article 17
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 or other similar organ of a company, which is a resident of the other Contracting State, shall be taxable only in the first-mentioned Contracting State.

Article 18
Artistes and Sportsmen

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 sportsman, from his personal activities as such exercised in the other Contracting State , may be taxed in that other Contracting State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 8 and 16 be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived by entertainers or sportsmen who are residents of a Contracting State from personal activities as such exercised in the other Contracting State if their visit to that other Contracting State is substantially supported from the public funds of the first-mentioned Contracting State, including those of any political subdivision, a local authority or statutory body thereof, nor to income derived by a non-profit making organization in respect of such activities provided no part of its income is payable

to , or is otherwise available for the personal benefit of its proprietors, founders or members.

Article 19
Pensions and Annuities

1. Subject to the provisions of paragraph 2 of Article 20, pensions and other similar remuneration and annuities paid to an individual who is a resident of a Contracting State in consideration of past employment shall be taxable only in that Contracting State.

2. As used in this Article:

   a) The terms "pensions and other similar remuneration" mean periodic payments made after retirement in consideration of past employment or by way of compensations for injuries received in connection with past employment;

   b) The term "annuity" means a stated sum payable to an individual periodically at stated times during life, or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

3. Notwithstanding the provisions of paragraph 1, pensions paid and other similar payments made under a public scheme which is part of the social security system of a Contracting State or a local authority thereof shall be taxable only in that State.

Article 20
Government Service

1. a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Contracting State or subdivision or authority shall be taxable only in that Contracting 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 Contracting State and the individual is a resident of that Contracting State and has fulfilled one of the following conditions:

(i) is a national of that Contracting State; or

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

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

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

3. The provisions of Articles 16, 17, 18 and 19 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 21
Teachers and Researchers

An individual who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who at the invitation of the Government of the first-mentioned Contracting State or of a university college, school, museum or other cultural institution in that first-mentioned Contracting State or under an official programme of cultural exchange is present in that Contracting State for a period not exceeding two consecutive years solely for the purpose of teaching giving lectures or carrying out research at such institution shall be exempt from tax in that Contracting State on his remuneration for such activity.

Article 22
Students and Trainees

1. Payments which a student or business trainee who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that Contracting State, provided that such payments arise from sources outside that Contracting State.

2. In respect of grants, scholarships and remuneration from employment not covered by paragraph 1, a student or business trainee described in paragraph 1 shall, in addition, be entitled during such education or training to the same exemptions, relief's or reductions in respect of taxes available to residents of the Contracting State which he is visiting.

Article 23
Other Income

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that Contracting State.
2. Notwithstanding the provisions of paragraph 1, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement and arising in the other Contracting State may also be taxed in that other State.

Article 24
Entitlement to Benefits

Notwithstanding the other provisions of this Agreement, a benefit under this Agreement shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Agreement.

Article 25
Elimination of Double Taxation

1. Double taxation shall be eliminated as follows:

    a) In Botswana, subject to the provisions of the laws of Botswana regarding the allowance of a credit against Botswana tax of tax payable under the laws of a country outside Botswana which shall not affect the general principle hereof, United Arab Emirates tax payable under the laws of United Arab Emirates and in accordance with this Agreement, whether directly or by deduction, on profits or income liable to tax in United Arab Emirates shall be allowed as a credit against any Botswana tax payable in respect of the same profits or income by reference to which the United Arab Emirates tax is computed. However, the amount of such credit shall not exceed the

amount of the Botswana tax payable on that income in accordance with the laws of Botswana;

b) in the United Arab Emirates, tax paid by residents of the United Arab Emirates in respect of income taxable in Botswana in accordance with the provisions of this Agreement, shall be deducted from the taxes due according to the United Arab Emirates tax law. Such deduction shall not, however, exceed that part of the United Arab Emirates tax, as computed before the deduction is given, which is attributable to the income which, in accordance with the provisions of this Agreement, may be taxed in Botswana.

2. For the purposes of paragraph 1 of this Article, the terms "Botswana tax payable" and "United Arab Emirates tax paid" shall be deemed to include the amount of tax which would have been paid in Botswana or in the United Arab Emirates as the case may be, but for an exemption or reduction granted in accordance with laws designed to promote economic development in that Contracting State.

3. A grant given by a Contracting State to a resident of the other Contracting State in accordance with laws designed to promote economic development in that first mentioned State, shall not be taxable in the other State.

Article 26
Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting State result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Contracting State, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 28, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provision of this Agreement.

2. The competent authority shall endeavor, 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 Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting State.

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

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

Article 27
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 Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions in particular for the prevention of fraud or evasion of such taxes, in so far as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 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, 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 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; or

(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).

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 be construed to permit a Contracting State to decline to supply information 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 28
Non-Discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment, which an enterprise of a Contracting State has in the other Contracting State, shall not be less favorably levied in that

other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, relieves and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

4. Nothing in this Agreement shall prevent a Contracting State from granting exemption from tax or reduction to its own national companies in accordance to its domestic laws and regulations

5. In this Article the term "taxation" means taxes which are the subject of this Agreement.

Article 29
Miscellaneous Rules

1. Notwithstanding the provisions of paragraph 2 of Article 10 and paragraph 2 of Article 11, and paragraph 2 of Article 14, dividends, interest or capital gains paid by a resident of a Contracting State to the Government of the other Contracting State or political subdivision or local authority thereof shall be exempt from tax in the first-mentioned State.

2. For the purposes of paragraph 1, the term “Government” shall include:
   (a) in the case of the United Arab Emirates:
      (i) the Government of the United Arab Emirates;
      (ii) a local government of the United Arab Emirates (Abu Dhabi, Dubai, Sharjah, Ras al Khaima, Fujairah, Umm al Quwain and Ajman);
      (iii) the following financial institutions particularly but not exclusively:
         a. the Abu Dhabi Investment Council;
         b. Abu Dhabi Investment Authority;
         c. Emirates Investment Authority;

d. Dubai Investment Corporation;
e. Mubadala Investment Company;
f. any other statutory body or institution or instrumentality wholly owned by the Government of the United Arab Emirates, at the federal or local level, that should be communicated through diplomatic channels.

(b) in the case of Botswana:

a. Bank of Botswana;
b. Botswana Investment and Trade Centre;
c. National Development Bank;
d. Botswana Development Corporation.
e. any other statutory body or institution or instrumentality wholly owned by the Government of the Republic of Botswana, that should be communicated through diplomatic channels.

Article 30
Members of Diplomatic Missions and Consular Posts

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts or employees of international organizations under the general rules of international law or under the provisions of special agreements.

Article 31
Entry into Force

Each of the Contracting States shall notify to the other in writing the completion of its constitutional procedures for the entry into force of this Agreement. This agreement shall enter into force on the date of receipt of the latter of these notifications and its provisions shall thereupon have effect in both Contracting States:

a) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of July of the year in which this Agreement is signed; and

b) in respect of other taxes, for taxable periods beginning on or after the first day of July of the year in which this Agreement is signed.

Article 32
Duration and Termination

This Agreement shall remain in force for a period of ten years and shall continue in force thereafter for a similar period or periods unless either Contracting State notifies the other in writing, at least six months before the expiry of the initial or any subsequent period, of its intention to terminate this Agreement. In such event, this Agreement shall cease to have effect in both Contracting States:

a) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of July of the year next following that in which the notice of termination is given; and

b) in respect of other taxes, for taxable periods beginning on or after the first day of July of the year next following that in which the notice of termination is given.