

PROTOCOL

AMENDING

THE AGREEMENT BETWEEN THE

GOVERNMENT OF THE UNITED ARAB EMIRATES

AND THE

GOVERNMENT OF THE REPUBLIC OF INDIA

FOR

THE AVOIDANCE OF DOUBLE TAXATION AND THE

PREVENTION OF FISCAL EVASION

WITH RESPECT TO TAXES ON INCOME

SIGNED IN INDIA ON 29th APRIL 1992



PROTOCOL AMENDING THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED ARAB EMIRATES AND THE GOVERNMENT OF THE REPUBLIC OF INDIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

SIGNED IN INDIA ON 29th APRIL 1992

The Government of the United Arab Emirates and the Government of the Republic of India,

Desiring to conclude a Protocol to amend the Agreement between the Government of the United Arab Emirates and the Government of the Republic of India for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed in India on 29th APRIL 1992 (hereinafter referred to as "the Agreement"),

have agreed upon the following provisions which shall form an integral part of the Agreement:



ARTICLE 1.

Paragraph 1 of Article 4 (Resident) shall be replaced by the following:

1. For the purposes of this Agreement the term "resident of a contracting state" means:

(a) in the case of India: any person who, under the laws of India, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. This term, however, does not include any person who is liable to tax in India in respect only of income from sources in India; and

(b) in the case of the United Arab Emirates: an individual who is present in the UAE for a period or periods totaling in the aggregate at least 183 days in the calendar year concerned, and a company which is incorporated in the UAE and which is managed and controlled wholly in UAE.



2. For the purposes of paragraph 1.

(a) The Republic of India, its political subdivisions or local authority thereof shall be deemed to be a resident of the Republic of India;

(b) The United Arab Emirates and its political subdivisions or local governments shall be deemed to be a resident of the United Arab Emirates;

(c) Government institutions shall be deemed, according to affiliation, to be resident of the Republic of India or the United Arab Emirates. Any institution shall be deemed to be a government institution which has been created by the government of one of the contracting states or of its political subdivisions or local authority / governments, which are wholly owned and controlled directly or indirectly by the government of the contracting state or political subdivision or local authority / governments which are recognized as such by mutual agreement of the competent authorities of the contracting states.



(d) For the purposes of this Article, Abu Dhabi Investment Authority is recognized as a resident of the United Arab Emirates.

paragraphs 2 and 3 shall be renumbered as 3 and 4 respectively.

ARTICLE 2.

Paragraph 3 of Article 7 (Business profits) shall be replaced by the following:

"3. In determining 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, in accordance with the provisions of and subject to the limitations of the tax laws of that State.



ARTICLE 3

Paragraph 2 of Article 10 (Dividends) shall be replaced by the following:

"2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends, the tax so charged shall not exceed 10%.

ARTICLE 4

Paragraphs 3 Article 13 (Capital Gains) of the Agreement shall be replaced by the following:

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

"4. Gains from the alienation of shares in a company which is a resident of a contracting state may be taxed in that state.



"5. Gains from the alienation of any property other than that referred to in paragraphs 1,2,3 and 4 above shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 5

Paragraph 1 of Article 24 (Income of Government and Institutions) shall be replaced by the following:

1. Notwithstanding the provisions of Article 13, the Government of one Contracting State shall be exempt from tax, including capital gains tax, in the other Contracting State in respect of any income derived by such Government from that other Contracting State.

ARTICLE 6

Paragraph 2 of Article 26 (Nondiscrimination) shall be replaced by the following:

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other Contracting State than the taxation levied on enterprises of that Contracting State carrying on the same activities in the same circumstances or under the same conditions. This provision shall not be construed as preventing a Contracting State from charging the profits of a permanent establishment which a company of the other Contracting State has in the first mentioned State at a rate



of tax which is higher than that imposed on the profits of a similar company of the first mentioned Contracting State, nor as being in conflict with the provisions of paragraph 3 of Article 7.

ARTICLE 7

An Article on 'Limitation of Benefits' (Article 29) shall be included in the Agreement, as under:

An entity which is a resident of a Contracting State shall not be entitled to the benefits of this Agreement if the main purpose or one of the main purposes of the creation of such entity was to obtain the benefits of this agreement that would not be otherwise available. The cases of legal entities not having bonafide business activities shall be covered by this Article.

Articles 29, 30 and 31 shall be renumbered as Articles 30, 31 and 32 respectively.

ARTICLE 8

This Protocol shall form an integral part of the Agreement. Each of the Contracting States shall notify to the other the completion of the proceedings required by its law for the bringing into force of this Protocol. The Protocol shall enter into force on the date of the later of these notifications and shall thereupon have effect:-



(a) in the United Arab Emirates :

in respect of income derived on or after the 1st January next following the calendar year in which the Protocol enters into force ;

(b) in India :

in respect of income arising in any "previous year" beginning on or after 1st April next following the calendar year in which the Protocol enters into force.

IN WITNESS WHEREOF the undersigned, duly authorized thereto by their respective Governments, have signed this Protocol.

DONE in triplicate at New Delhi on Monday 26th of March 2007, in the English, Arabic and Hindi languages, all texts being equally authentic. In case of divergence between the three texts, the English text shall be the operative one.

FOR THE GOVERNMENT OF THE UNITED ARAB EMIRATES	FOR THE GOVERNMENT OF THE REPUBLIC OF INDIA
Dr. Mohammad Khalfan Bin Khirbash	S.S. Palanimanickam
Minister of State for Finance and Industry	Minister of State for Finance (Revenue)