Date of signature: 24 November 2021
Entry into force: 14 December 2023

AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED ARAB EMIRATES
AND
THE GOVERNMENT OF THE REPUBLIC OF COTE D'IVOIRE
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 Côte d'Ivoire,

Desiring to further develop their economic relationship and to enhance their cooperation in tax matters,

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 avoidance or evasion (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of non-residents of their countries),

Have agreed as follows:

ARTICLE 1: PERSONS COVERED

The Agreement shall apply to persons who are residents of one or both of contracting States.

ARTICLE 2: TAXES COVERED

1. The 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, taxes imposed on total income or on elements of income, including taxes on gains from alienation of movable or immovable properties, taxes on total amount of wages or salaries paid by enterprises, as well as taxes on capital gains.

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

   a. In the case of Republic of Côte d'Ivoire:
      i. The tax on industrial and commercial profits and agricultural profits;
      ii. The tax on non-commercial profits;
      iii. The tax on wages, salaries, pensions and annuities;
      iv. The tax on income from movable capital;
      v. The tax on income for debt;
      vi. The tax on income from land heritage;
      vii. The tax on income from property (rental income)
      viii. The general income tax

      (hereinafter referred to as « Ivorian tax »

   b. In the case of the United Arab Emirates:
      i. Income tax;
      ii. corporate tax.

      (hereinafter referred to as "UAE tax")

4. The Agreement shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Agreement in addition to, or in place of the existing taxes. The competent authorities of contracting States shall notify each other of significant changes made in their respective tax law.

ARTICLE 3: GENERAL DEFINITIONS

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

a. the term “a Contracting State” and “the other Contracting State” means the Republic of Côte d’Ivoire or the United Arab Emirates, as the context requires;

b. the term “Côte d’Ivoire" means the Republic of Côte d'Ivoire and, when used in its geographical sense, means the Republic of Côte d’Ivoire’s lands, internal waters and territorial sea, including its bed and subsoil, the air space over them, the exclusive economic zone and the continental shelf over which the Republic of Côte d’Ivoire exercises sovereign rights and jurisdiction, in accordance with the provisions of international law and the Republic of Côte d’Ivoire’s national laws and regulations;

c. the term “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, seabed, subsoil, in connection with the exploration for or the exploitation of natural resources by virtue of its law and international law

d. the term “tax” means the Ivorian tax or the UAE tax, as the context requires;

e. the term “person” includes an individual, a company and any other body of persons;

f. the term “company” means anybody corporate or any entity that is treated as a body corporate for tax purposes;

g. 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;

h. the term “international traffic” means any transport by a ship or aircraft operated by an enterprise that has its place of effective

management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

i. the term "competent authority" means:
   (i) in the case of Côte d'Ivoire, the Minister in charge of Budget, or the duly authorized representative of such Minister, and
   (ii) in the case of the United Arab Emirates, the Minister of Finance or the duly authorized representative of the Minister of Finance.

j. the term "national", in relation to a Contracting State, means:

   (i) any individual possessing the nationality of that Contracting State;
   (ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State;

2. As regards the application of the 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 that it has at that time under the law of that State for the purposes of the taxes to which the 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 4: RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means:

a. in the case of the UAE:
   i) a UAE national or an individual who is a resident in the United Arab Emirates in accordance with its laws and regulations;
   ii) any person other than an individual that is incorporated or otherwise recognized under the laws of the UAE or any political subdivision or local government thereof.

b. in the case of Côte d'Ivoire :
   any person who, under the laws of Côte d'Ivoire , is liable to tax in Côte d'Ivoire by reason of his domicile, residence, place of management or any other criterion of a similar nature, and shall also apply to Côte d'Ivoire and to all its political subdivisions, to its local or territorial authorities.

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 pension fund;

   e. charities or religious, educational and cultural organizations.

However, this term does not include persons who are subject to tax in that State only in respect of income from sources situated in that State.

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 State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State

with which his personal and economic relations are closer (centre of vital interests);

b. if the 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 State, he shall be deemed to be a resident only of the State in which he has an habitual abode;

c. if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;

d. if he is a national of both States or of neither of them, 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 endeavor 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 States.

ARTICLE 5: 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 exploration, extraction or exploitation of natural resources;
    g. premises used as sales outlet;
    h. a warehouse, in relation to a person providing storage facilities for others.

3. The term “permanent establishment” also encompasses:

    a. a building site, a construction, assembly or installation project or supervisory or advisory activities in connection therewith, but only if such site, project or activities continue for a period more than 6 months;

    b. the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only if activities of that nature continue within a Contracting State for a period or periods aggregating more than 6 months in any 12-month period.

4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:

    a. the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;

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

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

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

e. the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity;

f. the maintenance of a fixed place of business solely for any combination of activities mentioned in Subparagraphs a to e,

provided that such activity or, in the case of Subparagraph f, the overall activity of the fixed place of business, is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of Paragraphs 1 and 2, but subject to the provisions of Paragraph 8, when a person is acting in a Contracting State on behalf of an enterprise of another contracting State and, in doing so, habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely conclude without material modification by the enterprise and these contracts are:

    a. in the name of the enterprise, or
    b. for the transfer of the ownership of, or for the granting of the right to use, property owned by that enterprise or that the enterprise has the right to use, or
    c. for the provision of services by that enterprise,

that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment, according to the definition of permanent establishment contained in this Agreement.

6. Similarly, when a person referred to Paragraph 6, although does not have the authority to conclude the above-mentioned contracts, habitually maintains in the first-mentioned State a stock of goods or merchandise from which such person regularly delivers goods or merchandise on behalf of the enterprise, that person shall be deemed to be a permanent establishment in that Contracting State, for all the activities exercised on behalf of that enterprise.

7. The provisions of Paragraphs 6 and 7 shall not apply where the person acting in a Contracting State on behalf of an enterprise of the other Contracting State carries on business in the first mentioned State as an independent agent and acts for the enterprise in the ordinary course of that business. Where however, a person acts exclusively or almost exclusively on behalf of one or more enterprises to which it is closely related, that person shall not be considered to be an independent agent within the meaning of this Paragraph with respect to any such enterprise.

8. For the purposes of this Article, a person or enterprise is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, a person or enterprise shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person or enterprise possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise or in the two enterprises.

9. 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 Contracting State or insures risks situated therein through a person, other than an agent of an independent status to whom Paragraph 8 applies.

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

ARTICLE 6: INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State, may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources ; ships and aircraft shall not be regarded as immovable property.

3. The provisions of Paragraph 1 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 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 :

a. that permanent establishment; or

b. sales, in that other State of goods or merchandise of same or similar kind as those sold through that permanent establishment; or

c. Other business activities carries on in that other State of the same or similar kind as those effected through that permanent establishment.

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

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management or, except in the case of a banking enterprise, by way of interest on 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 interest on moneys lent to the head office of the enterprise or any of its other offices.

4. In so far 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.

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

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 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 8: INTERNATIONAL SHIPPING AND AIR TRANSPORT

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

1. 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;

c. Income from selling of technical engineering to a third party;

d. Income deriving from deposits at the Bank, bonds, Shares stocks and other debentures,

provided that such income should be incidental to the operation of airlines.

2. For purposes of this Article, profits from the operation of ships or aircraft include, but are not limited to:

a. profits from the rental of ships or aircraft on a full (time or voyage) basis; and

b. profits from the rental on a bareboat basis of ships or aircraft.

3. Profits of an enterprise of a Contracting State from the use, maintenance, or rental of containers (including trailers, barges, and related equipment for the transport of containers) shall be taxable only in that Contracting State, except to the extent that those containers are used for transport solely between places within the other Contracting State.

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

ARTICLE 9: ASSOCIATED ENTERPRISES

1. Where:

a. an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

b. the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

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

ARTICLE 10: DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

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

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of such limit. 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 subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of Paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 15, 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: INTERESTS

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 interests 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 interests is a resident of the other Contracting State, the tax so charged shall not exceed10 per cent of the gross amount of the interests.

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. Penalty charges for late payment shall not be regarded as interest for the purposes 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 therein, or performs in the other State independent personal services from a fixed base situated therein, and the debt- claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base:

a. to the permanent establishment or to the fixed base concerned, or

b. to the business operations covered at the Subparagraph c of Paragraph 1 of Article 7.

In such case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

5. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision or a local authority thereof, or a resident of that 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 or fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest 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 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.

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 beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3. The term “royalties” as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films and films, tapes or discs for radio or television broadcasting), any patent, trademark, 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 therein, or performs in the 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 to:

a. the permanent establishment or the fixed base concerned, or

b. business operations referred at Subparagraph c of Paragraph 1 of Article 7.

In such case, the provisions of Article 7 or Article 15, 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 subdivision or a local authority thereof, 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 Agreement.

ARTICLE 13: FEES FOR TECHNICAL SERVICES

1. Fees for technical services arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, notwithstanding the provisions of Article 15 and subject to the provisions of Articles 8, 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 according 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 10 percent 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 shall not apply if the beneficial owner of 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 in that other State, or performs in the other Contracting State independent personal services from a fixed base situated in that other State, and the fees for technical services are effectively connected with:

    a. such permanent establishment or fixed base, or
    b. business activities referred to in Subparagraph c of Paragraph 1 of Article 7.

In such cases the provisions of Article 7 or Article 15, as the case may be, 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 or a fixed base in connection with which the obligation to pay the fees was incurred, and such fees are borne by the permanent establishment or fixed base.

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 through a permanent establishment situated in that other State or performs independent personal services through a fixed base situated in that other State and such fees are borne by that permanent establishment or fixed base.

7. Where, by reason of a special relationship between the payer and the beneficial owner of the fees for technical services or between both of them and some other person, the amount of the fees, having regard to the services 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 fees 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 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent

establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. Gains 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 percent of their value directly or indirectly from immovable property, as defined in Article 6 situated in that other State.

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

ARTICLE 15: 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. However, such income may also be taxed in the other Contracting State in the following circumstances:

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

b. if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the taxable 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 16: DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 17, 19, 20, 21 and 22, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of Paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if :

a. the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned, and

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

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

3. Notwithstanding the preceding provisions of this Article, remuneration derived by a resident of a Contracting State in respect of an employment, as a member of the regular complement of a ship or aircraft, that is exercised aboard a ship or aircraft operated in international traffic, other than aboard a ship or aircraft operated solely within the other Contracting State, shall be taxable only in the first-mentioned State.

ARTICLE 17: DIRECTORS' FEES

1. Director's 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.

2. Salaries, wages and other similar remuneration derived by a resident of a Contracting State in his capacity as an official in a top-level managerial position of a company which is a resident of the other Contracting State may be taxed in that other State.

ARTICLE 18: ENTERTAINERS AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 7, 15 and 16, 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 acting as such accrues not to the entertainer or sportsperson but to another person, that income may, notwithstanding the provisions of Articles 7, 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

3. Notwithstanding the provisions of Paragraphs 1 and 2, income derived by a resident of a Contracting State from activities exercised in the other Contracting State as envisaged in Paragraph 1, shall be exempted from tax in the other State in which the activities are exercised, if such activities takes place under a cultural or sportive agreement or arrangement between the Governments of the Contracting States or are wholly or substantially supported by funds of either Contracting State and are exercised on a non-lucrative basis.

ARTICLE 19: PENSIONS, ANNUITIES AND SOCIAL PAYMENTS

1. Subject to the provisions of Paragraph 2 of Article 20, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment may be taxed in that State.

2. However, such pensions and other similar remuneration may also be taxed in the other Contracting State, if the payment is made by a resident of that other State or a permanent establishment situated therein.

3. Pensions, annuities and other periodic or occasional payment carried out by a Contracting State or a political subdivision, a local or territorial authority thereof to cover the accidents at work of their employees, may be taxed only in that State.

4. Notwithstanding the provisions of Paragraphs 1 and 2, pensions paid and other payments made under a public scheme which is part of the social security system of a Contracting State or a political subdivision, a local or regional authority thereof shall be taxable only in that State.

ARTICLE 20: GOVERNMENT SERVICE

1. a. Salaries, wages and other similar remuneration other than pensions, 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 that political subdivision or authority shall be taxable only in that State.

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

(i) is a national of that State; or

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

2. a. Notwithstanding the provisions of Paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

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

3. The provisions of Articles 16, 17, 18, and 19 shall apply to salaries, wages, pensions and other similar remuneration 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: STUDENTS, TRAINEES, AND APPRENTICES

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

2. Concerning grants and remuneration of a paid employment to which Paragraph 1 does not apply, a student, trainee or apprentice as envisaged in Paragraph 1 should be furthermore, during his studies or training, entitled to the benefit of the same exemptions, reliefs or reductions of taxes that apply to residents of the State he is visiting.

ARTICLE 22: TEACHERS AND RESEARCHERS

1. Any individual who visits a Contracting State at the invitation of the Government of the former Contracting State or a university, a high school or any other non-lucrative cultural institute thereof, or in the framework of a cultural exchange program, for a period not exceeding two years, only in a

teaching, lecture or research purpose, and who is or was immediately prior to visit that State, a resident of the other Contracting State shall be exempt from taxes in the first-mentioned State on the remuneration he receives for these activities, provided that remuneration comes from sources outside that Contracting State.

2. The provisions of Paragraph 1 of this Article shall not apply where incomes arise from research activities not be carried out in general interest, but mainly for private interest.

ARTICLE 23: OTHER INCOME

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

2. The provisions of Paragraph 1 shall not apply to income, other than income from immovable property as defined in Paragraph 2 of Article 6, derived by a resident of a Contracting State, if the recipient of such income carries on business in the other Contracting State through a permanent establishment situated therein, or performs in the 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 15, as the case may be, shall apply.

3. Notwithstanding the provisions of Paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the forgoing Articles of this Agreement and arising in the other Contracting State may also be taxed in that other State.

ARTICLE 24: ELIMINATION OF DOUBLE TAXATION

1. Double Taxation shall be eliminated in the Contracting States as follows:

a. Where a resident of a Contracting State derives income which, in accordance with the provisions of this Agreement, may be taxed in the other Contracting State, the first-mentioned State shall allow;

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

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

Such deduction in either case shall not exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital, which may be taxed in that other State.

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

ARTICLE 25: 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. Stateless persons who are residents of a Contracting State shall not be subjected in either 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 the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected.

3. 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, relief and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

4. Except where the provisions of Paragraph 1 of Article 9, Paragraph 6 of Article 11 or Paragraph 6 of Article 12 or Paragraph 7 of Article 13 apply and under reserve of Paragraph 6 of this article, interest, royalties, fees for technical services and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

5. 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 requirements 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.

6. In no case shall the provisions of this Article be construed so as to prevent a Contracting State from:

a. applying the provisions of its domestic law relative to undercapitalization and to transfer prices;

b. imposing to enterprises that carry out some international intra-group transactions, reporting requirements belonging to the nature of the operations they carry out.

7. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

ARTICLE 26: 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 Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of either Contracting State. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the 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 the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

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

4. The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, 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 or local authorities, insofar 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, or 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;

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's are 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: MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

ARTICLE 29: ENTITLEMENT TO BENEFITS

1. 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.

2. Where the competent authority of the Contracting State denied to a person a benefit under this Agreement in application of Paragraph 1, the competent authority shall nevertheless treat that person as being entitled to this benefit, or to different benefits with respect to a specific item of income, if such competent authority, upon request from that person and after consideration of the relevant facts and circumstances, determines that such

benefits would have been granted to that person in the absence of that transaction or arrangement referred to in Paragraph 1.

ARTICLE 30: INCOME OF GOVERNMENT AND INSTITUTIONS

The provision of Articles 10 (dividends), 11 (interest), 13 (fees for technical fess) and 14 (capital gains) of this Agreement shall not apply if the beneficial owner of the income is the government itself, political subdivisions, local governments or its financial institutions and pension funds, which shall be exchanged from time to time by the competent authorities of the Contracting States through diplomatic channels.

ARTICLE 31: MISCELLANEOUS RULES

The provisions of this Agreement shall not be construed to restrict in any manner, any exclusion, exemption, deduction, credit, or other allowance now or hereafter accorded:

a. by the laws of a Contracting State in the determination of the tax imposed by that Contracting State;

b. by any other special arrangement on taxation between the Contracting States or between one of the Contracting States and residents of the other Contracting State.

ARTICLE 32: INCOME FROM HYDROCARBONS

Notwithstanding the provisions of Article 7 of this Agreement and any other provision of this Agreement nothing shall affect the right of either one 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 its associated activities situated in the territory of the respective Contracting State, as the case may be.

ARTICLE 33: ENTRY INTO FORCE

1. The Agreement shall be ratified or approved by The Contracting States and they shall notify each other in writing, through diplomatic channels, of the

completion of the procedures required by their laws for the bringing into force of this Agreement. The Agreement shall enter into force on the date of the later of these notifications.

2. The provisions of this Agreement shall have effect:

   a. with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January of the calendar year immediately following the year in which the Agreement enters into force; and

   b. with regard to other taxes, in respect of taxable years beginning on or after the first day of January of the calendar year immediately following the year in which the Agreement enters into force.

ARTICLE 34: TERMINATION

1. This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving written notice of termination at least 6 months before the end of any calendar year following the expiration of a period of 5 years from the date of its entry into force.

2. This Agreement shall cease to have effect:

   a. with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January of the calendar year immediately following the year in which the notice of termination is given; and

   b. with regard to other taxes, in respect of taxable years or periods beginning on or after the first day of January of the calendar year immediately following the year in which the notice of termination is given.