AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED ARAB EMIRATES AND THE GOVERNMENT OF MALAYSIA 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 Malaysia desiring to promote and strengthen economic relation by concluding an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:-

Article 1
PERSONAL SCOPE

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

Article 2
TAXES COVERED

1. This Agreement shall apply to taxes on income imposed by a Contracting State, irrespective of the manner in which they are levied.

2. The taxes which are the subject of this Agreement are:
(a) in Malaysia:

i) the income tax;
ii) the development tax; and
iii) the petroleum income tax,
(hereinafter referred to as "Malaysian tax");

(b) In the case of the United Arab Emirates :-

i) the income tax; and

ii) the corporation tax,

(hereinafter referred to as "U.A.E tax").

3. This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes referred to in paragraph 2. The competent authorities of the Contracting States shall notify each other of any substantial changes which are made in their respective taxation laws within a reasonable period of time after such changes.

Article 3
GENERAL DEFINITIONS

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

(a) the term a "Contracting State and "the other Contracting State" mean, as the context requires, Malaysia or United Arab Emirates.

(b) the term "Malaysia" means the territories of the Federation of Malaysia, the territorial waters of Malaysia and the sea-bed and subsoil of the territorial waters, and includes any area extending beyond the limits of the territorial waters of Malaysia, and sea-bed and subsoil of any such area, which has been or may hereafter be designated under the laws of Malaysia and in accordance with international law as an area over which Malaysia has sovereign rights for the purposes of exploring and exploiting the natural resources, whether living or non-living;

(c) the term "United Arab Emirates", means the United Arab Emirates and used, in geographical sense to the area in which the territory under its sovereignity as well as territorial sea, airspace and submarine areas over which the United Arab Emirates exercise in conformity with international law sovereign right including mainlands and islands under its jurisdication

(d) the term "person" includes an individual, a company, and any other body of persons which is treated as a person for tax purposes;

(e) the term "tax" means U.A.E tax or Malaysian tax as the context requires;

(f) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" means 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 "national" means:-

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

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

(i) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(j) the term "competent authority" means:

i) in the case of Malaysia, the Minister of Finance or his authorised representative;

ii) in case of United Arab Emirates the Minister of Finance and Industry or his authorised representative.

2. In the application of this Agreement by either of the Contracting States, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of that State concerning the taxes to which the Agreement applies.

Article 4
RESIDENT

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

   (a) in the case of Malaysia, a person who is resident in Malaysia for the purposes of Malaysian tax; and
   (b) in the case of the United Arab Emirates, a person who is resident in the United Arab Emirates for the purpose of U.A.E. tax.

2. For the purpose of paragraph 1 above the term "resident" shall include:
   (a) in the case of the United Arab Emirates :
      i) the Government of the United Arab Emirates, local Government or any political subdivision or local authority thereof;
      ii) any Governmental institution created by public law such as the Central Bank, Abu Dhabi Investment Authority, Fund, Corporation, Authority, Foundation, Agency or any other similar entity established in the United Arab Emirates; and
      iii) any inter-governmental entity established in the United Arab Emirates which is funded solely by the United Arab Emirates or jointly with other States.
   (b) in the case of Malaysia:
      i) the Government of Malaysia or the Governments of the States or local authorities thereof;

ii) any governmental institutions created by public law such as the Central Bank, Fund, Corporation, Authority, Foundation, Agency or any other similar institution established in Malaysia; and

iii) any other inter-governmental entity established in Malaysia which is funded solely by Malaysia or jointly with other States.

3. Where, by reason of the provisions of paragraph 1, an individual is deemed to be a resident of both Contracting States, then his status shall be determined as follows:-

(a) he shall be deemed to be a resident of the State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);

(b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he does not have a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;

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

(d) if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

5. Where, by reason of the provisions of paragraph 1, a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

Article 5
PERMANENT ESTABLISHMENT

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

2. The term "permanent establishment" shall include 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 of natural resources including timber or other forest produce;
   (g) a farm or plantation; and
   (h) a building site or construction, installation or assembly project which exists for more than nine months.

3. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on supervisory activities in that other State for more than nine months in connection with a construction, installation or assembly project which is being undertaken in that other State.

4. Notwithstanding the provisions of paragraphs 1, 2 and 3 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 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 for collecting information, for the enterprise; and

(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.

5. Notwithstanding the provision of paragraphs 1 and 2 a person acting in a Contracting State on behalf of an enterprise of the other Contracting State, other than an agent of an independent status to whom paragraph 6 applies, shall be deemed to be a permanent establishment in the first-mentioned State if:

(a) he has in the first-mentioned State a general authority to negotiate and conclude contracts for or on behalf of such enterprise; or

(b) he maintains in the first-mentioned State a stock of goods or merchandise from which he regularly sells goods or merchandise for or on behalf of such enterprise; or

(c) he secures orders in the first-mentioned State, exclusively or almost exclusively for the enterprise itself or for that enterprise and other enterprises which are controlled by that enterprise or in which that enterprise has a controlling interest.

6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where 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, he shall not be considered an agent of an independent status if the transactions between the agent and the enterprise were not made under arm's length conditions.

7. The fact that a company which is 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 situated in the other Contracting State may be taxed in that other Contracting State.

2. The term "immovable property" shall have the meaning which it has under the 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 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, oil or gas wells, quarries and other places of extracting of natural resources including timber or other forest produce. Ships, boats, 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 paragraph 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 personal services.

Article 7
BUSINESS PROFITS

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

2. Subject to the provisions of paragraph 3, 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

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes 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.
4. 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 this paragraph shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary, the methods of apportionment adopted shall however be such that the result shall be in accordance with the principles contained in this Article .
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by the permanent establishment of goods or merchandise for the enterprise .
6. For the purpose 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 a 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
SHIPPING AND AIR TRANSPORT

1. Income and profits derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

2. The provision of paragraph 1 shall also apply to the share of income and profits from the operation of ships or aircraft derived by a resident of a Contracting State through participation in a pool, a joint business or an international operating agency.

3. In this Article

(a) the term "profits" includes :
interest derived from the deposits with any bank of any income or profit derived from the operation of ships or aircraft between the Contracting State.

(b) the term "operation of ships or aircraft" in international traffic by a person, includes
i) the charter or rental of ships or aircraft,
ii) the rental of containers and related equipment, and
iii) the alienation of ships, aircraft, containers and related equipment,

by that person provided that such charter, rental or alienation is incidental to the operation by that person of ships or aircraft in international traffic.

Article 9
ASSOCIATED ENTERPRISES

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.

Article 10
DIVIDENDS

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

2. Dividends paid by a company which is a resident of United Arab Emirates to a resident of Malaysia may be taxed in United Arab Emirates in accordance with the laws of United Arab Emirates but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 10% per cent of the gross amount of the dividends.

3. Dividends paid by a company which is a resident of Malaysia to a resident of the United Arab Emirates who is the beneficial owner thereof shall be exempt from any tax in Malaysia which is chargeable on dividends in addition to the tax chargeable in respect of the income of the company. Nothing in this paragraph shall affect the provisions of the Malaysian law under which the tax in respect of a dividend paid by a company which is a resident of Malaysia from which Malaysian tax has been, or has been deemed to be,

deducted may be adjusted by reference to the rate of tax appropriate to the Malaysian year of assessment immediately following that in which the dividend was paid.

4. The term "dividends" as used in this Article means income from 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.

5. The provisions of paragraphs 1, 2 and 3 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, 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 7 shall apply.

6. 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, 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
INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State.

2. However, such interest may be taxed in the Contracting State in which it arises and according to the law of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 5% (five percent) of the gross amount of the interest .

3. Notwithstanding the provisions of paragraphs 1 and 2, the Government of a Contracting State shall be exempt from tax in the other Contracting State in respect of interest derived by the Government from that other State.

4. For the purpose of paragraph 3 the term "Government":

(a) in case of United Arab Emirates means the Government of United Arab Emirates and shall include :

i) the local governments;
ii) the local authorities;
iii) the statutory bodies;
iv) the United Arab Emirates Central Bank; and
v) such institutions, the capital of which is wholly owned by the government of United Arab Emirates or the local governments or the local authorities or the statutory bodies thereof, as may be agreed upon from time to time between the competent authorities of the Contracting States

(b) in the case of Malaysia means the Government of Malaysia and shall include :

i) the Governments of the States;
ii) the local authorities;
iii) the statutory bodies;
iv) the Bank Negara Malaysia; and

v) such institutions, the capital of which is wholly owned by the Governments of Malaysia, or the Governments of the States or the local authorities or the statutory bodies thereof, as may be agreed upon from time to time between the competent authorities of the Contracting States.

5. 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 the premium and prizes attaching to such securities, bonds or debentures.

6. The provisions of paragraphs 1, 2 and 3 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, and the debt - claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.

7. Interest shall be deemed to arise in a Contracting State when the payer is the Government of that State, a political subdivision, a local authority or statutory body, or a resident of that State. Where, however, the person paying the interest, whether he is 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 State in which the permanent establishment is situated.

8. 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 given to the other provisions of this Agreement.

Article 12
GOVERNMENT INCOME

The Government of one of the Contracting States shall be exempt from tax in the other Contracting State in respect of any income derived from the other Contracting State.

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 recipient is the beneficial owner of the royalties then the tax so charged shall not exceed 10% of the gross amount of such royalties.

3. In this Article the term "royalties" means payments of any kind received as consideration for:-

(a) the use of, or the right to use, any patent, trade mark, design or model, plan or secret formula or process or any copy right of scientific work, or for the use of, or the right to use industrial, commercial or scientific equipment or for information concerning industrial, commercial or scientific experience;

(b) the use of, or the right to use, cinematograph films, or tapes for radio or television broadcasting, any copy right of literary or artistic work, but the term royalties does not include payment in respect of the operation of mines or quarries or exploitation of natural resources.

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 located therein, and the right of property in respect of which the royalties are paid is directly connected with such permanent establishment. In such case, the provisions of Article 7 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself,a political subdivision,or 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 in connection with which the liability to pay the royalties was incurred, 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 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 given to the other provisions of this Agreement.

Article 14
GAINS FROM THE ALIENATION OF PROPERTY

1. Gains derived by a resident of a Contracting State from the alienation of immovable property, as defined in paragraph 2 of Article 6,and situated in the other Contracting State may be taxed in the Contracting State in which such property is situated.
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 available to a resident of a Contracting State in the other Contracting State for the purpose of performing personal services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic and movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State of which the enterprise is a resident.
4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contacting State of which the alienator is a resident .

Article 15
PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21 remuneration derived by an individual who is a resident of one of the States in respect of personal services, including professional services shall be taxable only in that State unless the services are performed in the other State. If the services are so performed, such remuneration as is derived in respect thereof may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by an individual who is a resident of one of the States in respect of personal services, including professional services performed in the other State shall be taxable only in the first mentioned State if:

   (a) the recipient is present in that other State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned, and
   (b) the remuneration is paid by, or on behalf of, a person who is not a resident of that other State, and
   (c) the remuneration is not borne by a permanent establishment which the individual or his employer, as the case may be, has in that other State.

3. The term " professional services" includes independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

4. Notwithstanding the preceeding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of one of the States may be taxed in that State.

Article 16
DIRECTORS' FEES

Directors' fees or other similar payments derived by a resident of one of the States in his capacity as a member of the board of directors of a company which is a resident of the other State may be taxed in that other State.

Article 17
ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 15 and 16, income derived by a resident of a Contracting State as a public entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State in which these activities are performed .

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, and 15 be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised .

3. The provisions of paragraphs 1 and 2 shall not apply to remuneration or profits derived from activities exercised in a Contracting State if the visit to that State is directly or indirectly supported wholly or substantially from the public funds of the other Contracting State, a political subdivision, a local authority or a statutory body thereof.

Article 18
PENSIONS AND ANNUITIES

1. Subject to the provision of paragraph 2 of Article 19 pensions, annuities and other similar remuneration paid to the resident of a Contracting State in consideration of past employment shall be taxable only in that State.

2. The term, "pensions, annuities and other similar remuneration" as used in this article means periodic payments made after retirement in consideration of past employment or by way of the compensation for injuries received in connection with past employment.

Article 19
GOVERNMENT SERVICE

1. Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority, or local government or statutory body thereof to any individual in respect of services of public nature rendered to that State, political subdivision, local authority, local government or a statutory body shall be taxable only in that State. However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State, if the individual is a resident of that State or a national of that State and not a national of the first mentioned State.

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

3. The provisions of Articles 15, 16, and 18 shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by one of the Contracting States, a political subdivision, a local authority, a local government or a statutory body thereof.

4. The provisions of paragraph 1 shall likewise apply in respect of remuneration paid under a development assistance programme of a Contracting State, a political subdivision, a local authority, or a local government or a statutory body thereof out of funds exclusively supplied by that State or its political subdivisions, a local authority, a local government or a statutory body to a specialist or volunteer seconded to the other State with the consent of that other State.

ARTICLE 20
STUDENTS AND TRAINEES

1. A student or business apprentice who, immediately before visiting a Contracting State is or was a resident of the other Contracting State and who is present in the first mentioned Contracting State for the purpose of his education or training shall be exempt from tax in that first - mentioned Contracting State on :

   (a) payments made to him by persons residing outside that first - mentioned Contracting State for the purpose of his maintainance, education or training; and

   (b) remuneration from employment in that first - mentioned Contracting State, provided that such employment being a full time employment, lasts not more than 183 days in a calendar year.

2. An individual who, immediately before visiting a Contracting State is or was resident of the other Contracting State and who is temporarily present in the first - mentioned State primarily for the purpose of study, research or training as a recipient of a grant, allowance or award from a scientific, educational, religious or charitable organisation or under a technical assistance programme entered into by the Government of a Contracting State shall, from the date of his arrival in the first - mentioned State in connection with that visit, be exempt from tax in the State, for a period not exceeding the period of the grant.

Article 21
PROFESSORS, TEACHERS AND RESEARCHERS

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

Article 22
OTHER INCOME

Items of income of a resident of a Contracting State, wherever arising, which are not expressly dealt with in the foregoing Articles of this Agreement may be taxed in the State where the income arises.

Article 23
ELIMINATION OF DOUBLE TAXATION

Double taxation shall be eliminated as follows:

1. Subject to the laws of the United Arab Emirates where a resident of the United Arab Emirates derives income which in accordance with the provisions of this Agreement may be taxed in the Malaysia, the United Arab Emirates shall allow as a deduction from the tax on income of that person an amount equal to the tax on income paid in Malaysia before the deduction is given, which is attributable to the income which may be taxed in the United Arab Emirates.

2. Subject to the laws of Malaysia regarding the allowance as a credit against Malaysian tax in any country other than Malaysia, U.A.E. tax payable under the laws of the United Arab Emirates and in accordance with this Agreement by a resident of Malaysia in respect of income derived from the United Arab Emirates shall be allowed as a credit against Malaysian tax payable in respect of that income. Where such income is a dividend paid by a company which is a resident of United Arab Emirates to a company which is a resident of Malaysia and which owns not less than 15% of the voting shares of the company paying the dividends, the credit shall take into account

U.A.E. tax payable by that company in respect of its income out of which the dividend is paid. The credit shall not, however, exceed that part of the Malaysian tax, as computed before the credit is given, which is appropriate to such item of income.

3. For the purposes of paragraph 1, taxes which have been relieved or reduced in Malaysia by virtue of special incentive laws for the promotion of the economic development od Malaysia or any other provisions which may subsequently be introduced in Malaysia in modification of, or in addition to, those laws or by virtue of the provisions of this Agreement shall be deemed to have been paid and shall wherever applicable be allowed as a credit in the United Arab Emirates in an amount equal to the tax which would have been paid if no such relief or reduction had been made.

Article 24
NON - DISCRIMINATION

1. The 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 that which the nationals of the other State in same circumstances are or may be subjected .
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 other State carrying on the same activities.
3. Nothing in this Article shall be construed as obliging a Contracting State to grant to nationals of the other Contracting State not resident in the first mentioned State those personal alowances, reliefs, rebates and reductions for taxation purposes which are by law

available only to nationals of the first-mentioned State or to such other persons as may be specified in such law who are not resident in that first-mentioned State.

4. 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 not resident in the first mentioned state, shall not be subject in the first - mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than that to which other similar enterprises of that first-mentioned State are subjected .

5. In this article the term "taxation" means taxes of every kind and description which are the subject of this Agreement .

Article 25
MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State 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, without prejudice to the remedies provided by the taxation laws of those States, address to the competent authority of the Contracting State of which he is a resident an application in writing stating the grounds for claiming the revision of such taxation. To be admissible, the said application must be submitted within three years from the first notification of the action resulting in taxation not in accordance with this Agreement.

2. The competent authority of the Contracting State shall endeavour, if the objection appears to it to be justified and if it is not by itself able to arrive at an appropriate 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 not in accordance with this Agreement .

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of 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 States may, when necessary , communicate with each other directly for the purpose of applying this Agreement and reaching an agreement in the sense of the preceding paragraphs.

Article 26
EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out the provisions of this Agreement. Any information so exchanged by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by this Agreement. Such persons or authorities shall use the information only for such purposes.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States the obligations:

(a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;

(b) to supply information which are 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 industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy or public order .

Article 27
DIPLOMATIC AND CONSULAR OFFICIALS

The provision of this Agreement shall not affect the fiscal privileges of members of diplomatic or consular missions under the general rules of international law or under the provisions of special agreements.

Article 28
ENTRY INTO FORCE

1. The Governments of the Contracting States shall notify to each other that the domestic laws requirements for the entry into force of this Agreement have been complied with.

2. The Agreement shall enter into force thirty days after the date of the notifications referred to in paragraph 1 of this Article and its provisions shall have effect:

(a) in respect of tax withheld or deducted at source on income paid to non-resident, on or after 1st day of January in the calendar year following that in which the Agreement enters into force;

(b) in all other cases in respect of tax for the taxation year or year of assessment beginning on the 1st day of January in the second calendar year immediately following that in which the Agreement enters into force.

Article 29
TERMINATION

This agreement shall continue in effect unless either of the Contracting State delivers a written notification through diplomatic channel of its desire to terminate this Agreement; such a written notification may be given on or before the 30th of June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force. In such event this Agreement shall cease to have effect:

(a) in respect of tax withheld or deducted at source on income paid to non-residents, on or after the 1st day of January in the calendar year immediately following that in which the notice of termination is given;

(b) in all other cases, in respect of tax for the taxation year or year of assessment begining on the 1st day of January of the second calendar year immediately following that in which the notice of termination is given.

IN WITNESS whereof the undersigned, duly authorised thereto, by their respective Governments, have signed this Agreement.

DONE at Kuala Lumpur this Tuesday 28 November 1995 corresponding to HG 5/7/1416 in duplicate each in the Arabic language, Bahasa Malaysia and the English language, the three texts being equally authoritative. In case there is any divergence of interpretation of the provisions of this Agreement the English text shall prevail.





4. In connection with Article 12, which is in respect of "Government Income", the word "Government" means the Federal Government, the local Government and the State Government of the Contracting State.

5. Without prejudice to the provisions of this Agreement, and in accordance with the provisions of the internal laws of a Contracting State, the competent authority of that Contracting State may consider with sympathy any request of a resident of the other Contracting State regarding tax relief or exemption in respect of income derived from investment made in the first mentioned Contracting State.

DONE at Kuala Lumpur this Tuesday 28 November 1995 corresponding to HG 5/7/1416 in duplicate each in the Arabic language, Bahasa Malaysia and the English language, the three texts being equally authoritative. In case there is any divergence of interpretation of the provisions of this Agreement the English text shall prevail.

[redacted]



PROTOCOL

At the signing today of the Agreement between the Government of the United Arab Emirates and the Government of Malaysia for the Avoidance of Double Taxation and the Prevention of of Fiscal Evasion with respect to taxes on income, the undersigned have agreed upon the following provisions which shall form an integral part of this Agreement :

1. It is agreed that nothing in this Agreement shall affect the rights of both contracting States, their plitical subdivisions, their local Governments or local authorities to apply its own laws relating to concessions over petroleum, its related activities and natural resouces.

2. In connection with Article 8, which is in respect of "Shipping and Air Transport", it is agreed that paragraph 1 thereto shall also apply to the income or profits derived from Malaysia by the Goulf Air Company. However, paragraph 1 shall only apply to such part of the income or profits as corresponds to the share of United Arab Emirates in the Gulf Air Company.

3- In connection with Article 10 in respect of "Dividend", its agreed that section 111 of the Income Tax Act, 1967 which provides for refund of tax in the event of any over-payment which has been