Signed on:8 May 2007

CONVENTION BETWEEN THE UNITED ARAB EMIRATES AND THE KINGDOM OF THE NETHERLANDS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

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The Government of the United Arab Emirates,

and

the Government of the Kingdom of the Netherlands,

Desiring that a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income be concluded by both States,

Have agreed as follows:

CHAPTER I
SCOPE OF THE CONVENTION

Article 1
Persons Covered

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

Article 2
Taxes Covered

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

2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

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

   (hereinafter referred to as "Netherlands tax");

b. in the United Arab Emirates:
   - the income tax,
   - the corporation tax,

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(hereinafter referred to as "United Arab Emirates tax").

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

CHAPTER II
DEFINITIONS

Article 3
General Definitions

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

a. the terms "a Contracting State" and "the other Contracting State" mean the Kingdom of the Netherlands (the Netherlands) or the United Arab Emirates, as the context requires;

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

c. The term "the United Arab Emirates" means the United Arab Emirates and when used in a geographical sense, means the area in respect of which the United Arab Emirates has sovereignty, including its territorial sea, as well as those areas within which the United Arab Emirates, in accordance with international law, exercises jurisdiction or sovereign rights.

d. the term "person" includes an individual, a company and any other body of persons;

e. the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;

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f. the term “enterprise” applies to the carrying on of any business;

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

i. the term "national" means:

(i) in the case of the Netherlands:
any individual possessing the nationality of the Netherlands and any legal person, partnership or association deriving its status as such from the laws in force in the Netherlands;

(ii) in the case of the United Arab Emirates:
any individual possessing the nationality of the United Arab Emirates and any legal person, partnership and other body corporate deriving its status as such from United Arab Emirates law;

j. the term "competent authority" means:

(i) in the Netherlands: the Minister of Finance or his authorised representative;

(ii) in United Arab Emirates: the Minister of Finance and Industry or his authorised representative;

k. the term “business” includes the performance of professional services and of other activities of an independent character.

2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

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Article 4

Resident

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

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

b. in the case of the United Arab Emirates: an individual who is a national of the United Arab Emirates, provided that the individual has a substantial presence, permanent home or habitual abode in the United Arab Emirates and that individual's personal and economic relations are closer to the United Arab Emirates than to any other State and a company that has its place of effective management in the United Arab Emirates.

2. The term "resident of a Contracting State" also includes:

a. that State, any political subdivision, local authority thereof;

b. a pension fund that is recognised and controlled according to the statutory provisions of a Contracting State and the income of which is generally exempt from tax in that State;

c. a government institution of a Contracting State. Any institution shall be deemed to be a government institution which has been created, wholly owned and controlled by the government of one of the Contracting States or of its political subdivisions, for the fulfilment of public functions and which is recognized as such by mutual agreement of the competent authorities of the Contracting States.

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

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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 of this Article a person other than an individual is a resident of both Contracting States, then the competent authorities of the Contracting States shall endeavour to determine by mutual agreement the State of which the person shall be deemed to be a resident, having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors.
If the competent authorities are unable to determine the matter by mutual agreement, they shall endeavour to determine by mutual agreement the mode of application of the Convention to that person.

Article 5

Permanent Establishment

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

2. The term "permanent establishment" includes especially:

a. a place of management;

b. a branch;

c. an office;

d. a factory;

e. a workshop, and

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f. a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.

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

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

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

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

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

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

f. the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the 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 of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make

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this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

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

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CHAPTER III
TAXATION OF INCOME

Article 6

Income from Immovable Property

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

Article 7

Business Profits

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

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

3. In determining the profits of a permanent establishment, there shall be allowed as deductions 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 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 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 Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

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Article 8

Shipping and Air Transport

1. 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.

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

3. In this Article:

a. the term "profits" includes:
   (i) gross receipts and revenues derived directly from the operation of ships or aircraft in international traffic; and
   (ii) interest that is incidental to the operation of ships or aircraft in international traffic;

b. the term "operation of ships or aircraft in international traffic" by an enterprise, 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 enterprise provided that such charter, rental or alienation is incidental to the operation by that enterprise of ships or aircraft in international traffic.

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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 Convention and the competent authorities of the Contracting States shall if necessary consult each other.

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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:

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

b. 10 per cent of the gross amount of the dividends in all other cases.

3. Notwithstanding the provisions of paragraph 1 and 2 of this Article, dividends paid by a company which is a resident of a Contracting State shall be taxable only in the other Contracting State if the beneficial owner is that State itself, a political subdivision, local government, or the Central Bank thereof, a pension fund, the Abu Dhabi Investment Authority, Abu Dhabi Investment Council or any other institution created by the Government of, a political subdivision, local authority of that other State which is recognised as an integral part of that Government as shall be agreed by mutual agreement of the competent authorities of the Contracting States.

4. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of paragraphs 2 and 3.

5. The provisions of paragraphs 2 and 3 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

6. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other

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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.

7. 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.

8. 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 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.

9. No relief shall be available under this Article if it is the main purpose or one of the main purposes of any person concerned with an assignment of the dividends, or with the creation or assignment of the shares or other rights in respect of which the dividend is paid, or the establishment, acquisition or maintenance of the company that is the beneficial owner of the dividends and the conduct of its operations, to take advantage of this Article. In any case where a Contracting State intends to apply this paragraph, its competent authority shall in advance consult with the competent authority of the other Contracting State.

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Article 11

Interest

1. Interest arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.

2. 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 purpose of this Article.

3. The provisions of paragraph 1 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 case the provisions of Article 7 shall apply.

4. 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 Convention.

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Article 12

Royalties

1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.

2. 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, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 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 and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

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Article 13

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, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) may be taxed in that other State.

3. Gains derived by a resident of a Contracting State 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 that State.

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 Contracting State of which the alienator is a resident.

Article 14

Income from Employment

1. Subject to the provisions of Articles 15, 17, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that 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.

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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 which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised in relation only to a ship or aircraft operated in international traffic by a resident of a Contracting State shall be taxable only in that State. This paragraph shall not apply if the employee is a resident or a national of the other Contracting State.

Article 15

Directors' Fees

1. Directors' fees and other remuneration 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. Where a company is a resident of the Netherlands, the term “members of the board of directors” includes both a “bestuurder” and a “commissaris”. The terms “bestuurder” and “commissaris” mean respectively persons who are charged with the general management of the company and persons who are charged with the supervision thereof.

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Article 16

Entertainers and Sportspersons

1. Notwithstanding the provisions of Article 7 and 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

3. Paragraphs 1 and 2 shall not apply to income derived by a resident of a Contracting State from activities exercised in the other Contracting State if the visit to that other State is supported wholly or mainly by public funds of the first-mentioned State, a political subdivision or a local authority thereof, or takes place under a cultural agreement between the Governments of the Contracting States. In such case, the income shall be taxable only in the Contracting State of which the entertainer or sportsperson is a resident.

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Article 17

Pensions, Annuities and Social Security Payments

1. Subject to the provisions of paragraph 2 of Article 18 pensions and other similar remuneration, including annuities and any lump-sum payments, derived from a Contracting State and paid to a resident of the other Contracting State, may be taxed in the first-mentioned State.

2. Pensions paid and other payments made under the provisions of a social security system of a Contracting State to a resident of the other Contracting State, may be taxed in the first-mentioned State.

3. Whether and to what extent a pension or similar remuneration falls under this Article or under Article 18, is determined by the nature of the past employment or profession, as private or governmental, during which the entitlement to that part of the pension or similar remuneration was built up.

Article 18

Government Service

1. a. Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision, a local authority or thereof to an individual in respect of services rendered to that State or subdivision, authority may be taxed 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 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 any pension and other similar remuneration paid by, or out of funds created by, a Contracting State or a political subdivision, a local authority thereof to an individual

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in respect of services rendered to that State or subdivision, authority or government may be taxed 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 14, 15, 16 and 17 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 sub-division, a local authority thereof.

Article 19

Professors and Teachers

1. Payments which a professor or teacher who is a resident of a Contracting State and who is present in the other Contracting State for the purpose of teaching or scientific research for a maximum period of three years in a university, college or other establishment for teaching or scientific research in that other State, receives for such teaching or research, shall be taxable only in the first-mentioned State.

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

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Article 20

Students

Payments which a student or 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 of his education or 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.

Article 21

Other Income

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

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

CHAPTER IV
ELIMINATION OF DOUBLE TAXATION

Article 22

Elimination of Double Taxation

1. The Netherlands, when imposing tax on its residents, may include in the basis upon which such taxes are imposed the items of income which, according to the provisions of this Convention, may be taxed in the United Arab Emirates.

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2. However, where a resident of the Netherlands derives items of income which according to Article 6, Article 7, paragraph 7 of Article 10, paragraph 3 of Article 11, paragraph 3 of Article 12, paragraphs 1 and 2 of Article 13, paragraph 1 of Article 14, paragraphs 1 (subparagraph a) and 2 (subparagraph a) of Article 18, paragraph 2 of Article 21 of this Convention may be taxed in the United Arab Emirates and are included in the basis referred to in paragraph 1, the Netherlands shall exempt such items of income by allowing a reduction of its tax. This reduction shall be computed in conformity with the provisions of Netherlands law for the avoidance of double taxation. For that purpose the said items of income shall be deemed to be included in the amount of the items of income which are exempt from Netherlands tax under those provisions.

3. Further, the Netherlands shall allow a deduction from the Netherlands tax so computed for the items of income which according to paragraph 2 of Article 10, paragraph 1 of Article 15, paragraphs 1 and 2 of Article 16 and paragraphs 1 and 2 of Article 17 of this Convention may be taxed in the United Arab Emirates to the extent that these items are included in the basis referred to in paragraph 1. The amount of this deduction shall be equal to the tax paid in the United Arab Emirates on these items of income, but shall, in case the provisions of the Netherlands law for the avoidance of double taxation provides so, not exceed the amount of the reduction which would be allowed if the items of income so included were the sole items of income which are exempt from Netherlands tax under the provisions of Netherlands law for the avoidance of double taxation.

This paragraph shall not restrict allowance now or hereafter accorded by the provisions of the Netherlands law for the avoidance of double taxation, but only as far as the calculation of the amount of the reduction of Netherlands tax is concerned with respect to the aggregation of income from more than one country.

4. Notwithstanding the provisions of paragraph 2, the Netherlands shall allow a deduction from the Netherlands tax for the tax paid in the United Arab Emirates on items of income which according to Article 7, paragraph 7 of Article 10, paragraph 3 of Article 11, paragraph 3 of Article 12 and paragraph 2 of Article 21 of this Convention may be taxed in the United Arab Emirates to the extent that

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these items are included in the basis referred to in paragraph 1, if and insofar as the Netherlands under the provisions of Netherlands law for the avoidance of double taxation allows a deduction from the Netherlands tax of the tax levied in another country on such items of income. For the computation of this deduction the provisions of paragraph 3 of this Article shall apply accordingly.

5. In the case of the United Arab Emirates:

Where a resident of the United Arab Emirates derives income, profits or capital gains which in accordance with the provisions of this Convention may be taxed in the Netherlands, the United Arab Emirates shall allow as a deduction from tax on the income, profits or capital gains of that person an amount equal to the tax on income, profits or capital gains paid in the Netherlands. Such deduction shall not, however, exceed that part of the tax computed in the United Arab Emirates before the deduction is given, which is attributable to the income, profits or capital gains which may be taxed in the Netherlands.

CHAPTER V
SPECIAL PROVISIONS

Article 23
Non-Discrimination

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

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

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

3. Except where the provisions of paragraph 1 of Article 9, paragraph 4 of Article 11, or paragraph 4 of Article 12, apply, interest, royalties 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. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the 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, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

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

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Article 24

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. 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 endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

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

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5. If any difficulty or doubt arising as to the interpretation or application of the Convention cannot be resolved by the competent authorities of the Contracting States in a mutual agreement procedure pursuant to the previous paragraphs of this Article within a period of two years after the question was raised, the case may, at the request of either Contracting State, be submitted for arbitration, but only after fully exhausting the procedures available under paragraphs 1 to 4 of this Article and provided the taxpayer or taxpayers involved agree in writing to be bound by the decision of the joint committee which consist of representatives of the competent authorities of the Contracting States. Both Contracting States may be assisted by officials of other public institutions as circumstances may require. The decision of the joint committee in a particular case shall be binding on both Contracting States and the taxpayer or taxpayers involved with respect to that case.

Article 25

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 Convention 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 Convention. The exchange of information is not restricted by Articles 1 and 2, pursuant to the existing laws and regulations of the Contracting State.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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3. The Contracting States may release to the joint committee, established under the provisions of paragraph 5 of Article 24, such information as is necessary for carrying out the arbitration procedure. The members of the joint committee shall be subject to the limitations on disclosure described in paragraph 2 of this Article with respect to any information so released.

4. In no case shall the provisions of the previous paragraphs 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).

5. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 4 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.

6. In no case shall the provisions of paragraph 4 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.

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Article 26

Members of Diplomatic Missions and Consular Posts

Nothing in this Convention 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 27

Territorial Extension

1. This Convention may be extended, either in its entirety or with any necessary modifications, to either or both of the countries of the Netherlands Antilles and Aruba, if the country concerned imposes taxes substantially similar in character to those to which the Convention applies and if the United Arab Emirates agrees to such an extension upon mutual agreement. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed in notes to be exchanged through diplomatic channels.

2. Unless otherwise agreed the termination of the Convention shall not also terminate any extension of the Convention to any country to which it has been extended under this Article.

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CHAPTER VI
FINAL PROVISIONS

Article 28

Entry into Force

1. The Governments of the Contracting States shall notify each other, through diplomatic channels that the internal procedures required by each Contracting State for the entry into force of this Convention have been complied with.

2. The Convention shall enter into force on thirtieth day following the date of receipt of the latter of the notifications referred to in paragraph 1 and its provisions shall have effect:

a. regarding taxes periodically assessed, in respect of taxes on income for taxable years beginning on or after the first day of January in the calendar year next following the date on which the Convention enters into force;

b. regarding all other cases, the date on which the Convention enters into force.

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Article 29

Termination

This Convention shall remain in force for an infinitive period until terminated by one of the Contracting States. Either State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the expiration of a period of five years from the date of its entry into force. In such event the Convention shall cease to have effect for taxable years and periods beginning after the end of the calendar year in which the notice of termination has been given.

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PROTOCOL

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

I. General

1. The benefits of this Convention are not applicable to companies or other persons which are wholly or partly exempted from tax by a special regime under the laws of either one of the Contracting States. They are also not applicable to income from such companies or other persons derived by a resident of the other State, nor to shares, 'jouissance' rights or interests in such companies or other persons. The provisions of this paragraph are also applicable to any identical or substantially similar legislation in addition to or replacing such a special regime enacted after this Convention enters into force unless the competent authorities of the States decide otherwise by mutual agreement.

2. The provisions of paragraph 1 of this Article are also applicable in case a company or other person is treated under the administrative practice of that State in the same or similar way as a company or person as meant in that paragraph.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, the competent authorities of the States shall by mutual agreement decide which special regime is meant in the provisions of paragraph 1 of this Article.

II. Ad Article 2, paragraph 1

It is understood that the United Arab Emirates consists of:

1. the federal State composed of the seven Emirates,

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2. the political subdivisions of the federal State (Emirate of Abu Dhabi, Emirate of Dubai, Emirate of Sharjah, Emirate of Ajman, Emirate of Umm Al-Qaiwain, Emirate of Ras al-Kaimah and Emirate of Fujairah, and
3. the local authorities of the political subdivisions.

III. Ad Article 3, paragraph 2 and Article 24

It is understood that, if the competent authorities of the Contracting States have, by mutual agreement, reached a solution within the context of the Convention for cases in which

a. there is an application of paragraph 2 of Article 3 with respect to the interpretation of a term not defined in the Convention; or
b. there are differences in qualification (for example of an element of income or of a person),

this solution, after publication thereof by both competent authorities, shall also be binding for the application of the provisions of the Convention in other identical or similar cases.

IV. Ad Article 4, paragraph 2

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

V. Ad Articles 5, 6, 7 and 13

It is understood that exploration and exploitation rights of natural resources, including rights to interests in, or to the benefits of, assets to be produced by such exploration or exploitation, shall be regarded as immovable property situated in the Contracting State the sea bed and sub-soil of which they are related to, and that these rights shall be deemed to pertain to the property of a permanent establishment in that State and the profits attributable to the permanent establishment shall be taxable in accordance with the national tax laws and regulations of that State.

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VI. Ad Article 7

In respect of paragraphs 1 and 2 of Article 7, where an enterprise of a Contracting State sells goods or merchandise or carries on business in the other Contracting State through a permanent establishment situated therein, the profits of that permanent establishment shall not be determined on the basis of the total amount received by the enterprise, but shall be determined only on the basis of that portion of the income of the enterprise that is attributable to the actual activity of the permanent establishment in respect of such sales or business.

Specifically, in the case of contracts for the survey, supply, installation or construction of industrial, commercial or scientific equipment or premises, or of public works, when the enterprise has a permanent establishment, the profits attributable to such permanent establishment shall not be determined on the basis of the total amount of the contract, but shall be determined only on the basis of that part of the contract that is effectively carried out by the permanent establishment in the Contracting State where the permanent establishment is situated. The profits related to that part of the contract which is carried out by the head office of the enterprise shall be taxable only in the Contracting State of which the enterprise is a resident.

VII. Ad Article 7

Payments received as a consideration for technical services, including studies or surveys of a scientific, geological or technical nature, or for consultancy or supervisory services shall be deemed to be payments to which the provisions of Article 7 apply.

VIII. Ad Article 8

The International Air Transport Agreement between the Netherlands and the United Arab Emirates, signed in January 1992, will remain in force. However, if this Convention provides for a more beneficial treatment of the items of income concerned, this Convention shall also be applicable to the extent that it is more favourable.

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IX. Ad Article 9

It is understood, however, that the fact that associated enterprises have concluded arrangements, such as cost contribution arrangements or general services agreements, for or based on the allocation of executive, general administrative, technical and commercial expenses, research and development expenses and other similar expenses, is not in itself a condition as meant in paragraph 1 of Article 9.

X. Ad Articles 10, 11 and 12

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

XI. Ad Articles 10 and 13

1. It is understood that income received in connection with the (partial) liquidation of a company or a purchase of own shares by a company is treated as income from shares and not as capital gains.

2. The provisions of paragraphs 1, 2 and 8 of Article 10 and paragraph 4 of Article 13 of this Convention shall not prevent the Netherlands from applying its national legislation in case a so-called preserving tax assessment (‘conserverende aanslag’) has been issued to an individual insofar it concerns a substantial interest, according to Netherlands tax legislation, in a company which is resident in the Netherlands. The aforementioned shall only apply insofar the assessment or a part of the assessment is still outstanding.

XII. Ad Article 17

It is understood that a pension or other similar remuneration or annuity is deemed to be derived from a Contracting State if and insofar as the contributions or payments associated with the pension or other similar remuneration or annuity, or the entitlements received from it qualified for tax relief in that State. The transfer

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of a pension from a pension fund or an insurance company in a Contracting State to a pension fund or an insurance company in another State will not restrict in any way the taxing rights of the first-mentioned State under this Article.

XIII. Ad Article 24

The competent authorities of the States may also agree, with respect to any agreement reached as a result of a mutual agreement procedure as meant in Article 24, if necessary contrary to their respective national legislation, that the State, in which there is an additional tax charge as a result of the aforementioned agreement, will not impose any increases, surcharges, interest and costs with respect to this additional tax charge, if the other State in which there is a corresponding reduction of tax as a result of the agreement, refrains from the payment of any interest due with respect to such a reduction of tax.

XIV. Ad Article 25

1. The provisions of Article 25 shall apply accordingly to information that is relevant for carrying out the income-related regulations under the laws of the Netherlands by the authorities of the Netherlands concerned with the implementation, administration or enforcement of these income-related regulations.

2. Any information received under paragraph 1 of this Article in connection with Article 25 of this Convention, shall be used only for the purpose of the determination and levying of the contributions and the determination and granting of the benefits under the income related regulations as meant in paragraph 1.

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