



جمهورية نيوزلندة

Republic of Newzealand

Agreement between
the Government of the United Arab Emirates
and
the Government of New Zealand
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 New Zealand,
Desiring to conclude 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

Persons Covered

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

Article 2

Taxes Covered

1. The existing taxes to which this Agreement shall apply are:

   (a) In the United Arab Emirates: the income tax and the corporation tax; (hereinafter referred to as "United Arab Emirates Taxes");

   (b) In New Zealand: the income tax; (hereinafter referred to as "New Zealand Taxes").

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

3. Notwithstanding the provisions of paragraphs 1 and 2, the taxes covered by the Agreement do not include any amount which represents a penalty or interest imposed under the laws of either Contracting State.

Article 3

Income from Hydrocarbons

Nothing in this Agreement shall affect the right of the United Arab Emirates, or any of its local governments or local authorities thereof, to apply its domestic laws and regulations related to the taxation of income and profits derived from hydrocarbons and its associated activities situated in the territory of the United Arab Emirates.

Article 4

General Definitions

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

(a) (i) the term "United Arab Emirates" means the United Arab Emirates and when used in a geographical sense, means the area in which the territory is under sovereignty as well as the territorial sea, airspace and submarine areas over which the United Arab Emirates exercises, in conformity with international law and the law of United Arab Emirates sovereign rights, including the mainland and islands under its jurisdiction in respect of any activity carried on in connection with the exploration for or the exploitation of natural resources;

(ii) the term "New Zealand" means the territory of New Zealand but does not include Tokelau or the Associated Self Governing States of the Cook Islands and Niue; it also includes any area beyond the territorial sea which by New Zealand legislation and in accordance with international law has been, or may hereafter be, designated as an area in which the rights of New Zealand with respect to natural resources may be exercised;

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

(c) the term "competent authority" means:

(i) in the case of the United Arab Emirates, the Minster of Finance and Industry or an authorised representative;

(ii) in the case of New Zealand, the Commissioner of Inland Revenue or an authorised representative of the Commissioner;

(d) the terms "a Contracting State" and "the other Contracting State" mean the United Arab Emirates or New Zealand as the context requires;

(e) 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;

(f) 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 from a place or between places in the other Contracting State;

(g) the term "person" includes an individual, a company and any other body of persons.

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

Article 5
Residence

1. For the purposes of this Agreement, a person is a resident of a Contracting State:

(a) in the case of the United Arab Emirates:

(i) if, in the case of an individual, the individual, under the laws of the United Arab Emirates, is considered a resident thereof by reason of that individual's domicile, residence or any other criterion of a similar nature;

(ii) if, in the case of a company or other legal entity, the company or other legal entity, is incorporated or created under the laws of the United Arab Emirates by reason of its residence, domicile, place of management or any other criterion of a similar nature,

and also includes that State itself and any political subdivision, local authority, local government or governmental institution thereof;

(b) in the case of New Zealand, if the person is resident in New Zealand for the purposes of New Zealand tax.

2. Where by reason of paragraph 1 an individual is a resident of both Contracting States, then their status shall be determined as follows:

(a) the individual shall be deemed to be a resident only of the State in which a permanent home is available to the individual; if a permanent home is available to the individual in both States or a permanent home is not available in either State, the individual shall be deemed to be a resident only of the State with which the individual's personal and economic relations are closer;

(b) if sole residence cannot be determined under the provisions of subparagraph (a), the individual shall be deemed to be a resident only of the State in which the individual has an habitual abode;

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

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

3. Where by reason 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 only of the State in which its place of effective management is situated.

Article 6
Permanent Establishment

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

2. The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop; and

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

3. A building site, or a construction, installation or assembly project, or supervisory activities in connection with that building site or construction, installation or assembly project, constitutes a permanent establishment if it lasts for more than six months.

4. An enterprise shall be deemed to have a permanent establishment in a Contracting State and to carry on business through that permanent establishment if for more than six months it carries on activities which consist of, or which are connected with, the exploration or exploitation of natural resources, including standing timber, situated in that State.

5. An enterprise shall not be deemed to have a "permanent establishment" merely by reason of:

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

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

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

(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; or

(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, such as advertising or scientific research.

6. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 7 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 5 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

7. 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, providing that such persons are acting in the ordinary course of their business.

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

Article 7
Income from Immovable Property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture, forestry or fishing) 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 laws of the Contracting State in which the property in question is situated. The term shall in any case include any natural resources, property accessory to

immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting immovable property apply, usufruct of immovable property, rights to explore for or exploit natural resources or standing timber, and rights to variable or fixed payments either as consideration for or in respect of the exploitation of, or the right to explore for or exploit natural resources or standing timber; 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 paragraphs 1 and 3 shall also apply to income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 8
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.

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. However, no deduction is allowable in respect of expenses which are not deductible under the laws of the Contracting State in which the permanent establishment is situated.

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

5. 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.

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

7. Nothing in this Article shall affect any provisions of the laws of New Zealand at any time in force as they affect the right to tax any income or profits from any form of insurance derived from New Zealand.

Article 9
Ship and Aircraft Operations

1. Notwithstanding the provisions of Article 8, profits derived by a resident of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1, such profits may be taxed in the other Contracting State where they are profits from ship operations confined solely to places in that other State.

3. The provisions of paragraphs 1 and 2 of this Article shall also apply to profits referred to in this Article derived by a resident of a Contracting State from their participation in a pool, a joint business or an international operating agency.

4. In this Article:

(a) the term "profits" includes:

(i) profits, net profits, gross receipts and revenues derived directly from the operation of ships or aircraft in international traffic;

(ii) interest on sums generated directly from the operation of ships or aircraft in international traffic which is incidental to such operation;

(iii) income from the sale of tickets on behalf of an aircraft enterprise;

(iv) income from selling of engineering services to a third party and any other income arising from other technical services

which are incidental to the operation of an aircraft enterprise; and

(v) income from air and shipping operations arising from their investment in bonds, shares and securities or any other form of investment which is incidental to these operations.

(b) The term "operation of ships or aircraft" includes:

(i) the charter or rent of ships or aircraft;

(ii) the rent of containers and related equipment; and

(iii) the alienation of ships or aircraft, containers and related equipment,

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

5. For the purposes of paragraph 2, profits derived from the carriage by ship, of passengers, livestock, mail, goods or merchandise which are shipped in a Contracting State for discharge at a place in that State shall be treated as profits from ship operations confined solely to places in that State.

Article 10
Associated Enterprises

1. Where:

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

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

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

2. Where a Contracting State includes in the profits of an enterprise of that 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 might have been expected to have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which might have been expected to have been made between independent enterprises dealing wholly independently with one another, then that other State shall make an appropriate adjustment to the amount of the tax charged therein in those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

Article 11
Dividends

1. Dividends paid by a company which is a resident of a Contracting State for the purposes of its tax, being dividends which are beneficially owned by 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 for the purposes of its tax, and

according to the laws of that State, but the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

3. The term "dividends" in this Article means income from shares and other income treated as income from shares by the laws, relating to tax, of the Contracting State of which the company making the payment is a resident for the purposes of its tax.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein or performs in that other State independent services from a fixed base situated therein and the holding in respect of which the dividends are paid is effectively connected which such permanent establishment or fixed base. In such case the provisions of Article 8 or Article 15, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the Company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 12

Interest

1. Interest arising in a Contracting State, being interest which is beneficially owned by a resident of the other Contracting State, may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to:

(a) the Government of the other Contracting State, or a political subdivision, local government or local authority thereof;

(b) the Central Bank, an authority, a corporation, a foundation, a development fund or any other financial institution that is wholly–owned by the Government referred to in subparagraph (a); or

(c) any other similar entity as may be agreed upon from time to time between the competent authorities of the Contracting States,

shall be taxable only in that other Contracting State.

4. If the Government of a Contracting State participates in a loan through an agent, partnership, fund or otherwise, the provisions of paragraph 3 shall apply proportionally to the participation of that Government in such loan. The participation shall be evidenced by a certificate to this effect by the competent authority of the Contracting State.

5. The term "interest" 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 profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as all other income treated as income from money lent by the laws, relating to tax, of the Contracting State in which the income arises, but does not include any income which is treated as a dividend under Article 11.

6. The provisions of paragraphs 1, 2, 3 and 4 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 8 or Article 15, as the case may be, shall apply.

7. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether the person is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the debt-claim on which the interest is paid was incurred, and such interest is deductible in determining the income, profits or gains attributable to that permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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 had to the other provisions of this Agreement.

Article 13
Royalties

1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State may be taxed in that other State.

2. Those royalties may be taxed in the Contracting State in which they arise, and according to the laws of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind, whether periodical or not, and however described or computed, to the extent to which they are made as consideration for:

(a) the use of, or the right to use, any copyright (including the use of or the right to use any literary, dramatic, musical, or artistic works, sound recordings, films, broadcasts, cable programmes, or typographical arrangements of published editions), patent, design or model, plan, secret formula or process, trade-mark, or other like property or right; or

(b) the use of, or the right to use, any industrial, scientific or commercial equipment; or

(c) information concerning industrial, commercial or scientific experience; or

(d) any assistance that is ancillary and subsidiary to, and is furnished as a means of enabling the application or enjoyment of, any such property or right as is mentioned in subparagraph (a), any such equipment as is mentioned in subparagraph (b) or any such information as is mentioned in subparagraph (c); or

(e) total or partial forbearance in respect of the use or supply of any property or right referred to in this paragraph.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed based situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 8 or Article 15, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is a person who is a resident of that State for the purposes of its tax. Where, however, the person paying the royalties, whether the person is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or fixed base in connection with which the liability to pay the royalties was incurred, and the royalties are deductible in determining the income, profits or gains attributable to that permanent establishment or fixed base, then the royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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

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

Article 14
Alienation of Property

1. Income, profits or gains derived by a resident of a Contracting State from the alienation of immovable property (as defined in paragraph 2 of Article 7) situated in the other Contracting State may be taxed in that other State except as provided to the contrary by the domestic laws of that other State.

2. Income, profits or gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including income, profits or gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State except as provided to the contrary by the domestic laws of that other State.

3. Income, profits or gains from the alienation of ships or aircraft operated in international traffic, or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the enterprise alienating such ships, aircraft or other property 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 Contracting State of which the alienator is a resident.

Article 15
Independent Personal Services

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless such services are performed in the other Contracting State and:

(a) the individual is present in the other State for a period or periods exceeding in the aggregate 183 days in any 12 month period commencing or ending in the year of income concerned; or

(b) a fixed base is regularly available to the individual in the other State for the purpose of performing the individual's activities.

If the provisions of subparagraphs (a) or (b) are satisfied, the income may be taxed in that other State but only so much of it as is attributable to activities performed during such period or periods or from that fixed base.

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

Article 16
Income from Employment

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

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

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any 12 month period commencing or ending in the year of income 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 deductible in determining the taxable profits of a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived 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 of the other Contracting State.

Article 17
Directors' Fees

Directors' fees and other similar payments derived by a resident of a Contracting State in that person's 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.

Article 18
Entertainers and Sportspersons

1. Notwithstanding the provisions of Articles 15 and 16, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from that person's 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 that person's capacity as such accrues not to the entertainer or sportsperson but to another person, that income may, notwithstanding the provisions of Articles 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

3. The provisions of paragraphs 1 and 2 of this Article shall not apply to income derived by entertainers or sportspersons who are residents of a Contracting State and who are sponsored by that State from their personal activities as entertainers or sportspersons exercised in the other Contracting State if their visit to that other State is substantially supported from the public funds of the first-mentioned State. In such a case, the income shall be taxable only in the State of which the entertainer or sportsperson is a resident.

Article 19
Pensions

1. Subject to paragraph 2 of Article 20, pensions, including government pensions and annuities, paid to a resident of a Contracting State shall be taxable only in that State.

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

Article 20
Government Service

1. (a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision, local government or a local authority thereof to an individual in respect of services rendered to that State or political subdivision, local government or a local authority thereof shall be taxable only in that State.

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

(i) is a citizen of that State; or

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

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

(b) Notwithstanding the provisions of subparagraph (a) of this paragraph, such pensions shall be taxable only in the other Contracting State if the individual is a resident of and a citizen of that State.

3. The provisions of Articles 15, 16, 17 and 19 of this Agreement shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision, local government or a local authority thereof.

Article 21
Students

1. 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 that person's education or training shall be exempt from tax in that first-mentioned State in respect of:

(a) payments from sources outside the first-mentioned Contracting State for the purpose of that person's maintenance, education or training; or

(b) grants, allowances or awards from a government of a Contracting State or public foundation for the purpose of that person's maintenance, education or training.

2. In no case shall any person have the benefit of the provisions of paragraph 1 of this Article for more than five fiscal years.

Article 22
Other Income

Items of income of a resident of a Contracting State, wherever arising, not dealt with in the preceding Articles of this Agreement shall be taxable only in that State except that if such income is derived from sources within the other Contracting State, that income may also be taxed in that other State.

Article 23
Elimination of Double Taxation

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

2. Subject to the provisions of the laws of New Zealand from time to time in force which relate to the allowance of a credit against New Zealand income tax of tax paid in a country outside New Zealand (which shall not affect the general principle of this Article), United Arab Emirates tax paid under the laws of the United Arab Emirates and consistently with this Agreement, whether directly or by deduction, in respect of income derived by a resident of New Zealand from sources in the United Arab Emirates (excluding, in the case of a dividend, tax paid in respect of the profits

out of which the dividend is paid) shall be allowed as a credit against New Zealand tax payable in respect of that income.

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 that person in taxation not in accordance with the provisions of this Agreement, that person may, irrespective of the remedies provided by the domestic laws of those States, present a case to the competent authority of the Contracting State of which the person is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting State.

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 Agreement.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of giving effect to the provisions of the Agreement.

Article 25
Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States insofar as the taxation thereunder is not contrary to the Agreement. The exchange of *information* is not restricted by Articles 1 and 2. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities, including courts and administrative bodies, concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes referred to in the first sentence. 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 a Contracting State the obligation:

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

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State; or

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.

Article 26
Members of Diplomatic Missions and Consular Posts

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

Article 27
Entry into Force

This Agreement shall enter into force on the last date on which the Contracting States exchange notes through the diplomatic channel notifying each other that the last of such things has been done as is necessary to give the Agreement the force of law in the United Arab Emirates and in New Zealand, as the case may be, and, in that event, the Agreement shall have effect:

(a) ***in the United Arab Emirates and New Zealand:***
in respect of withholding tax on income, profits or gains derived by a non-resident, for amounts paid or credited on or after the first day of the second month next following the date on which the Agreement enters into force;

(b) ***in the United Arab Emirates:***
in respect of United Arab Emirates tax other than withholding tax, for any year beginning on or after 1 January next following the date on which the Agreement enters into force; and

(c) ***in New Zealand:***

in respect of New Zealand tax other than withholding tax, for any income year beginning on or after 1 April next following the date on which the Agreement enters into force.

Article 28
Termination

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through the diplomatic channel, by giving notice of termination on or before 30 June in any calendar year beginning after the expiration of 5 years from the date of its entry into force. In such event the Agreement shall cease to have effect:

(a) ***in the United Arab Emirates and New Zealand:***

in respect of withholding tax on income, profits or gains derived by a non-resident, for amounts paid or credited on or after the first day of the second month next following that in which the notice of termination is given;

(b) ***in the United Arab Emirates:***

in respect of United Arab Emirates tax other than withholding tax, for any year beginning on or after 1 January next following that in which the notice of termination is given;

(c) ***in New Zealand:***

in respect of New Zealand tax other than withholding tax, for any income year beginning on or after 1 April next following that in which the notice of termination is given.

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

Done in duplicate at Dubai this 23rd day of September 2003 in the Arabic and English languages, all texts being equally authoritative, except in the case of doubt, then the English text shall prevail.



Protocol

To the Agreement between

the Government of the United Arab Emirates

and

the Government of New Zealand

for

THE AVOIDANCE OF DOUBLE TAXATION AND WITH RESPECT TO TAXES ON INCOME AND THE PREVENTION OF FISCAL EVASION

At the signing of the Agreement concluded today between the Government of New Zealand and the Government of the United Arab Emirates for the Avoidance of Double Taxation with respect to taxes on income and the prevention of fiscal evasion, the undersigned have agreed upon the following additional provisions which shall form an integral part of the said Agreement.
It is understood:

1. With respect to paragraph 1 of Article 5:

It is agreed that:

(a) Any institution is a resident of a Contracting State if it was created by the Government of that State, a political subdivision, local government or local authority thereof, and is recognised as a government institution by mutual agreement of the competent authorities of the Contracting States.

(b) The Abu Dhabi Investment Authority is recognised as a government institution by the competent authorities of the Contracting States.

(c) The Dubai Development and Investment Authority is recognised as a government institution by the competent authorities of the Contracting States.

2. With respect to Article 8:

Without prejudice to Article 9, it is understood that paragraph 1 means that if an enterprise of a Contracting State carries on business in the other Contracting State, other than through a permanent establishment, profits or gains of this enterprise will be subject to tax only in the Contracting State of which the enterprise is resident.

3. With respect to Articles 7 and 9:

It is understood that any income derived from immovable property that is primarily used for the purpose of aircraft operations is governed by Article 9 of this Agreement.

If the New Zealand aircraft operator is charged with any tax of the kind referred to in Article 2 in any State of which Gulf Air is the national carrier, the Contracting States shall open negotiations without delay with a view to adjusting the exemptions afforded by Article 9 of this Agreement only to the extent of the United Arab Emirates' share in the ownership of Gulf Air.

4. With respect to Articles 11, 12 and 13:

It is understood that a trustee resident in New Zealand and subject to tax in New Zealand in respect of dividends, interest or royalties shall be entitled to relief under Articles 11, 12 and 13 of this Agreement.

5. With respect to Article 11:

It is understood that New Zealand's Foreign Investor Tax Credit rules contained in subpart LE of the Income Tax Act 1994 are designed to offset the 15% withholding tax that New Zealand may levy in accordance with paragraph 2 of Article 11, by a payment of a special dividend by the New Zealand company of an amount equal to

this 15% tax. This special dividend is paid to the shareholder at the same time as the principal dividend.

6. With respect to Article 11:

It is understood in relation to paragraphs 4 and 5 of Article 11 that if a company resident in the United Arab Emirates operates as a branch that has no permanent establishment in New Zealand the profit of that branch will be subject to tax only in the United Arab Emirates.

7. With respect to Article 12:

It is understood that no withholding tax is levied on interest on New Zealand Government bonds and other similarly registered widely held debt securities, under current New Zealand income tax law, if that interest income is paid to a non-resident not carrying on a business in New Zealand through a permanent establishment.

8. With respect to Article 22:

It is agreed that if an item of income arises to be dealt with under this Article the competent authorities of the Contracting States shall negotiate to reach a satisfactory solution as to how the item should be taxed.

9. With respect to the entire Agreement:

It is agreed that:

(a) Both Contracting States will recognise that sovereign immunity from income tax shall apply to income beneficially owned by:

(i) the Government of the United Arab Emirates;

(ii) a local government of the United Arab Emirates (Abu Dhabi, Dubai, Sharjah, Ras Al Khaimah, Fujairah, Umm al Qaiwain and Ajman); or

(iii) in the case of the United Arab Emirates only, an agency of the federal or local government which forms an integral part of that government.

(b) The Abu Dhabi Investment Authority and the Dubai Development and Investment Authority are recognised as being an integral part of the Government of the United Arab Emirates for the purposes of paragraph (a).

(c) Notwithstanding the provisions of Articles of 11, 12 and 13, sovereign immunity tax relief will be accorded to the Government of the United Arab Emirates, its local governments and their financial institutions on a case by case basis through consultation between the competent authorities.

10. With respect to the entire Agreement:

(a) Notwithstanding paragraph 5 of Article 11 no taxation relief shall be available with respect to taxation on dividends paid to a person who is resident of neither Contracting State. Prior to denying treaty relief under this paragraph, the competent authority of the relevant Contracting State shall discuss the matter with the competent authority of the other Contracting State.

(b) No benefits by way of relief from taxation shall arise under this Agreement where and to the extent to which such relief is contrary to the intent of this Agreement. The competent authorities of the Contracting States shall, under the Mutual Agreement Procedure of Article 24 recommend specific amendments to the Agreement. The Contracting States further agree that any such recommendation will be considered and discussed in an expeditious manner with a view to amending the Agreement, where necessary.

11. With respect to Article 16:

Notwithstanding Article 27 it is agreed that the provisions of Article 16 shall apply from 27 October 2002.

Done in duplicate at Dubai this 22nd day of September 2003 in the Arabic and English languages, all texts being equally authoritative, except in the case of doubt, then the English text shall prevail.

