PROTOCOL

BETWEEN

THE UNITED ARAB EMIRATES

AND

THE SWISS CONFEDERATION

AMENDING THE CONVENTION

OF 6 OCTOBER 2011

BETWEEN

THE UNITED ARAB EMIRATES

AND

THE SWISS CONFEDERATION

FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT OF TAXES ON INCOME

Protocol

between the United Arab Emirates and the Swiss Confederation amending the convention of 6 October 2011 between the United Arab Emirates and the Swiss Confederation for the avoidance of double taxation with respect of taxes on income

The Government of the United Arab Emirates

and

the Swiss Federal Council;

desiring to conclude a Protocol to amend the Convention between the United Arab Emirates and the Swiss Confederation for the Avoidance of Double Taxation with Respect to Taxes on Income, signed at Dubai on 6 October 2011 (hereinafter "the Convention");

Have agreed as follows:

ARTICLE I

The preamble of the Convention shall be deleted and replaced by the following:

"*The Government of the United Arab Emirates and the Swiss Federal Council;*

Desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income;

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

Intending to eliminate double taxation with respect to taxes on income without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third States);

Have agreed as follows:"

ARTICLE II

1. *Concerns only the French text.*

2. *Concerns only the French text.*

3. Provision (i) of subparagraph f) of paragraph 1 of Article 3 of the Convention (General definitions) shall be replaced by the following new provision:

"(i) in the case of Switzerland, the Head of the Federal Department of Finance or his authorised representative;"

ARTICLE III

1. The existing paragraph 7 of Article 7 (Business profits) of the Convention shall be renumbered as paragraph 8.

2. The following new paragraph 7 shall be added to Article 7 (Business profits) of the Convention:

"7. A Contracting State shall make no adjustment to the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting States after 5 years from the end of the taxable year in which the profits would have been attributable to the permanent establishment. The provisions of this paragraph shall not apply in the case of fraud, gross negligence or wilful default."

ARTICLE IV

1. Paragraph 2 of Article 9 (Associated enterprises) of the Convention shall be deleted and replaced by the following:

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

2. Paragraph 3 of Article 9 (Associated enterprises) of the Convention shall be deleted and replaced by the following:

"3. A Contracting State shall not include in the profits of an enterprise, and tax accordingly, profits that would have accrued to the enterprise but by reason of the conditions referred to in paragraph 1 have not so accrued, after 5 years from the end of the taxable year in which the profits would have accrued to the enterprise. The provisions of this paragraph shall not apply in the case of fraud, gross negligence or wilful default."

ARTICLE V

The following new subparagraph e) shall be added to paragraph 1 of Article 22 (Elimination of double taxation) of the Convention:

"e) The provisions of subparagraph a) shall not apply to income derived by a resident of Switzerland where the United Arab Emirates applies the provisions of this Convention to exempt such income from tax or applies the provisions of paragraph 2 of Article 10 to such income."

ARTICLE VI

The first sentence of paragraph 1 of Article 24 (Mutual agreement procedure) of the Convention shall be deleted and replaced by the following sentence:

"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 either Contracting State."

ARTICLE VII

The following new Article 26A (Entitlement to benefits) shall be added to the Convention:

"ARTICLE 26A Entitlement to benefits

Notwithstanding the other provisions of this Convention, a benefit under this Convention shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention."

ARTICLE VIII

1. Each of the Contracting States shall notify to the other via diplomatic channels the completion of the procedures required by its law for the bringing into force of this Protocol.

2. The Protocol shall enter into force on the date of the receipt of the later of these notifications and shall thereupon have effect:

a) in the case in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January of the year next following the date on which the Protocol enters into force;

b) in respect of other taxes, for taxation years beginning on or after the first day of January of the year next following the date on which the Protocol enters into force.

3. Notwithstanding the provisions of paragraph 2, the amendments made by paragraph 1 of Article IV and Article VI of this Protocol shall have effect from the date of entry into force of this Protocol, without regard to the taxable period to which the matter relates.

In witness whereof the undersigned, duly authorised thereto, have signed this Protocol.

Done in duplicate in Abu Dhabi on 05 November 2022 in Arabic, French and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

For the Government of

the United Arab Emirates

ABDULLAH BIN ZAYED AL NAHYAN
Minister of Foreign Affairs
And International Cooperation

For the

Swiss Federal Council

IGNAZIO CASSIS
President of the Swiss Confederation