PROTOCOL AMENDING THE "AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED ARAB EMIRATES AND THE GOVERNMENT OF TURKMENISTAN FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL" SIGNED ON 9th JUNE 1998

The Government of the United Arab Emirates and the Government of Turkmenistan, desiring to conclude a Protocol to amend the "Agreement between the Government of the United Arab Emirates and the Government of Turkmenistan for the avoidance of double taxation with respect to taxes on income and on capital" signed on 9th June 1998 (hereinafter referred to as "the Agreement"),

have agreed upon the following provisions which shall form an integral part of the Agreement:

ARTICLE 1

The word "Convention" in respective wordings of the Agreement shall be replaced by the word "Agreement".

ARTICLE 2

Paragraph 3 of Article 2 (Taxes Covered) shall be replaced by the following:

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

(a) in Turkmenistan:

(i) the tax on profits (income) of juridical persons;

(ii) the tax on income of individuals;

(iii) the property tax;

(hereinafter referred to as "Turkmen tax").



ARTICLE 3

Subparagraph (a) and (g) of Paragraph 1 of Article 3 (General definitions) shall be replaced by the following:

(a) the term "Turkmenistan" means the territory of Turkmenistan and comprises the area within its land borders together with the maritime zones (including both marine and sub-marine zones) over which Turkmenistan exercises sovereign rights or jurisdiction under international law;

(g) the term "competent authority" means:

(i) in Turkmenistan, the Ministry of Finance and Economy of Turkmenistan or its authorized representative;

(ii) in the United Arab Emirates, the Ministry of Finance or its authorized representative.

ARTICLE 4

Paragraphs 1 and 2 of Article 4 (Resident) of the existing Agreement shall be replaced by the following:

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

1) in case of Turkmenistan, any person who, under the laws of Turkmenistan, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes Turkmenistan and any administrative subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in Turkmenistan in respect only of income from sources in Turkmenistan or capital situated therein;



2) in the case of the United Arab Emirates, the nationals of the United Arab Emirates, an individual who has his domicile in the United Arab Emirates, and a company which is incorporated in the United Arab Emirates.

3) With respect to Article 16 of the Protocol it is understood that Government financial institutions are:

a) in the case of Turkmenistan:

(1) Central Bank of Turkmenistan;
(2) State Bank for Foreign Economic Affairs of Turkmenistan;
(3) State Development Bank of Turkmenistan;
(4) State Commercial Banks of Turkmenistan;
(5) State Concern "Turkmengaz";
(6) State Concern "Turkmennebit";
(7) Pension Fund of Turkmenistan, and

any other entity the capital of which is wholly owned directly by the Government of Turkmenistan, including administrative subdivisions or local Authority thereof as may be agreed upon from time to time between the Governments of the Contracting States through notifications of letters by the competent authorities.

b) in the case of the United Arab Emirates:

(1) Central Bank of the United Arab Emirates;
(2) Abu Dhabi Investment Authority;
(3) Abu Dhabi Investment Council;
(4) Emirates Investment Authority;
(5) Mubadala Development Company;
(6) International Petroleum Investment Company (IPIC);
(7) Dubai World;
(8) Investment Corporation of Dubai;
(9) Abu Dhabi National Energy Company (TAQA);
(10) the Abu Dhabi Retirement Pensions and Benefits Fund;
(11) the General Pension and Social Security Authority; and

any other entity the capital of which is wholly owned directly by the federal or local Governments of the United Arab Emirates, including a political subdivision and local authority thereof as may be agreed upon from time to time between the Governments of the Contracting States through notifications of letters by the competent authorities.

ARTICLE 5

Subparagraph (f) of Paragraph 2 of Article 5 (Permanent establishment) shall be replaced by the following:

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

ARTICLE 6

New paragraph 5 to be added to Article 8 (International traffic) that income of airlines operating in international traffic shall include:

5. Income from selling of tickets on behalf of the other enterprises interest from shares, stock, bonds, debentures and loans provided that such income is incidental to the operation of international airlines operating in international traffic.

ARTICLE 7

New paragraph 3 shall be added to Article 9 (Associated enterprises):

3. No rewriting of accounts of associated enterprises is authorizing if the transaction between the enterprises is carried on market value "arm length's principles".



ARTICLE 8

Paragraph 1 of Article 10 (Dividends) shall be replaced by the following:

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 8 per cent of the gross amount of the dividends.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

ARTICLE 9

Paragraph 1 of Article 11 (Interest) shall be replaced by the following:

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. Paragraph 2 shall be included in the Article 11 (Interest).

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 if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 8 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.



ARTICLE 10

1. Paragraph 5 of Article 13 (Capital gains) shall be replaced by the following:

5. Gains from the alienation of capital assets other than those referred to in paragraphs 1, 2, 3 and 4, including alienation of shares in a company or of securities, bond, debenture and such gains are taxable only in the State of which the alienator is a resident.

ARTICLE 11

Paragraph 3 of Article 15 (Independent personal services) shall be replaced by the following:

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised by ground staff and aboard a ship, boat or aircraft, or on road and railway vehicles operated in international traffic, by an enterprise of a Contracting State shall be taxable only in that State.

ARTICLE 12

Subparagraph (b) of paragraph 2 of Article 19 (Government services) shall be replaced by the following:

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

Paragraph 3 of Article 19 (Government services) shall be replaced by the following:

The provisions of Articles 15, 16, 17 and 18 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 an



administrative-territorial subdivision or a local authority thereof, for more certainty such salaries and other shall be tax only at the State of residence.

ARTICLE 13

Article 20 (Students) shall be replaced by the following:

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

ARTICLE 14

New paragraph 6 of Article 24 (Non-Discrimination) shall be as follows:

6. In case of Contracting State treat preferentially its own enterprises in term of allowance, reduction or tax exemption such preferential treatment shall not be considered as discrimination.

New paragraph 7 of Article 24 (Non-Discrimination) shall be as follows:

7. Nothing in this Article shall be construed as imposing a legal obligation on a Contracting State to extend to the residents of the other Contracting State the benefit on any treatment, preference or privilege which may be accorded to any other State or its residents by virtue of the formation of a customs union, economic union, a free trade area or by virtue of any regional or sub-regional arrangement relating wholly or mainly to taxation, to which the first-mentioned State may be a party.



Previous paragraph 6 of Article 24 (Non-Discrimination) shall be renumbered to paragraph 8 and shall be replaced by the following:

8. The provisions of this Article shall apply to taxes which are subject of this Agreement.

ARTICLE 15

Article 26 (Exchange of Information) shall be replaced by the following:

1. The competent authorities of the Contracting States shall exchange such information as is necessary relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation there under is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

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

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

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



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

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

4. If information 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 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in agency or a fiduciary capacity or because it relates to ownership interests in a person.

ARTICLE 16

Income of Government and Government Financial Institutions:

The Government of Turkmenistan and the Government of the United Arab Emirates or its local Governments, and their financial institutions shall be exempt from tax in the other Contracting State in respect of any income (Article 8, Article 9) or capital gains derived by the Governments of both Contracting States and their financial institutions as per the list in Article 4 paragraph 3 of this Protocol excluding Article 17 (Income from hydrocarbons).



ARTICLE 17

An Article on "Income from hydrocarbons" (Article 28) shall be included in the Agreement, as under:

Nothing in this Agreement shall affect the right of either one of the Contracting States or local governments, political subdivisions or local authorities thereof to apply their domestic laws and regulations related to the taxation of income and profits from hydrocarbons and its associated activities in the territory of the respective Contracting States, as the case may be.

ARTICLE 18

An Article on "Limitation on Benefits" (Article 29) shall be included in the Agreement, as under:

An entity which is a resident of a Contracting State shall not be entitled to the benefits of this Agreement if the main purpose or one of the main purposes of the creation of such entity was to obtain the benefits of this Agreement that would not be otherwise available. The cases of legal entities not having bona fide activities shall be covered by this Article provided that after a prior notice to the competent authority of the other Contracting State.

ARTICLE 19

An Article on "Miscellaneous Rules" (Article 30) shall be included in the Agreement, as under:

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

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

b) by any other special arrangement on taxation between the Contracting States.

Articles 29, 30 and 31 shall be renumbered as Articles 31, 32 and 33 respectively.

ARTICLE 20

This Protocol shall form an integral part of the Agreement. Each of the Contracting States shall notify to the other Contracting State the completion of the proceedings required by its law for the bringing into force of this Protocol. The Protocol shall enter into force on the date of the later of these notifications and shall thereupon have effect:

a) in respect of taxes withheld at source, - to amounts of income paid on or after the first day of January in the calendar year next following the year in which this Protocol enters into force; and

b) in respect of other taxes on income and taxes on capital, - to such taxes chargeable for any taxable year beginning on or after the first day of January in the calendar year next following the year in which the Protocol enters into force.

IN WITNESS WHEREOF the undersigned, duly authorized thereto by their respective Governments, have signed this Protocol. Done in triplicate at_____, on Thursday of 15/3/2018, in Arabic, Turkmen and English languages, all texts being equally authentic. In case of divergence between the three texts, the English text shall prevail.

FOR THE GOVERNMENT OF THE UNITED ARAB EMIRATES

FOR THE GOVERNMENT OF TURKMENISTAN