جمهورية أوكرانيا

Republic of Ukraine



AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED ARAB EMIRATES AND THE GOVERNMENT OF UKRAINE FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT OF TAXES ON INCOME AND CAPITAL

The Government of the United Arab Emirates and the Government of Ukraine desiring to promote and strengthen the economic relations by concluding an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital, have agreed as follows:

Article 1
PERSONAL SCOPE

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

Article 2
TAXES COVERED

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

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or capital, including taxes on gains from alienation of movable or immovable property as well as taxes on capital appreciation.

3. The existing taxes to which this Agreement shall apply are, in particular:

(a) in the case of Ukraine:

(i) the tax on profits of enterprises; and
(ii) the income tax on citizens;
(hereinafter referred to as "Ukrainian tax");

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

(i) income tax; and
(ii) corporation tax;
(hereinafter referred to as "U.A.E. tax").

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

Article 3
GENERAL DEFINITIONS

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

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

(b) the term "Ukraine" means when used in geographical sense, the territory of Ukraine, its Continental Shelf and its exclusive (maritime) economic zone, including any area outside the territorial sea of Ukraine which in accordance with international law has been or may hereafter be designated as an area within which the rights of Ukraine with respect to the sea bed and sub-soil and their natural resources may be exercised;

(c) 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 its 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 the natural resources;

(d) the term "tax" means Ukraine tax or U.A.E. tax, as the context requires;

(e) the term "person" includes an individual, a company or any other body of persons;

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

(g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" means respectively, an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(h) the term " national" means:

(i) in case of Ukraine any individual possessing the nationality of Ukraine and all legal persons, partnership, associations and any other entity deriving its status as such from the laws in force in Ukraine;

(ii) in the case of U.A.E. all individuals possessing the nationality of U.A.E. and any legal person, partnership and other body corporate deriving its status as such from U.A.E. law;

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

(j) the term "competent authority" means:

(i) in the case of Ukraine - the State Tax Administration or its authorized representative; and

(ii) in the case of U.A.E. - the Ministry of Finance and Industry or its authorized representative.

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

Article 4
RESIDENT

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

(a) in the case of Ukraine:
   (i) the State itself, the Government of Ukraine, political subdivisions or local authorities thereof;
   (ii) any individual who under the law of Ukraine is considered as its resident;
   (iii) any legal entity which is established and operates in accordance with legislation of Ukraine;

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

   (i) the UAE national, any individual who under the laws of the UAE is considered as a resident thereof and any company and any other legal entity which is constituted or incorporated in the UAE;

   (ii) the Government of the United Arab Emirates or any political subdivision or local authority thereof;

   (iii) any governmental institutions created under public law such as the Central Bank, funds, corporations, authorities, foundations, agencies or any other similar entities established in the United Arab Emirates;

   (iv) any inter-governmental entity established in the United Arab Emirates in whose capital the United Arab Emirates subscribes together with other States.

2. Where by reason of the provisions of paragraph 1 of this Article an individual is deemed to be a resident of both Contracting States then his status shall be defined as follows:

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

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

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

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

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

Article 5
PERMANENT ESTABLISHMENT

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

2. The term "permanent establishment " shall include especially:

(a) a place of management;
(b) a branch;
(c) an office;
(d) a factory;
(e) a workshop;
(f) an installation or structure for the exploration of natural resources;

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

(h) a farm or plantation.

3. The term "permanent establishment" likewise encompasses:

(a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than twelve-month period;

(b) the furnishing of services, including consultancy services, by an enterprise of a Contracting State through employees or other personnel in the other Contracting State, provided that such activities continue for the same project or a connected project for a period or periods aggregating more than nine months within any twelve-month period;

(c) a warehouse of other structure used as a sales outlet.

4. Notwithstanding the provisions of paragraphs 1 to 3, the term "permanent establishment" shall be deemed not to include:

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

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

(g) the sale of goods or merchandise belonging to the enterprise displayed in the frame of an occasional temporary fair or exhibition after the closing of the said fair or exhibition, provided that involving parties or companies fulfill all requirements in either Contracting States.

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

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

(b) he maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprises from which he regularly sells goods or merchandise for, or on behalf of, such enterprises, or 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 this fixed place of business a permanent establishment under the provisions of that paragraph, or

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

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.

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 Contracting State.

2. The term "immovable property" shall have the meaning, which it has under the laws of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right of work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 of this Article shall apply to income derived from the direct use, letting, or use in any other from of immovable property.

4. The provisions of paragraphs 1 and 3 of this Article shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7
BUSINESS PROFITS

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

2. Subject to the provisions of paragraph 3 of this Article 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 of elsewhere, this provision is applicable irrespective of the limitation provided by the internal laws.

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 of this Article shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary, the methods of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

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

6. For the purpose of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is a good and sufficient reason to the contrary.

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

Article 8
SHIPPING AND AIR TRANSPORT

1. Notwithstanding the provisions of Article 7, 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. The provisions of paragraph 1 of this Article shall also apply to profits referred to in those paragraphs derived by a resident of a Contracting State from its participation in a pool, a joint business or an international operating agency.

3. 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, and

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

(b) the term "operation of ships or aircraft" in international traffic by a person, 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

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

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

Article 10
DIVIDENDS

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

2. 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 company (other than a partnership) which holds at least 10 percent of the capital of the company paying dividends the tax so charged shall not exceed 5 percent of the gross amount of the dividends.

3. Notwithstanding the provisions of paragraphs 1 and 2, 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 of the dividends is that other State itself, a political subdivision or local authority or the Central Bank thereof, or (in the case of the United Arab Emirates) Abu Dhabi Investment Authority, or any other such government financial institution as may be agreed from time to time between the Contracting States.

4. The term "dividends" as used in this Article means income from shares, "jouissance" shares of "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the

same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

5. The provisions of paragraphs 1 and 2 of this Article 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 personal services from a fixed base situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, 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 11
INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other 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 if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 3 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.

3. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including the premium and prizes attaching to such

securities, bonds or debentures. Penalty charges for late payments shall not be regarded as interest for the purpose of this Article.

4. The provisions of paragraphs 1 and 2 of this Article 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 7 and Article 14, as the case may be, shall apply.

5. Interest shall be deemed to arise in a Contracting State when the payer is the Government of that State, a political subdivision, a local authority thereof or a resident of that State. Where, however, the person paying the interest, whether he 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 indebtedness on which the interest is paid was incurred, and such interest is borne by such 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.

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 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 payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

7. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment.

8. Notwithstanding the provisions of paragraph 2 of this Article, interest arising in a Contracting State shall be exempt from tax in that State if it is received and really hold by:

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

(b) in the case of the United Arab Emirates - Abu Dhabi Investment Authority and Abu Dhabi Fund for Economic Development;

(c) any other governmental financial institution, as may be agreed upon from time to time between the Contracting States.

9. Notwithstanding the provisions of Article 7 of this Agreement and paragraph 2 of this Article, interest arising in a Contracting State paid to and hold by a resident of the other Contracting State shall be exempt from tax in the first-mentioned State if it was paid in respect of loan made, guaranteed or insured, or in respect of any other debt-claim or credit guaranteed or insured on behalf of the other Contracting State by its authorized organ.

10. If the Government of a Contracting State participates in a loan indirectly through an agent or otherwise, the provisions of paragraph 9 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.

Article 12
ROYALTIES

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

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties then the tax so charged shall not exceed 10 per cent of the gross amount of royalties in the meaning of paragraph 4, sub-paragraph (a) of this Article.

3. Notwithstanding the provisions of paragraph 2 of this Article, royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in the other Contracting State, if such resident is the beneficial owner of the royalties and the royalties are the payments in the meaning of paragraph 4, sub-paragraph (b) of this Article.

4. The term "royalties" as used in this Article means payments of any kind received as a consideration:

(a) for the use of, or the right to use, any copyright of literary or artistic work (including cinematograph films, and films or tapes for radio or television broadcasting); and

(b) for the use of, or the right to use, any copyright of scientific work, patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

5. The provisions of paragraphs 1 and 2 of this Article 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 base situated therein and the right or property in respect of which the royalties are paid is directly connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority thereof or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or a fixed base then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or a fixed base is situated.

7. 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 for whatever reason, 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
CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property, as defined in Article 6, and situated in the other Contracting State may be taxed in the other Contracting State.

2. Gains derived by a resident of a Contracting State from the alienation of:

   (a) shares deriving their value or the greater part of their value directly or indirectly from immovable property situated in the other Contracting State, or

   (b) a contribution in a partnership the assets of which consist principally of immovable property situated in the other Contracting State, or of shares referred to in sub-paragraph (a) above

   shall be taxable only in that State.

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

4. Gains from the alienation of ships or aircraft operated by an enterprise of a Contracting State in international traffic and movable property pertaining to the operation of such ships or aircraft shall be taxable only in that Contracting State.

5. Gains from the alienation of any property other than that referred to in paragraphs 1 to 4, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14
INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that Contracting State, unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; if he has such a fixed base, the income may be taxed in the other Contracting State, but as much as it is attributable to that fixed base.

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

Article 15
DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 17, 18, 19, 20 and 21 of this Agreement, 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 there from may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1 of this Article 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 Contracting State for a period or periods not exceeding in the aggregate 183 days 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 Contracting State, and

   (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Contracting State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft

operated in international traffic shall be taxable only in the Contracting State of which the enterprise operating ship or aircraft is a resident.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Article remuneration of the ground staff of an air company of a Contracting State who are nationals of that State and who provide services connected with aircraft operation in the other Contracting State shall be taxable only in the first-mentioned Contracting State.

Article 16
TEACHERS AND RESEARCHERS

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

Article 17
STUDENTS AND TRAINEES

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

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

   (b) income from activity in that first-mentioned Contracting State, provided that such income shall not exceed the amount necessary for this maintenance, education or training.

2. An individual who is, or immediately before visiting a Contracting State was a resident of the other Contracting State, and who is temporary present in the first-mentioned 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 program entered into by the Government of a Contracting State shall, from the date of his arrival in the first-mentioned State in connection with that visit, be exempt from tax in the State, for a period not exceeding the period of the grant.

Article 18
DIRECTORS' FEES

Directors' fees and similar payment 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 State may be taxed in that other State.

Article 19
PENSIONS AND ANNUITIES

1. Subject to the provisions of paragraph 2 of Article 20 pensions, annuities and other similar remuneration paid to the resident of a Contracting State in consideration of past employment shall be taxable only in that State.

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

3. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration, and any annuity paid under State Pension Plan as a part of social security system of a Contracting State, its political subdivision or local authority, shall be taxable only in that State.

Article 20
GOVERNMENT SERVICES

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

(b) Notwithstanding the provisions of sub-paragraph (a) of this paragraph, such 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) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision, or authority shall be taxable only in that State.

(b) Notwithstanding the provisions of sub-paragraph (a) of this paragraph, such pension 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 15, 18 and 19 of this Agreement shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

4. The provisions of paragraph 1 of this Article shall likewise apply in respect of remuneration paid by a Contracting State to a specialist of volunteer seconded to the other Contracting State under a development assistance agreement concluded between the Contracting States paid by, or out of funds created by, a Contracting State or political subdivision or local authority thereof.

Article 21
ARTISTS AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as a public entertainer, such as a theatre, motion picture, radio or television artists, or a musician, or as a sportsman, 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 sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may,

notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article income derived from such activities performed within the framework of cultural agreements concluded between the Contracting States are reciprocally exempted from tax only if such activities are sponsored by the Government of a Contracting State or financed by public fund of both Contracting States and the activities are not carried out for the purpose of profits.

Article 22
OTHER INCOME

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

2. The provisions of paragraph 1 of this Article shall not apply to income, derived by a resident of a Contracting State, if this resident carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 23
CAPITAL

1. Capital represented by immovable property as defined in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other Contracting State.

2. Capital represented by 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 by 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, may be taxed in that other Contracting State.

3. Capital represented by ships and aircraft operated by enterprise of a Contracting State in international traffic and by movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that Contracting State.

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 24
SPECIAL PROVISION

Notwithstanding the provisions of Articles 5, 7, 13 and 22 any income and profits derived by a Contracting State, its political subdivisions, local governments, or local authorities thereof, or their financial institutions arising in the other Contracting State, including gains from the alienation of movable and immovable property situated in that other State, shall be taxable only in the State of residence. The list of the above-mentioned financial institutions shall be agreed between the competent authorities of the Contracting States from time to time.

Article 25
METHODS OF ELIMINATION OF DOUBLE TAXATION

1. Double taxation shall be eliminated as follows:

   (a) in the case of Ukraine:

   Subject to the provisions of the law of Ukraine regarding the elimination of tax payable in a territory outside Ukraine (which shall not affect the general principle hereof), UAE tax payable under the laws of UAE and in accordance with this Agreement, whether directly or by deduction, on profits, income or chargeable capital from sources within UAE shall be allowed as a credit against any Ukrainian tax computed by reference to the same profits, income or property by reference to which the UAE tax is computed.

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

Where a resident of the United Arab Emirates derives income, which in accordance with the provisions of this Agreement may be taxed in Ukraine, 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 Ukraine.

2. Such deductions in either case shall not exceed that part of income tax or capital, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in that other State.

3. Where in accordance with any provision of the Agreement income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

4. For the purposes of paragraph 1 of this Article, profits, income and capital gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Agreement shall be deemed to arise from sources in that other Contracting State.

Article 26
NON - DISCRIMINATION

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

2. Stateless persons who are residents of a Contracting State shall not be subjected in either 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 the State concerned in the same circumstances are or may be subjected.

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

favorably levied in that other Contracting State than the taxation levied on enterprises of that other State carrying on the same activities in the same circumstances and under the same methods.

4. Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11, or paragraph 7 of Article 12 of this Agreement 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.

5. This Article shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibility which it grants to its own residents.

6. 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 of 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 pursuant to the practice of either Contracting State.

7. 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 subject in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than that to which other similar enterprises of that first-mentioned State are subjected.

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

Article 27
MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, without prejudice to the remedies provided by the national laws of those States, address to the competent authority of the Contracting State of which he is a resident an application in writing stating the grounds for claiming the revision of such taxation. The said application may be submitted within three years from the first notification of the action resulting in taxation not in accordance with this Agreement.

2. The competent authority of the Contracting State shall endeavour, if the objection appears to it to be justified and if it is not by itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with this Agreement. 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 this Agreement. They may also consult together for elimination of double taxation in cases not provided for in this Agreement.

4. The competent authorities of the Contracting States shall, when necessary, communicate with each other directly for the purpose of applying this Agreement and reaching an agreement in the sense of the preceding paragraphs.

Article 28
EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out the provisions of this Agreement. Any information so exchanged by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies)

involved in the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes covered by this Agreement. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 of this Article be construed so as to impose on the competent authority of one of the Contracting State the obligations:

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

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

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

Article 29
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 30
ENTRY INTO FORCE

Each Contracting State shall notify to the other, through the diplomatic channel the completion of the procedures required by its domestic law for the bringing into force of this Agreement. This Agreement shall enter into force on the date of the later of these notifications and shall thereupon have effect:

(a) in Ukraine:

(i) in respect of taxes on dividends, interest or royalties for any payments made on or after the sixtieth day following that day on which the Agreement enters into force;

(ii) in respect of tax on income of enterprises for any taxation period beginning on or after 1 January in the calendar year next following that in which the Agreement enters into force;

(iii) in respect of income tax on citizens for any payments made on or after the sixtieth day following that day on which the Agreement enters into force;

(b) in the United Arab Emirates:

(i) in respect of tax withheld at the source to income derived on or after 1 January in the year in which the Agreement enters into force; and

(ii) in respect of other taxes on income, for taxable years beginning on or after 1 January in the year in which the Agreement enters into force.

Article 31
TERMINATION

This Agreement shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving written notice of termination on or before the thirtieth day of June of any calendar year following after the period of five years from the year in which the Agreement enters into force.

In such case, the Agreement shall cease to have effect:

(a) in Ukraine:

(i) in respect of taxes on dividends, interest or royalties for any payments made on or after the sixtieth day following that day on which the notice is given;

(ii) in respect of tax on income of enterprises for any taxation period beginning on or after 1 January in the calendar year next following that in which the notice is given;

(iii) in respect of income tax on citizens for any payments made on or after the sixtieth day following that day on which the notice is given.

(b) in the United Arab Emirates:

(i) in respect of tax withheld at source to income derived on or after 1 January in the year next following that in which the notice of termination is given;

(ii) in respect of other taxes on income, for taxable years beginning on or after 1 January in the year next following that in which the notice of termination is given.

In witness thereof the undersigned, duly authorized thereto, have signed this Agreement.

Done in duplicate at ..... the .....day of.....200..., in the Arabic, Ukrainian and English languages, all texts being equally authentic. In the case of divergence of interpretation, the English text shall prevail.

[redacted]

PROTOCOL

At the signing today of the Agreement between the Government of the United Arab Emirates and the Government of Ukraine for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital (hereinafter referred to as "the Agreement"), the undersigned have agreed upon the following provisions which shall form an integral part of the Agreement:

1. **With reference to Article 4**

Any inter-governmental entity with equity capital or other capital of a similar nature in which the United Arab Emirates subscribes together with other states shall be entitled to the benefits of the Agreement, but only to the extent that corresponds to the participation of the United Arab Emirates in such capital.

2. **With reference to Article 8**

Each time when companies of different countries agree to carry out joint business for air transport in the form of consortium in addition to the existing ones, the provisions of Article 8 shall apply only to that part of the profits which corresponds the share of the enterprise, which is the resident of a Contracting State, in that consortium.

3. **With reference to Article 10, Article 11 and Article 12**

If after the ratification of this Agreement under any agreement or protocol for the avoidance of double taxation that is subsequently concluded between Ukraine and any third state, excluding Commonwealth of Independent States, Ukraine agrees that residents of that third state, with regard to dividends, interest or royalties paid in respect of a holding, debt-claim, or a right or property, respectively, effectively connected with a permanent establishment entitled to more favourable treatment than that provided under Article 10, Article 11 or Article 12, then the Government of Ukraine and the Government of the United Arab Emirates shall without undue delay start renegotiation in order to provide the same treatment to the residents of the United Arab Emirates.

4. With reference to Article 22

Subject to the provisions of Article 22, nothing in this Agreement shall affect the right of a Contracting State, its political subdivisions, local governments or local authorities thereof to apply its own laws related to the taxation of income derived from the operation and exploitation of petroleum and other natural resources; such income shall be taxable according to the laws of the Contracting State in which such activities are carried out.

In witness thereof the undersigned, duly authorized thereto, have signed this Agreement.

Done in duplicate at ..... the .....day of.....200..., in the Arabic, Ukrainian and English languages, all texts being equally authentic. In the case of divergence of interpretation, the English text shall prevail.

