

**SYNTHESISED TEXT OF THE MLI AND THE CONVENTION BETWEEN
THE REPUBLIC OF AUSTRIA AND THE KINGDOM OF SAUDI ARABIA
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME AND CAPITAL**

General disclaimer on the Synthesised text document

This document presents the synthesised text for the application of the Convention between the Republic of Austria and the Kingdom of Saudi Arabia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital signed on 19 March 2006 (the “Convention”), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by the Republic of Austria on 7 June 2017 and by the Kingdom of Saudi Arabia on 18 September 2018 (the “MLI”).

The document was prepared on the basis of the MLI position of the Republic of Austria submitted to the Depositary upon ratification on 22 September 2017, as updated upon notification of extension of the list of agreements on 30 August 2023, and the Kingdom of Saudi Arabia submitted to the Depositary upon ratification on 23 January 2020. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on this Convention.

The authentic legal texts of the Convention and the MLI take precedence and remain the legal texts applicable.

The provisions of the MLI that are applicable with respect to the provisions of the Convention are included in boxes throughout the text of this document in the context of the relevant provisions of the Convention. The boxes containing the provisions of the MLI have generally been inserted in accordance with the ordering of the provisions of the OECD Model Tax Convention.

Changes to the text of the provisions of the MLI have been made to conform the terminology used in the MLI to the terminology used in the Convention (such as “Covered Tax Agreement” and “Convention”, “Contracting Jurisdictions” and “Contracting States”), to ease the comprehension of the provisions of the MLI. The changes in terminology are intended to increase the readability of the document and are not intended to change the substance of the provisions of the MLI. Similarly, changes have been made to parts of provisions of the MLI that describe existing provisions of the Convention: descriptive language has been replaced by legal references of the existing provisions to ease the readability.

In all cases, references made to the provisions of the Convention or to the Convention must be understood as referring to the Convention as modified by the provisions of the MLI, provided such provisions of the MLI have taken effect.

References

The authentic legal texts of the MLI and the Convention can be found on the webpage of the Federal Ministry of Finance (<https://www.bmf.gv.at/>).

The MLI position of the Republic of Austria submitted to the Depositary upon ratification on 22 September 2017, as updated upon notification of extension of the list of agreements on 30 August 2023, and the MLI position of the Kingdom of Saudi Arabia submitted to the Depositary upon ratification on 23 January 2020 can be found on the MLI Depositary (OECD) webpage (<http://www.oecd.org/tax/treaties/beps-ml-signatories-and-parties.pdf>).

Disclaimer on the entry into effect of the provisions of the MLI

Entry into Effect of the MLI Provisions

The provisions of the MLI applicable to this Convention do not take effect on the same dates as the original provisions of the Convention. Each of the provisions of the MLI could take effect on different dates, depending on the types of taxes involved (taxes withheld at source or other taxes levied) and on the choices made by the Republic of Austria and the Kingdom of Saudi Arabia in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 22 September 2017, as updated upon notification of extension of the list of agreements on 30 August 2023, for the Republic of Austria and 23 January 2020 for the Kingdom of Saudi Arabia.

Entry into force of the MLI: 1 July 2018 for the Republic of Austria and 1 May 2020 for the Kingdom of Saudi Arabia.

Notification of the updated positions of the Republic of Austria by the Depository: 30 August 2023.

This document provides specific information on the dates on or after which each of the provisions of the MLI has effect with respect to the Convention throughout this document.

**CONVENTION
BETWEEN
THE REPUBLIC OF AUSTRIA AND
THE KINGDOM OF SAUDI ARABIA
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF TAX EVASION
WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

The Republic of Austria and the Kingdom of Saudi Arabia, **[REPLACED by paragraph 1 of Article 6 of the MLI]** [desiring to conclude a Convention for the avoidance of double taxation and the prevention of tax evasion with respect to taxes on income and on capital,]

The following paragraph 1 of Article 6 of the MLI replaces the text referring to an intent to eliminate double taxation in the preamble of this Convention:¹

ARTICLE 6 OF THE MLI – PURPOSE OF A COVERED TAX AGREEMENT

Intending to eliminate double taxation with respect to the taxes covered by this Convention 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 Convention for the indirect benefit of residents of third jurisdictions),

Have agreed as follows:

Article 1

PERSONS COVERED

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

Article 2

TAXES COVERED

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

¹ In accordance with paragraphs 3 and 5 of Article 35 of the MLI, paragraph 1 of Article 6 of the MLI has effect in the Republic of Austria with respect to this Convention:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2024; and
- b) with respect to all other taxes levied by the Republic of Austria, for taxes levied with respect to taxable periods beginning on or after 1 January 2025;

and,

In accordance with paragraph 1 of Article 35 of the MLI, paragraph 1 of Article 6 of the MLI has effect in the Kingdom of Saudi Arabia with respect to this Convention:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2024; and
- b) with respect to all other taxes levied by the Kingdom of Saudi Arabia, for taxes levied with respect to taxable periods beginning on or after 30 May 2024.

(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 of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

(3) The existing taxes to which this Convention shall apply are in particular:

a) In the case of the Kingdom of Saudi Arabia:

- i) the Zakat;
- ii) the income tax including the natural gas investment tax; (hereinafter referred to as the “Saudi Tax”);

b) In the case of the Republic of Austria:

- i) the income tax (die Einkommensteuer);
- ii) the corporation tax (die Körperschaftsteuer);
- iii) the land tax (die Grundsteuer);
- iv) the tax on agricultural and forestry enterprises (die Abgabe von land- und forstwirtschaftlichen Betrieben);
- v) the tax on the value of vacant plots (die Abgabe vom Bodenwert bei unbebauten Grundstücken);

(hereinafter referred to as the “Austrian Tax”).

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

Article 3

GENERAL DEFINITIONS

(1) For the purposes of this Convention, unless the context otherwise requires,

- a) The term "Kingdom of Saudi Arabia" means the territory of the Kingdom of Saudi Arabia which also includes the area outside the territorial waters, where the Kingdom of Saudi Arabia exercises its sovereign and jurisdictional rights in their waters, seabed, sub-soil and natural resources by virtue of its law and the international law.
- b) The term "Austria" means the Republic of Austria.
- c) The term “a Contracting State and “the other Contracting State” means the Kingdom of Saudi Arabia or the Republic of Austria as the context requires.
- d) The term “person” includes an individual, a company and any other body of persons, including the State, its political sub-divisions or local authorities, and foundations.
- e) The term “company” means any juridical person or any entity which is treated as a juridical person for tax purposes.
- f) 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.
- g) The term “national” means:
 - i) any individual possessing the nationality of a Contracting State;
 - ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State.

- h) The term “international traffic” means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State.
- i) The term “competent authority” means:
 - i) In the case of the Kingdom of Saudi Arabia: the Ministry of Finance represented by the Minister of Finance or his authorised representative;
 - ii) In the case of the Republic of Austria: the Federal Minister of Finance or his authorised representative.

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

Article 4

RESIDENT

(1) For the purposes of this Convention, the term “resident of a Contracting State” means:

- a) Any person who, under the laws of that State is liable to tax in that State by reason of his domicile, residence, place of management or any other criterion of a similar nature;
- b) Any of the two Contracting States or any of its legal institutions, agencies or its local authorities;
- c) A legal person organized under the laws of a Contracting State and that is generally exempt from tax in that State and is established and maintained in that State either:
 - i. exclusively for a religious, charitable, educational, scientific, or other similar purpose; or
 - ii. similar purpose; or to provide pensions or other similar benefits to employees pursuant to plan.

(2) Where by reason of the provisions of paragraph 1 of this Article, an individual is a resident of both Contracting States, then his status shall be determined as follows:

- a) He shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident only 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 has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident only 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 only 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 herein, 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 5

PERMANENT ESTABLISHMENT

(1) For the purpose of this Convention, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

(2) The term “permanent establishment” includes but is not limited to:

- a) a place of management;
- b) a branch;
- c) an office;
- d) a factory;
- e) a workshop;
- f) a mine, a quarry or any other place of extraction of natural resources.

(3) The term “permanent establishment” also includes:

- 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 six months;
- b) The furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than six months within any 12 month period;
- c) A person acting in one of the two Contracting States on behalf of an enterprise of the other Contracting State - other than an agent of an independent status to whom the provisions of paragraph 6 of this Article apply - if this person has in the first mentioned Contracting State an authority to conclude contracts in the name of that enterprise and has habitually exercised such authority in it.

(4) **[REPLACED by paragraph 2 of Article 13 of the MLI]** [Notwithstanding the preceding provisions of this Article a permanent establishment does not include a fixed place of business used only for one or more of the following:

- 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 advertising, submitting data, conducting scientific research, or similar activities of preliminary or auxiliary nature for the enterprise.]

The following paragraph 2 of Article 13 of the MLI replaces paragraph 4 of Article 5 of this Convention:²

**ARTICLE 13 OF THE MLI - ARTIFICIAL AVOIDANCE OF PERMANENT ESTABLISHMENT STATUS
THROUGH THE SPECIFIC ACTIVITY EXEMPTIONS (Option A)**

Notwithstanding Article 5 of this Convention, the term “permanent establishment” shall be deemed not to include:

² In accordance with paragraphs 3 and 5 of Article 35 of the MLI, paragraph 2 of Article 13 of the MLI has effect in the Republic of Austria with respect to this Convention:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2024; and
- b) with respect to all other taxes levied by the Republic of Austria, for taxes levied with respect to taxable periods beginning on or after 1 January 2025;

and,

In accordance with paragraph 1 of Article 35 of the MLI, paragraph 2 of Article 13 of the MLI has effect in the Kingdom of Saudi Arabia with respect to this Convention:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2024; and
- b) with respect to all other taxes levied by the Kingdom of Saudi Arabia, for taxes levied with respect to taxable periods beginning on or after 30 May 2024.

<p>a) the activities specifically listed in paragraph 4 of Article 5 of this Convention as activities deemed not to constitute a permanent establishment, whether or not that exception from permanent establishment status is contingent on the activity being of a preparatory or auxiliary character;</p> <p>b) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any activity not described in subparagraph a);</p> <p>c) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) and b),</p> <p>provided that such activity or, in the case of subparagraph c), the overall activity of the fixed place of business, is of a preparatory or auxiliary character.</p>

(5) Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein.

(6) An enterprise in one of the two Contracting States shall not be deemed to have a permanent establishment in the other 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 this broker or agent is acting in the ordinary course of his business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.

(7) An enterprise in one of the two Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on at the end of a trade exhibition or conference in the other Contracting State sale of goods or merchandise it displayed at that trade exhibition or conference.

(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 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 provided for in the laws or regulations of the Contracting State in which the property in question is situated. This term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships, boats 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 form of immovable property.

(4) The provisions in paragraphs 1 and 3 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 business profits of a resident of a Contracting State shall be taxable only in that State unless that resident has a permanent establishment in the other Contracting State. In this case the business profits of the resident from such activities may be taxed in the other Contracting State but only so much of them as is attributable to that permanent establishment.

(2) Where a resident of one of the two Contracting States has a permanent establishment in the other Contracting State, there shall in each Contracting State be attributed to the permanent establishment the business profits which would reasonably be expected to have been derived by it were an independent entity engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the resident of which it is a permanent establishment.

(3) Notwithstanding other provisions, the business profits derived by an enterprise of a Contracting State from exportation or delivery of merchandise, machinery or equipment or from rendering of services, including planning, project, construction or research activities as well as technical services exercised in the first mentioned State, to a resident of the other Contracting State or to a permanent establishment of an enterprise of the first-mentioned Contracting State situated in the other Contracting State shall not be taxed in that other Contracting State. Where contracts include other activities carried on in the other Contracting State income from such activities may, subject to the provisions of Article 5 and paragraphs 1, 2, 4, 5 and 6 of Article 7, be taxed in the other Contracting State.

(4) The term “business profits” includes, but is not limited to income derived from manufacturing, mercantile, banking, insurance, from the operation of inland transportation and the furnishing of services. Such a term does not include the performance of independent personal services by an individual.

(5) In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business 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 such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of income from debt-claims with regard to moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of income from debt-claims with regard to moneys lent to the head office of the enterprise or any of its other offices.

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

Article 8

SHIPPING, INLAND WATERWAYS TRANSPORT AND AIR TRANSPORT

(1) Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(2) Profits from the operation of boats engaged in inland waterways transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(3) If the place of effective management of a shipping enterprise or of an inland waterways transport enterprise is aboard a ship or boat, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship or boat is a resident.

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

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) **[REPLACED by paragraph 1 of Article 17 of the MLI]** [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 a tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.]

*The following paragraph 1 of Article 17 of the MLI replaces paragraph 2 of Article 9 of this Convention:*³

ARTICLE 17 OF THE MLI – CORRESPONDING ADJUSTMENTS

Where a Contracting State includes in the profits of an enterprise of that Contracting State — and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged to tax in that other Contracting State and the profits so included are profits which would have accrued to the enterprise of the first- mentioned Contracting State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Contracting 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 the Convention and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10

³ In accordance with paragraphs 3 and 5 of Article 35 of the MLI, paragraph 1 of Article 17 of the MLI has effect in the Republic of Austria with respect to this Convention:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2024; and
- b) with respect to all other taxes levied by the Republic of Austria, for taxes levied with respect to taxable periods beginning on or after 1 January 2025;

and,

In accordance with paragraph 1 of Article 35 of the MLI, paragraph 1 of Article 17 of the MLI has effect in the Kingdom of Saudi Arabia with respect to this Convention:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2024; and
- b) with respect to all other taxes levied by the Kingdom of Saudi Arabia, for taxes levied with respect to taxable periods beginning on or after 30 May 2024.

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 resident of the other Contracting State, the tax so charged shall not exceed 5 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.

(3) Notwithstanding the provisions of paragraph 2, dividends paid by a company which is a resident of a Contracting State to the Government of the other Contracting State or a local authority thereof or any agency or instrumentality (including a financial institution) wholly owned by that other Contracting State or local authority thereof shall be exempt from tax in the first-mentioned State.

(4) The term “dividends” as used in this Article means income from shares, “jouissance” shares or “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 subject 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, 2 and 3 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, 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 a 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

INCOME FROM DEBT-CLAIMS

(1) Income from debt-claims 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 income from debt-claims 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 income from debt-claims the tax so charged shall not exceed 5 per cent of the gross amount of the income from debt-claims.

(3) Notwithstanding the provisions of paragraph 2, income from debt-claims arising in a Contracting State shall be exempt from tax in that State if:

- a) the payer of the income from debt-claims is the Government of that Contracting State or a local authority thereof; or
- b) the income from debt-claims is paid to the Government of the other Contracting State or local authority thereof or any agency or instrumentality (including a financial institution) wholly owned by that other Contracting State or local authority thereof; or

- c) the income from debt-claims is paid to any other agency or instrumentality (including a financial institution) in relation to loans made in application of an agreement concluded between the Governments of the Contracting States; or
- d) the income from debt-claims is paid on loans granted, insured or guaranteed by a public institution for purposes of promoting exports.

(4) The term “Income from Debt-Claims” as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor’s profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as income from debt-claims for the purpose of this Article.

(5) The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the income from debt-claims, being a resident of a Contracting State, carries on business in the other Contracting State in which the income from debt-claims 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 such 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.

(6) Income from debt-claims 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 such income, 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 such income is paid was incurred, and such income is borne by such permanent establishment or fixed base, then such income shall be deemed to arise in the State in which the permanent establishment or 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 income from debt-claims, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

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 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 payment of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

(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 base 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 Articles 7 and 14, as the case may be, shall apply.

(5) Royalties 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 royalties, 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 liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such 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 Convention.

Article 13

CAPITAL GAINS

(1) Capital gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

(2) Capital gains derived by a resident of a Contracting State from the alienation of movable property that formed part of the business property of a permanent establishment of the alienator in the other Contracting State or is closely connected with the performance of independent personal services (to which Article 14 applies) by the alienator in that other State, including capital gains arising from the alienation of such a permanent establishment, may be taxed in that other State.

(3) Capital Gains from the alienation of shares of the capital stock of a company the property of which consists directly or indirectly principally of immovable property situated in a Contracting State may be taxed in that State.

(4) Capital gains from the alienation of shares other than those mentioned in paragraph 3 representing a participation of at least 25 per cent in a company which is a resident of a Contracting State may be taxed in that State.

(5) Capital gains derived from the alienation of any property other than that referred to in paragraphs 1, 2, 3 or 4, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

INDEPENDENT PERSONAL SERVICE

(1) Income derived by a resident of a Contracting State in respect of professional services or any other activities of an independent character shall be taxable only in that Contracting State, unless:

- a) he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities, or
- b) his stay in the other Contracting State is for a period or periods amounting to, or exceeding, in the aggregate, 183 days in the fiscal year concerned, or
- c) the remuneration for his activities in the other Contracting State is paid by a resident of that Contracting State or is borne by a permanent establishment situated in that Contracting State and exceeds in the fiscal year 125,000 Euro.

In that case, so much of the income as is derived from the individual's activities in that other State may be taxed in that State.

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

Article 15

DEPENDENT PERSONAL SERVICE

(1) Subject to the provisions of Articles 16, 17, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that Contracting 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 the fiscal year concerned, and
- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- c) the remuneration is not borne by a permanent establishment or a fixed place which the employer has in the other State.

(3) Notwithstanding the provisions of this Article, the remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft operating in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17

ARTISTES AND SPORTSPERSONS

(1) Notwithstanding the provisions of Articles 7, 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

(2) Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

Article 18

PENSIONS

Subject to the provisions of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 19

GOVERNMENT SERVICE

- (1)
 - a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority or a public juridical person thereof to an individual in respect of services rendered to that State or subdivision or authority or public juridical person 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 other 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 or a public juridical person thereof to an individual in respect of services rendered to that State or subdivision or authority or public juridical person shall be taxable only in that State.
 - b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that other State.

(4) The provisions of Articles 15, 16, 17, and 18 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 or a local authority or a public juridical person thereof.

Article 20

STUDENTS

(1) Payments which a student or trainee who is or was a resident of a Contracting State and who is present in the other Contracting State for the purpose of education or vocational or occupational training, receives for the purpose of his maintenance, education or training shall not be taxable in that other State, provided that the payments are transferred from sources outside that other State.

(2) Remuneration which a student or business apprentice who is or was formerly a resident of a Contracting State derives from an employment which he exercises in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned shall not be taxed in that other State if the employment is directly related to his studies or apprenticeship carried out in the first-mentioned State.

Article 21

TEACHERS AND RESEARCHERS

Remunerations which a teacher or researcher who is or was resident in a Contracting State prior to being invited to the other Contracting State for the purpose of teaching or conducting research receives in respect of such activities shall not be taxed in that other Contracting State for a period not exceeding two years.

Article 22

OTHER INCOME

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

(2) The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, 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.

(3) Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention and arising in the other Contracting State may also be taxed in that other State.

Article 23

CAPITAL

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

(3) Capital represented by ships and aircraft operated in international traffic and by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

Article 24

METHODS FOR ELIMINATION OF DOUBLE TAXATION

(1) Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall, subject to the provisions of paragraph 2, exempt such income or capital from tax.

(2) Where a resident of a Contracting State derives items of income which, in accordance with the provisions of paragraph 2 of Articles 10, 11 and 12, paragraphs 3 and 4 of Article 13 and paragraph 3 of Article 22, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in that other State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from that other State.

(3) Where in accordance with any provision of this Convention 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) In the case of the Kingdom of Saudi Arabia, the methods for elimination of double taxation will not prejudice to the provisions of the Zakat collection regime as regards Saudi nationals.

Article 25

MUTUAL AGREEMENT PROCEDURE

(1) Where a person considers that the actions of one or both of the States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the State of which he 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 this Convention.

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

(3) The competent authorities of both Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention.

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

(5) The competent authorities of the Contracting States may by mutual agreement settle the appropriate mode of application of this Convention and, especially, the requirements to which the residents of a Contracting State shall be subjected in order to obtain, in the other State, the tax reliefs or exemptions provided for by this Convention.

Article 26

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 Convention or of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is not contrary to this Convention. The exchange of information is not restricted by Article 1. 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) involved with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by this Convention. 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. Even in such cases the confidentiality of person-related data may be waived only insofar as this is necessary to safeguard predominantly legitimate interests of another person or predominantly public interests.

(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;

- 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) or to the fundamental rights granted by a State, in particular in the area of data protection.

Article 27

DIPLOMATIC AND CONSULAR OFFICERS

Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions and their personal domestics, or members of consular missions, or of members of permanent missions to international organizations under the general rules of international law or under the provisions of special agreements.

The following paragraph 1 of Article 7 of the MLI applies and supersedes the provisions of this Convention:⁴

ARTICLE 7 OF THE MLI – PREVENTION OF TREATY ABUSE

(Principal purposes test provision)

Notwithstanding any provisions of this Convention, a benefit under this Convention shall not be granted in respect of an item of income or capital 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 28

ENTRY INTO FORCE

- (1) Each Contracting State shall notify the other Contracting State through diplomatic channels of the completion of the procedures required by its regulations for entry into force of this Convention. The Convention shall enter into force on the first day of the third month following the month in which the last notice was given.
- (2) The provisions of this Convention shall apply:
 - a) in respect of taxes withheld at source to amounts paid on or after the first day of January in any calendar year following that in which the Convention enters into force;
 - b) in respect of other taxes to taxes chargeable for any taxable period beginning on or after the first day of January in any calendar year following that in which the Convention enters into force.

⁴ In accordance with paragraphs 3 and 5 of Article 35 of the MLI, paragraph 1 of Article 7 of the MLI has effect in the Republic of Austria with respect to this Convention:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2024; and
- b) with respect to all other taxes levied by the Republic of Austria, for taxes levied with respect to taxable periods beginning on or after 1 January 2025;

and,

In accordance with paragraph 1 of Article 35 of the MLI, paragraph 1 of Article 7 of the MLI has effect in the Kingdom of Saudi Arabia with respect to this Convention:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2024; and
- b) with respect to all other taxes levied by the Kingdom of Saudi Arabia, for taxes levied with respect to taxable periods beginning on or after 30 May 2024.

Article 29

TERMINATION OF THE CONVENTION

- (1) This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention through the diplomatic channels, by giving written notice of termination on or before the thirtieth day of June in a calendar year after the fifth year from the date of entry into force of the Convention.
- (2) In such event, this Convention shall cease to have effect:
 - a) in respect of taxes withheld at source to amounts paid on or after the first day of January in any calendar year following that in which the notice is given; and
 - b) in respect of other taxes to taxes chargeable for any taxable year beginning on or after the first day of January in any calendar year following that in which the notice is given.

In witness whereof the undersigned, being duly authorized thereto, have signed this Convention.

Done in duplicate at Riyadh on 19, March 2006 in the German, Arabic and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

For the Republic of Austria:
Günther Platter m.p.

For the Kingdom of Saudi Arabia:
Ibrahim Al Assaf m.p.