

Unterzeichnete Endfassung

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Agreement

between

the Federal Republic of Germany

and

the United Arab Emirates

for the Avoidance of Double Taxation and of Tax Evasion

with respect to Taxes on Income

The Federal Republic of Germany

and

the United Arab Emirates,

Desiring to promote their mutual economic relations by removing fiscal obstacles and to avoid tax evasion,

Have agreed as follows:

Article 1

Persons covered

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

Article 2

Taxes covered

(1) This Agreement shall apply to taxes on income imposed on behalf of a Contracting State, of a Land or a political subdivision or local authority thereof, irrespective of the manner in which they are levied.

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

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

- a) in the Federal Republic of Germany:

the income tax (Einkommensteuer),
the corporation tax (Körperschaftsteuer), and
the trade tax (Gewerbesteuer),
including the supplements levied thereon

(hereinafter referred to as "German tax");

b) in the United Arab Emirates:

the income tax,
the corporation tax
(hereinafter referred to as "UAE tax").

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

Article 3

General definitions

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

- a) the terms "a Contracting State" and "the other Contracting State" mean the Federal Republic of Germany or the United Arab Emirates, as the context requires, and, if for the purposes of this Agreement used in a geographical sense, the area in which the tax law of the Contracting State concerned is in force, as well as the continental shelf, the territorial sea including islands or any other maritime zone in which the Contracting State concerned exercises certain rights in accordance with international law concerning the exploration and exploitation of natural resources;
- b) the term "person" means an individual and a company and any other body of persons;

- c) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- d) the term "enterprise" applies to the carrying on of any business;
- e) the term "business" includes the performance of professional services and of other activities of an independent character;
- 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) in respect of the Federal Republic of Germany any German within the meaning of Article 116, paragraph (1), of the Basic Law for the Federal Republic of Germany and any legal person, partnership and association deriving its status as such from the law in force in the Federal Republic of Germany;
 - (ii) in respect of the United Arab Emirates any individual possessing the nationality of the United Arab Emirates and any legal person, partnership and association deriving its status as such from the law in force in the United Arab Emirates;
- 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 in the case of the Federal Republic of Germany, the Federal Ministry of Finance or the agency to which it has delegated its powers, and in the case of the United Arab Emirates, the Minister of Finance, or his authorised representative.

(2) As regards the application of the Agreement at any time by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Agreement 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 Agreement, the term "resident of a Contracting State" means:

- a) in the case of the Federal Republic of Germany, a person who under the laws of the Federal Republic of Germany is subject to unlimited tax liability there;
- b) in the case of the United Arab Emirates,
 - (i) an individual who has his domicile in the United Arab Emirates and is a national of the United Arab Emirates and
 - (ii) a company which is incorporated in the United Arab Emirates and has its place of effective management there, provided that the company can give evidence that its capital is beneficially owned exclusively by the United Arab Emirates and/or by a government institution of the United Arab Emirates and/or federal or local governments and/or by individuals being residents of the United Arab Emirates and the company is controlled by the aforementioned residents.

(2) For the purposes of paragraph 1 above:

- a) the Federal Republic of Germany; the Länder and any political subdivisions or local authorities thereof shall be deemed to be a resident of the Federal Republic of Germany;

- b) the United Arab Emirates and its political subdivisions or local governments shall be deemed to be a resident of the United Arab Emirates;
- c) government institutions shall be deemed, according to affiliation, to be a resident of the Federal Republic of Germany or of the United Arab Emirates. Any institution shall be deemed to be a government institution which has been created by the government of one of the Contracting States or of its political subdivisions, or local governments, for the fulfilment of public functions and which is recognized as such by mutual agreement of the competent authorities of the Contracting States.

(3) Where by reason of the provisions of paragraph 1 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 of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
- b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
- c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
- d) if he is a national of both States, the competent authorities of the Contracting States shall settle the question by mutual agreement.

Article 5

Permanent establishment

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

(2) The term "permanent establishment" includes especially:

- a) a place of management;
- b) a branch;
- c) an office;
- d) a factory; and
- e) a workshop.

(3) A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.

(4) Notwithstanding the preceding provisions of this Article, 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 of 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.

(5) Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 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.

(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 a company or 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 State.

(2) The term "immovable property" shall have the meaning which it has under the law 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 to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

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

(4) The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

Article 7
Business profits

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

(2) Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

(3) In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

(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 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method 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 that permanent establishment of goods or merchandise for the enterprise.

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

(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) Profits derived 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) For the purposes of this Article the terms "profits from the operation of ships or aircraft in international traffic" shall include profits from

- a) the occasional rental of ships or aircraft on a bare-boat basis,
- b) the use or rental of containers (including trailers and ancillary equipment used for transporting the containers),

- c) the selling of tickets on behalf of other transportation enterprises, if such sales are directly connected with voyages aboard ships or aircraft that the enterprise mentioned in paragraph 1 operates except inland transportation of passengers or cargo,
- d) the maintenance services rendered by the enterprise mentioned in paragraph 1 in the other Contracting State to other transport enterprises, and
- e) the investment income from stocks, shares or loans which constitute an integral part of the operation of ships and aircraft in international traffic,

if these activities pertain to the operation of ships or aircraft in international traffic.

(3) If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship 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) 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 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 recipient is the beneficial owner of the dividends, the tax so charged shall not exceed:

- a) 5 per cent of the gross amount of such dividends if they are paid to a resident of the other Contracting State (except individuals and partnerships) which holds directly at least 10 per cent of the capital of the company paying the dividends;
- b) 10 per cent of the gross amount of such dividends in all other cases;
- c) notwithstanding the provisions of sub-paragraphs (a) and (b), 15 per cent of the gross amount of the dividends if the distributing company is a real estate investment

company which is tax-exempt regarding all or parts of its profits or which can deduct the distributions in determining its profits.

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

(3) The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other income 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 and distributions on certificates of an investment fund or investment trust.

(4) The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

(5) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment 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 shall be taxable only in that other State if such resident is the beneficial owner of the interest.

(2) 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 premiums and prizes attaching to such securities, bonds or debentures.

(3) The provisions of paragraph 1 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, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

(4) Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a Land, a political subdivision or a local government 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.

(5) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 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 beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

(3) The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematographic films, 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, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

(5) Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a Land, a political subdivision or a local government thereof 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 in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

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

Article 13
Capital gains

- (1) 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) Gains derived by a resident of a Contracting State from the alienation of shares and similar rights deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other 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, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.
- (4) Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
- (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
Dependent personal services

- (1) Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

- a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending 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 which the employer has in the other 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 may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 15 Directors' fees

Directors' fees and 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 16 Artistes and sportsmen

(1) Notwithstanding the provisions of Articles 7 and 14 , 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 an 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 and 14, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

(3) Paragraphs 1 and 2 shall not apply to income accruing from the exercise of activities by artistes or sportsmen in a Contracting State where the visit to that State is financed entirely or mainly from public funds of the other State, a Land, a political subdivision or a local authority thereof or by an organisation which in that other State is recognised as a charitable organisation. In such a case the income shall be taxable only in the Contracting State of which the individual is a resident.

Article 17

Pensions, Annuities and Similar Remuneration

(1) Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration arising in a Contracting State and paid to a resident of the other Contracting State in consideration of past employment may be taxed in the first-mentioned State. This provision also applies to annuities arising in a Contracting State and paid to a resident of the other Contracting State.

(2) Notwithstanding the provisions of paragraph 1, payments received by an individual being a resident of a Contracting State from the statutory social insurance of the other Contracting State shall be taxable only in that other State.

(3) Notwithstanding the provisions of paragraph 1, recurrent or non-recurrent payments made by one of the Contracting States or a political subdivision thereof to a person resident in the other Contracting State as compensation for political persecution or for an injury or damage sustained as a result of war (including restitution payments) or of military or civil alternative service or of a crime, vaccination or a similar event shall be taxable only in the first-mentioned State.

(4) The term "annuities" means certain amounts payable periodically at stated times, for life or for a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Article 18
Government service

(1)

- a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State, a Land, a political subdivision or a local authority thereof or some other legal entity under public law of that State to an individual in respect of services rendered to that State, Land, political subdivision or local authority or some other legal entity under public law shall be taxable only in that State.
- b) However, such salaries, wages and other remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and if 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, a Land, a political subdivision or a local authority thereof or some other legal entity under public law of that State to an individual in respect of services rendered to that State, Land, political subdivision or local authority or some other legal entity under public law 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 State.

(3) The provisions of Articles 14, 15, 16 and 17 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, a Land, a political subdivision or a local authority thereof or some other legal entity under public law of that State.

(4) The provisions of paragraphs 1 and 2 shall also apply in respect of salaries, wages and other similar remuneration and pensions paid to individuals in respect of services rendered to the Goethe Institute, the German Academic Exchange Service ("Deutscher Akademischer Austauschdienst") or to other comparable institutions mutually agreed by the Contracting States. If such remuneration is not taxed in the State where the institution was founded, the provisions of Article 14 shall apply.

Article 19

Visiting Professors, Teachers and Students

(1) An individual who visits a Contracting State at the invitation of that State or of a university, college, school, museum or other cultural institution of that State or under an official programme of cultural exchange for a period not exceeding two years solely for the purpose of teaching, giving lectures or carrying out research at such institution and who is, or was immediately before that visit, a resident of the other Contracting State shall be exempt from tax in the first-mentioned State on his remuneration for such activity, provided that such remuneration is derived by him from outside that State.

(2) Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 20

Other income

(1) Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement 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, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

Article 21

Limitation of benefits

(1) Notwithstanding the application of the other Articles of the Agreement, with respect to taxation in the Federal Republic of Germany only the following residents of the United Arab Emirates may invoke Articles 7, 8, 10 to 15 and 19:

- the Federal and the local governments of the United Arab Emirates;
- a government institution of the United Arab Emirates as defined in sub-paragraph (c) of paragraph 2 of Article 4;
- a company provided that such company can prove that at least 75 per cent of its capital is beneficially owned by the United Arab Emirates and/ or by a government institution of the United Arab Emirates and give substantial evidence that the remaining capital is beneficially owned by individuals being residents of the United Arab Emirates and that the company is controlled by the aforementioned residents.

(2) Notwithstanding the provisions of paragraph 1, also the following residents of the United Arab Emirates may invoke Articles 8, 10 and 11:

- an individual;
- a company provided that such company can give substantial evidence that its capital is beneficially owned exclusively by the United Arab Emirates and / or by a government institution of the United Arab Emirates and / or by individuals being residents of the United Arab Emirates and the company is controlled by the aforementioned residents.

(3) A further prerequisite for relief from German taxes under paragraphs 1 and 2 is that the company resident in the United Arab Emirates proves that it was not a principal purpose of the company or of the conduct of its business or of the acquisition or maintenance by it of the shareholding or other property from which the income in question is derived to obtain any of such benefits to the advantage of a person who is not a resident of the United Arab Emirates.

(4) A further prerequisite for relief from German taxes under paragraphs 1 and 2 is that the company has to prove that more than 50 per cent of its gross income is not used, directly or indirectly, to meet liabilities (including liabilities for interest or royalties) to persons not entitled to benefits of this Agreement.

(5) The provisions of paragraphs 1 and 2 do not apply to the State, the Länder, any political subdivision or local authority thereof and government institutions as defined in sub-paragraph (c) of paragraph 2 of Article 4.

Article 22

Elimination of Double Taxation in the State of Residence

(1) Tax shall be determined in the case of a resident of the Federal Republic of Germany as follows: Subject to the provisions of German tax law regarding credit for foreign tax, there shall be allowed as a credit against German tax payable in respect of income which, according to this Agreement, may be taxed in the United Arab Emirates, the United Arab Emirates tax paid under the laws of the United Arab Emirates and in accordance with this Agreement.

(2) Where in accordance with any provisions of this Agreement income derived by a resident of the Federal Republic of Germany is exempt from tax in the Federal Republic of Germany,

the Federal Republic of Germany may nevertheless in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

(3) Tax shall be determined in the case of a resident of the United Arab Emirates as follows:

Where a resident of the United Arab Emirates derives income which, in accordance with the provisions of this Agreement, may be taxed in the Federal Republic of Germany, the United Arab Emirates shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in the Federal Republic of Germany;

That deduction shall not however exceed that part of the income tax, as computed before the deduction is given, which is attributable, as the case may be, to the income which may be taxed in the United Arab Emirates.

Article 23

Non-discrimination

(1) 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 the taxation and connected requirements to which nationals of that other State in the 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 States.

(2) The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision 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 responsibilities which it grants to its own residents.

(3) Except where the provisions of Article 9, paragraph 5 of Article 11, or paragraph 6 of Article 12, 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.

(4) 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 subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

(5) 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 by Germany to a resident of any member State of the European Union and the United Arab Emirates to a resident of any member State of the Gulf Corporation Council.

(6) The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 24 Mutual agreement procedure

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

(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 Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

(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 the elimination of double taxation in cases not provided for in this Agreement.

(4) The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 25

Exchange of information

(1) The competent authorities of the Contracting States shall exchange such information as is foreseeable relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of a Contracting State, of a Land or a political subdivision or local authority thereof, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

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

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

- a) to carry out administrative measures for the supply of information at variance with the laws and administrative practice of that or of the other Contracting State;
 - b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
 - c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).
- (4) If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 except where such limitations would preclude a Contracting State from supplying information solely because it has no domestic tax interest in such information.
- (5) In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or relates to ownership interests in a person.

Article 26

Procedural Rules for Taxation at Source

- (1) If in one of the Contracting States the taxes on dividends, interest, royalties or other items of income derived by a person who is a resident of the other Contracting State are levied by withholding at source, the right of the first-mentioned State to apply the withholding of tax at the rate provided under its domestic law shall not be affected by the provisions of this Agreement. The tax withheld at source shall be refunded on application by the taxpayer if and to the extent that it is reduced by this Agreement or ceases to apply.

(2) Refund applications must be submitted by the end of the fourth year following the calendar year in which the withholding tax was applied to the dividends, interest, royalties or other items of income.

(3) Notwithstanding paragraph 1, each Contracting State shall provide for procedures to the effect that payments of income subject under this Agreement to no tax or only to reduced tax in the state of source may be made without deduction of tax or with deduction of tax only at the rate provided in the relevant Article.

(4) The Contracting State in which the items of income arise may ask for a certificate by the competent authority on the residence in the other Contracting State.

(5) The competent authorities may by mutual agreement implement the provisions of this Article and if necessary establish other procedures for the implementation of tax reductions or exemptions provided for under this Agreement.

Article 27

Diplomatic and consular privileges

Nothing in this Agreement shall affect the fiscal privileges of members of a diplomatic mission, a consular post or an international organisation under the general rules of international law or under the provisions of special agreements.

Article 28

Protocol

The attached Protocol shall be an integral part of this Agreement.

Article 29

Entry into force

(1) This Agreement shall be ratified; the instruments of ratification shall be exchanged as soon as possible in Abu Dhabi.

(2) The Agreement shall enter into force on the day of the exchange of the instruments of ratification and shall have effect in both Contracting States:

- a) in the case of taxes withheld at source, in respect of amounts paid on or after the first January 2009;
- b) in the case of other taxes, in respect of taxes levied for periods beginning on or after the first January 2009;
- c) in respect of the exchange of information under Article 25, on the first day of January 2009.

Article 30

Duration

(1) This Agreement shall remain in force for a period of ten calendar years beginning on the first day of January of the calendar year next following that in which the Agreement entered into force according to paragraph 2 of Article 29. Thereafter, it shall remain in force for a further ten calendar years if both Contracting States have agreed to a prolongation and informed each other in writing by diplomatic channels, six months before expiry, that the internal requirements for a prolongation are fulfilled. The competent authorities of the Contracting States shall at the beginning of the last year of the prolongation period consult each other whether another prolongation should be envisaged.

(2) Either of the Contracting States may, on or before the thirtieth June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give the other Contracting State through diplomatic channels, written notice of termination and in such event this Agreement shall no longer be in force.

(3) This Agreement shall be applied ultimately in both Contracting States:

- a) in respect of taxes which are levied for the assessment period ending in the last year in which this Agreement is in force;

- b) in respect of taxes withheld at source on dividends, interest and royalties, paid up to 31 December of the last year in which this Agreement is in force;
- c) in respect of the exchange of information under Article 25 up to 31 December of the last year in which this Agreement is in force.

Done at Berlin on the 1st day of July 2010, corresponding to 19 Rajb, 1431 AH in two originals in the German, Arabic and English languages, all three texts being authentic. In the case of divergent interpretation of the German and the Arabic texts, the English text shall prevail.

For the
Federal Republic of Germany

Guido Westerwelle

For the
United Arab Emirates

Abdullah Bin Zayed Al Nahyan

Protocol

to the Agreement

between

the Federal Republic of Germany

and

the United Arab Emirates

for the Avoidance of Double Taxation and of Tax Evasion

with respect to Taxes on Income

signed on the 1st day of July 2010, corresponding to 19 Rajb, 1431 AH

The Federal Republic of Germany and the United Arab Emirates have in addition to the Agreement of 1 July 2010, corresponding to 19 Rajb, 1431 AH for the Avoidance of Double Taxation and of Tax Evasion with respect to Taxes on Income agreed on the following provisions, which shall form an integral part of the said Agreement:

1. With reference to Article 4:

- a) It is understood that the status of a company as a resident of the United Arab Emirates is conditional on confirmation by the competent authority of the United Arab Emirates that the prerequisites mentioned in sub-paragraph (b) of paragraph 1 of Article 4 have been fulfilled. In case of disagreement between the competent authorities of the two Contracting States, the procedures under Article 24 shall be applied.
- b) If the authorities of either Contracting States have evidence which casts doubt on the statements which have been made by the person to whom the income is allocatable

and which have been confirmed by the competent authority of the other Contracting State, the competent authority of the Contracting State shall present this evidence to the competent authority of the other Contracting State, the latter shall make fresh inquiries and shall inform the competent authority of the Federal Republic of Germany of the results.

c) It is agreed upon that government institutions of the United Arab Emirates within the meaning of paragraph 2 of Article 4 shall include the following types of entities created under public law which are wholly owned and controlled by the United Arab Emirates or a political subdivision or local governments thereof:

- public corporations;
- authorities;
- government agencies;
- foundations
- development funds; and
- directly or indirectly wholly owned entities of the above.

These entities have to provide the necessary documentation as prove of the meeting the above mentioned conditions.

Subject to the provisions of sub-paragraph (c) of paragraph 2, further institutions can be recognized as government institutions.

d) It is the mutual understanding of both sides that regardless of the interposing of a company or of companies, ultimately only individuals being residents of the United Arab Emirates, the United Arab Emirates and a government institution of the United Arab Emirates should enjoy the benefits of this Agreement.

This aim should be regarded in the interpretation of this Agreement. If doubts should arise in this respect the mutual agreement procedure should apply.

2. With reference to Article 7:

a) Where an enterprise of a Contracting State sells goods or merchandise or carries on business in the other Contracting State through a permanent establishment situated

therein, the profits of that permanent establishment shall not be determined on the basis of the total amount received therefore by the enterprise but only on the basis of the amount which is attributable to the actual activity of the permanent establishment for such sales or business.

- b) In the case of contracts, in particular for the survey, supply, installation or construction of industrial, commercial or scientific equipment or premises, or of public works, where the enterprise has a permanent establishment in the other Contracting State, the profits of such permanent establishment shall not be determined on the basis of the total amount of the contract, but only on the basis of that part of the contract which is effectively carried out by the permanent establishment in the Contracting State in which it is situated. Profits derived from the supply of goods to that permanent establishment or profits related to the part of the contract which is carried out in the Contracting State in which the head office of the enterprise is situated shall be taxable only in that State.
- c) It is understood that payments for the furnishing of services, including consultancy services, are payments to which the provisions of Article 7 of the Agreement apply.

3. With reference to Article 10:

- a) The Agreement shall not be interpreted as preventing the Federal Republic of Germany from taxing amounts which under part 4 of the German Foreign Tax Law (Außensteuergesetz) are included in the income of a resident of the Federal Republic of Germany. It is understood that the Federal Republic of Germany may tax under certain conditions mentioned in part 4 of the German Foreign Tax Law (Außensteuergesetz) passive income of residents of the Federal Republic of Germany which originated in the United Arab Emirates.
- b) With reference to sub-paragraph (c) of paragraph (2):

In the case of Germany a real estate investment company is a company according to paragraph 1 of section 1 of the German Act on German Real Estate Stock Corporations with Listed Shares (REIT Act).

c) With reference to paragraph (5):

It is understood that paragraph (5) of Article 10 does not prevent the other Contracting State from taxing dividends paid by a non-resident company that derives income from immovable property located in that other Contracting State, in the case that it can claim tax-exempt treatment there regarding such income.

4. With reference to Articles 10 and 11:

Notwithstanding the provisions of Article 10 and 11 of this Agreement, dividends and interest may be taxed in the Contracting States in which they arise, and according to the law of that State,

- a) if they are derived from rights or debt claims carrying a right to participate in profits, including income derived by a silent partner ("stiller Gesellschafter") from his participation as such, or from a loan with an interest rate linked to borrower's profit ("partiarisches Darlehen") or from profit sharing bonds ("Gewinnobligationen") within the meaning of the tax law of the Federal Republic of Germany and
- b) under the condition that they are deductible in the determination of profits of the debtor of such income.

5. With reference to paragraph 5 of Article 13:

It is understood that the term "any other property" referred to in paragraph 5 of Article 13 includes shares in a company other than shares of company dealt with in paragraph 2 in Article 13.

6. With reference to Article 25:

If personal data is exchanged under this Article, the following additional provisions shall apply subject to the domestic laws of each Contracting State:

- a) The data supplying Contracting States shall be responsible for the accuracy of the data they supply. If it emerges that inaccurate data or data which should not have been supplied have been communicated, the receiving State shall be notified of this without delay. That State shall correct or destroy said data.
- b) The Contracting States shall keep official records of the transmission and receipt of personal data.
- c) The Contracting States shall take effective measures to protect the personal data communicated against unauthorised access, unauthorised alteration and unauthorised disclosure.
- d) Upon application the person concerned shall be informed of the information stored about him and of the use planned to be made of it. There shall be no obligation to give this information if on balance it appears that the public interest in withholding it outweighs the interest of the person concerned in receiving it.
- e) The right of the person concerned to be informed of the data stored about him shall be a matter of the domestic law of the Contracting State in whose sovereign territory the application for the information is made.

7. With reference to the Agreement:

Notwithstanding any other provisions of this Agreement, except Article 24 and 25, income and profits of an enterprise of a Contracting State from the exploration and exploitation of natural resources in the other Contracting State shall be taxable only in that other State.