



AGREEMENT OF 9TH APRIL 1995

Germany

AGREEMENT BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE UNITED ARAB EMIRATES FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND CAPITAL AND FOR THE FOSTERING OF ECONOMIC RELATIONS

The Federal Republic of Germany and the United Arab Emirates,

Desiring to promote their mutual economic relations by removing fiscal obstacles,

Have agreed as follows:

Article 1

Personal Scope

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

Article 2

Taxes Covered

1. This Agreement shall apply to taxes on income and on capital imposed on behalf of a Contracting State, 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 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, as well as taxes on capital appreciation.

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

- a) in the Federal Republic of Germany:
 - the Einkommensteuer (income tax),
 - the Körperschaftsteuer (corporation tax),
 - the Vermögensteuer (capital tax) and
 - the Gewerbesteuer (trade tax)(hereinafter referred to as “German tax”);
- b) in the United Arab Emirates:
 - the income tax,



the corporation tax

(hereinafter referred to as “United Arab Emirates 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. At the end of each year, the competent authorities of the Contracting States shall - if necessary - notify each other of changes which have been made in their respective 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;
- c) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;
- d) 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;
- e) the term “national” means:
 - (1) 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;
 - (2) 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;
- f) 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;

- g) the term “competent authority” means in the case of the Federal Republic of Germany, the Federal Ministry of Finance, and in the case of the United Arab Emirates, the Minister of Finance and Industry, or his authorised representative.

2. As regards the application of this Agreement by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which this Agreement applies.

Article 4 Resident

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

- a) in the case of 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, an individual who has his domicile in the United Arab Emirates and is a national of the United Arab Emirates and a company which is incorporated in the United Arab Emirates and has its place of effective management there.

2. For the purposes of paragraph 1 above:

- a) the Federal Republic of Germany and its political subdivisions 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, 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;
 - e) a workshop; and
 - f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than nine 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, boats 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 and to income from immovable property used for the performance of independent personal services.



Article 7

Business Profits

1. The profits of an enterprise of a Contracting State shall 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. The foregoing provision is applicable irrespective of limitations provided by the internal laws, provided that the deducted expenses are in accordance with the international practice.
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. 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.

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

4. For the purpose of this Article:

- a) the term “profits” includes:
 - i) profits, net profits, gross receipts and revenues derived directly from the operation of ships or aircraft in international traffic, and
 - ii) interest on sums generated directly from the operation of ships or aircraft in international traffic provided that such interest is incidental to the operation;
- b) the term “operation of ships or aircraft” includes:
 - i) the charter or rental of ships or aircraft,
 - ii) the rental of containers and related equipment, and
 - iii) the alienation of ships, aircraft, containers and related equipment,

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

Article 9 Associated Enterprises

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.



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) 15 per cent of the gross amount of such dividends in all other cases.

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
 - a) dividends on shares including income from shares, “jouissance” shares or “jouissance” rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, and
 - b) 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 for the purpose of taxation in the Federal Republic of Germany, income derived by a sleeping partner from his participation as such and distributions on certificates of an 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, 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.
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 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



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, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, 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 or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
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 shall be taxable only in that other State, if such resident is the beneficial owner of the royalties.
2. 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. The term royalties does not include payments for the furnishing of services, including consultancy services, as well as payments in respect of the operation of mines or quarries or exploitation of natural resources.
3. The provisions of paragraph 1 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 Article 7 or Article 14, as the case may be, shall apply.

4. 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 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 Contracting State in which the permanent establishment or fixed base 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 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 from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. 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.

4. Gains from the alienation of any property other than that referred to in paragraphs 1 to 3, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

Independent Personal Services

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his



activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

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

Article 15

Dependent Personal Services

1. Subject to the provisions of Articles 16, 18 and 19, 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 the calendar 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 base 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 16

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 17

Artistes and Athletes

1. Notwithstanding the provisions of Articles 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 an athlete, 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 an athlete in his capacity as such accrues not to the entertainer or athlete 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 athlete are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply if the visit of entertainers or athletes to a Contracting State is supported wholly or substantially from public funds of the other Contracting State, a Land, a political subdivision or a local authority thereof.

Article 18 **Pensions**

Subject to the provisions of paragraph 1 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. Remuneration including pensions paid by a Contracting State, a Land, a political subdivision or a local government thereof to an individual in respect of services rendered to that State, Land, subdivision or government shall be taxable only in that State. However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State, if the individual is a resident of that State and not a national of the first-mentioned State.

2. The provisions of Articles 15, 16 and 18 shall apply to remuneration and 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 government thereof.

3. The provisions of paragraph 1 shall likewise apply in respect of remuneration paid, under a development assistance programme of a Contracting State, a Land, a political subdivision or a local government thereof, out of funds exclusively supplied by that State, Land, political subdivision or local government, to a specialist or volunteer seconded to the other Contracting State, with the consent of that other State.

Article 20 **Teachers, Students and Trainees**

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. An individual who is present in a Contracting State solely:
 - a) as a student at a university, college or school in that Contracting State,
 - b) as a business apprentice (including in the case of the Federal Republic of Germany a “Volontar” or a “Praktikant”),
 - c) as the recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific or educational organisation, or
 - d) as a member of a technical cooperation programme entered into by the Government of that Contracting State,

and who is, or was immediately before visiting that State, a resident of the other Contracting State, shall be exempt from tax in the first-mentioned Contracting State in respect of remittances from abroad for the purposes of his maintenance, education or training.

Article 21 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, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 22 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 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.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 23

Limitation on 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, 21 and 22:

- the Federal and the local governments of the United Arab Emirates;
- a government institution of the United Arab Emirates as defined in subparagraph 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. Relief from German taxes under paragraphs 1 to 3 is conditional on confirmation by the competent authority of the United Arab Emirates that the prerequisites mentioned in paragraphs 1 and 2 have been fulfilled. If the authorities of the Federal Republic of Germany have evidence which casts doubt on the statements which have been made by the person to whom the income or capital is allocatable and which have been confirmed by the competent authority of the United Arab Emirates, the competent authority of the Federal Republic of Germany shall present this evidence to the

competent authority of the United Arab Emirates, the latter shall make fresh inquiries and shall inform the competent authority of the Federal Republic of Germany of the results. In case of disagreement between the competent authorities of the two Contracting States, the procedures under Article 26 shall be applied.

Article 24

Relief From Double Taxation

1. Tax shall be determined in the case of a resident of the Federal Republic of Germany as follows:

- a) Unless the provisions of sub-paragraph b) apply, there shall be excluded from the basis upon which German tax is imposed, any item of income arising in the United Arab Emirates and any item of capital situated within the United Arab Emirates, which, according to this Agreement, may be taxed in the United Arab Emirates. The Federal Republic of Germany, however, retains the right to take into account in the determination of its rate of tax the items of income and capital so excluded.

In the case of dividends the foregoing provisions shall apply only to such dividends as are paid to a company (not including partnerships) being a resident of the Federal Republic of Germany by a company being a resident of the United Arab Emirates, at least 10 per cent of the capital of which is owned directly by the German company.

For the purpose of taxes on capital there shall also be excluded from the basis upon which German tax is imposed any shareholding, the dividends of which are excluded or, if paid, would be excluded, according to the foregoing sentence, from the basis upon which German tax is imposed.

- b) Subject to the provisions of German tax law regarding credit for foreign tax, there shall be allowed as a credit against German income and corporation tax payable in respect of the following items of income arising in the United Arab Emirates, the tax paid under the laws of the United Arab Emirates and in accordance with this Agreement on:
- (1) dividends not dealt with in sub-paragraph a);
 - (2) remuneration to which Article 16 applies;
 - (3) income to which Article 17 applies.
- c) The provisions of sub-paragraph a) shall not apply to the profits of, and to the capital represented by movable and immovable property forming part of the business property of a permanent establishment and to the gains from the alienation of such property; to dividends paid by, and to the shareholding in, a company; provided that the resident of the Federal Republic of Germany concerned does not prove that the gross receipts of the permanent establishment or company are derived exclusively or almost exclusively from

activities within the meaning of section 8 paragraph 1, sub-paragraphs 1 to 6 or from participations in the meaning of section 8 paragraph 2 of the German Foreign Tax Law (Aussensteuergesetz).

In such case the tax paid under the laws of the United Arab Emirates and in accordance with this Agreement on the above-mentioned items of income and capital shall, subject to the provisions of German tax law regarding credit for foreign tax, be allowed as a credit against German income or corporation tax payable on such items of income or against German capital tax payable on such items of capital.

2. Tax shall be determined in the case of a resident of the United Arab Emirates in accordance with the domestic laws of the United Arab Emirates.

Article 25

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 5 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. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

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

Article 26**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. If the taxation of income in a Contracting State is effected by way of withholding tax at source, and if this taxation is limited by the provisions of this Agreement, the application of this tax reduction or exemption shall be governed by the national law of that State in conjunction with the procedures agreed upon for this purpose between the competent authorities of the two Contracting States.
5. 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.

Article 27**Exchange of Information**

1. The competent authorities of the Contracting States exchange such information as is necessary for carrying out the provisions of this Agreement. 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 in 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 Agreement. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.
2. In no case shall the provisions of paragraph 1 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”).

Article 28

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 29

Entry Into Force

1. This Agreement shall be subject to ratification in accordance with the constitutional requirements of the two Contracting States and the instruments of ratification shall be exchanged at Bonn as soon as possible.
2. This Agreement shall enter into force one month from the date of the exchange of the instruments of ratification and shall have effect in both Contracting States:
 - a) in respect of taxes which are levied for any assessment period beginning on or after January 1, 1992;
 - b) in respect of taxes withheld at source on dividends, interest and royalties paid after December 31, 1991.

Article 30

Duration

1. This Agreement shall remain in force for a period of ten calendar years beginning with the first year in which it will have effect according to paragraph 2 of Article 29. Thereafter, it shall remain in force for a further ten calendar years if both Contracting States have 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. 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.

