

AGREEMENT
BETWEEN
THE KINGDOM OF SPAIN
AND
THE SULTANATE OF OMAN
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

The Kingdom of Spain and The Sultanate of Oman, desiring to conclude an Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, have agreed as follows:

CHAPTER I
SCOPE OF THE AGREEMENT

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 or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

a) in the case of the Kingdom of Spain:

- i) the income tax on individuals;
- ii) the corporate income tax;
- iii) the income tax on non residents; and
- iv) the local taxes on income;

(hereinafter referred to as "Spanish Tax");

b) in the case of the Sultanate of Oman:

- (i) the income tax;

(hereinafter referred to as "Omani tax").

4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in

place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of significant changes which have been made in their respective taxation laws.

CHAPTER II

DEFINITIONS

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:
 - a) the term "Spain" means the Kingdom of Spain and, when used in a geographical sense, means the territory of the Kingdom of Spain, including inland waters, the air space, the territorial sea and any area outside the territorial sea upon which, in accordance with international law and on application of its domestic legislation, the Kingdom of Spain exercises or may exercise in the future jurisdiction or sovereign rights with respect to the seabed, its subsoil and superjacent waters, and their natural resources;
 - b) the term "Sultanate of Oman" means the territory of the Sultanate of Oman and the islands belonging thereto, including, the territorial waters, the air space and any area outside the territorial waters over which the Sultanate of Oman may, in accordance with international law and the laws of the Sultanate of Oman, exercise jurisdiction or sovereign rights with respect to the exploration and exploitation of the natural resources of the sea-bed and the sub-soil and the superjacent waters;
 - c) the terms "a Contracting State" and "the other Contracting State" mean the Kingdom of Spain or the Sultanate of Oman as the context requires;
 - d) the term "person" includes an individual, a company and any other body of persons;
 - e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by

a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

- g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise that 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;
- h) the term "competent authority" means:
 - i) in the case of the Kingdom of Spain, the Minister of Finance and Public Administrations or his authorised representative;
 - ii) in the case of the Sultanate of Oman, the Ministry of Finance or its authorised representative;
- i) the term "national" means:
 - i) any individual possessing the nationality of a Contracting State;
 - ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State.

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 any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of registration or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority, or statutory body thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

2. 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 only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident

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

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

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business 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 assembly 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 subparagraphs (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. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, and conditions are made or imposed between the enterprise and the agent in their commercial and financial relations which differ from those which would have been made between independent enterprises, he will not be considered an agent of an independent status within the meaning of this paragraph.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent

establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

CHAPTER III

TAXATION OF INCOME

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. Where the ownership of shares or other rights directly or indirectly entitles the owner of such shares or rights to the enjoyment of immovable property, the income from the direct use, letting or use in any other form of such right to the enjoyment may be taxed in the Contracting State in which the immovable property is situated.
5. The provisions of paragraphs 1, 3 and 4 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, provided such deductions are in accordance with the provisions of and subject to the limitations of the tax laws of that State.

4. 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.

5. 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.

6. 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 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. For the purposes of this Article, the term "operation of ships or aircraft in international traffic" by an enterprise, includes:

- a) the charter, lease or rental of ships or aircraft fully equipped, manned and supplied, and used in the operation in international traffic;
- b) the charter, lease or rental on a bare boat charter basis of ships or aircraft, where such charter, lease or rental is incidental to the operation of ships or aircraft in international traffic; and
- c) the use, maintenance or rental of containers, where such use, maintenance or rental is incidental to the operation of ships or aircraft in international traffic.

4. The provisions of paragraphs 1 and 3 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 State has been charged to tax in that other Contracting State and that other State agrees that 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 beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed

- a) 0 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 20 per cent of the capital of the company paying the dividends;
- b) 10 per cent of the gross amount of the 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. Notwithstanding the provisions of paragraph 2, dividends paid by a company which is a resident of a Contracting State to the Government of the other Contracting State shall be exempt from tax in the first-mentioned State.

4. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

INTEREST

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

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to the Government of the other Contracting State shall be exempt from tax in the first-mentioned State.

4. 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. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1 and 2 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 cases, the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is 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 Contracting State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claims 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 a 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 8 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 including computer software and cinematographic films and recordings for radio and television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such cases, the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

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

5. Gains from the alienation of shares or other rights, which directly or indirectly entitle the owner of such shares or rights to the enjoyment of immovable property situated in a Contracting State, may be taxed in that State.

6. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3, 4 and 5 shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is 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. In that case, the income may be taxed in that other Contracting 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

INCOME FROM EMPLOYMENT

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 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 or fixed base which the employer has in the other State.

3. Notwithstanding the preceding paragraphs 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 other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17

ARTISTES AND SPORTSPERSONS

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

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

3. The provisions of paragraphs 1 and 2 shall not apply if the activities exercised by an artiste or a sportsperson in a Contracting State are supported wholly or substantially from the public funds of either Contracting State or a political subdivision or a local authority thereof, within the framework of cultural or sports exchange programs approved by both Contracting States. In such a case, the income derived from those activities shall only be taxed in the Contracting State where the artiste or sportsperson is a resident.

Article 18

PENSIONS

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 19

GOVERNMENT SERVICE

1.
 - a) Salaries, wages and other similar remuneration paid by a Contracting State or a political subdivision or a local authority or a statutory body thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
 - b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2.
 - a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority or statutory body thereof to an individual in respect of services rendered to that State or subdivision or authority or body shall be taxable only in that State.
 - b) However, such pensions and other similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority or statutory body thereof.

Article 20

PROFESSORS AND RESEARCHERS

1. An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State and who, at the invitation of any approved university, college, school, or other similar educational institution or scientific research institution, visits that other Contracting State for a period not exceeding two years from the date of his arrival in that other State solely for the purpose of teaching or research or both at such educational or research institution, shall be exempt from tax in that other State on any remuneration derived from such teaching or research.
2. The term “ approved ” in paragraph 1 refers to the approval given by the Contracting State in which the university, college, school or other similar educational institution or scientific research institution is situated.
3. This Article shall not apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.

Article 21

STUDENTS

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 22

OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this 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.

CHAPTER IV

METHODS FOR ELIMINATION OF DOUBLE TAXATION

Article 23

ELIMINATION OF DOUBLE TAXATION

1. In Spain, double taxation shall be avoided following either the provisions of its internal legislation or the following provisions in accordance with the internal legislation of Spain:

- a) Where a resident of Spain derives income which, in accordance with the provisions of this Agreement, may be taxed in the Sultanate of Oman, Spain shall allow:
 - i) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in the Sultanate of Oman;
 - ii) the deduction of the underlying corporation tax shall be given in accordance with the internal legislation of Spain.

Such 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 Sultanate of Oman.

- b) Where in accordance with any provision of the Agreement income derived by a resident of Spain is exempt from tax in Spain, Spain may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

2. In the Sultanate of Oman, double taxation shall be eliminated as follows:

- a) Where a resident of the Sultanate of Oman derives income which, in accordance with the provisions of this Agreement, may be taxed in Spain, the Sultanate of Oman shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in Spain. Such deduction shall not, however, exceed that part of the income tax (as computed before the deduction is given) which is attributable to the income which may be taxed in Spain.
- b) Where, in accordance with any provision of this Agreement, income derived by a resident of the Sultanate of Oman is exempt from tax in the Sultanate of Oman, the Sultanate of Oman may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

CHAPTER V

SPECIAL PROVISIONS

Article 24

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, in particular with respect to residence, 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 paragraph 1 of Article 9, paragraph 7 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. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 25

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 or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. 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 the 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 the 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 the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 26

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 the Contracting States, or of their political subdivisions or local authorities, 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, the determination of appeals in relation to the taxes referred to in paragraph 1. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

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

Article 27

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

Article 28

PROTOCOL

The attached Protocol is an integral part of this Agreement.

CHAPTER VI

FINAL PROVISIONS

Article 29

ENTRY INTO FORCE

1. Each Contracting State shall notify the other, through diplomatic channels that the internal procedures required by each Contracting State for the entry into force of this Agreement have been complied with.

2. The Agreement shall enter into force after the period of three months following the date of receipt of the later of the notifications referred to in paragraph 1 and its provisions shall have effect:

- i) in respect of taxes withheld at source, for amounts paid or credited on or after the date on which this Agreement enters into force;
- ii) in respect of other taxes, for any tax years commencing on or after the date on which this Agreement enters into force; and
- iii) in all other cases, on or after the date on which this Agreement enters into force.

3. Provisions of Article 26 of the Agreement allow for the exchange of information for any tax years in accordance with the law of the requesting State.

Article 30

TERMINATION

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year beginning on or after the expiration of a period of five years from the

date of its entry into force. In such event, the Agreement shall cease to have effect:

- i) in respect of taxes withheld at source, for amounts paid or credited after the end of that calendar year;
- ii) in respect of other taxes, for any tax years commencing after the end of that calendar year; and
- iii) in all other cases, after the end of that calendar year.

In witness whereof the undersigned, duly authorised thereto, have signed this Agreement.

Done in duplicate at..... this.....day of14.... AH, corresponding to ... 200..., in the Spanish, Arabic and English languages, all texts being equally authentic. In case of divergence of interpretation between any of the texts, it shall be resolved in accordance with the procedure regulated under Article 25 of this Agreement.

For the Kingdom of Spain

For the Sultanate of Oman

PROTOCOL

At the moment of signing the Agreement between the Kingdom of Spain and the Sultanate of Oman for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed upon the following provisions which shall be an integral part of the Agreement.

I Entitlement benefits

A.

1. This Agreement shall not be interpreted to mean that a Contracting State is prevented from applying its domestic legal provisions on the prevention of tax evasion or tax avoidance. In particular these provisions may be applied to the abuse of law, including the tax treaties.
2. It is understood that the benefits under this Agreement shall not be granted to a person, which is not the beneficial owner of the items of income derived from the other Contracting State.
3. In the case of Spain, this Agreement does not prevent Spain from applying domestic Controlled Foreign Company rules (CFCs).
4. The provisions of Articles 10, 11, 12 and 13 shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the shares or other rights in respect of which the dividends are paid, the creation or assignment of the debt-claim in respect of which the interest is paid, the creation or assignment of rights in respect of which the royalties are paid to take advantage of these Articles by means of that creation or assignment.

B. With reference to Articles 10, 11, 12, and 13

Notwithstanding the remaining provisions of this Agreement, the provisions of Articles 10, 11, 12 and 13 of this Agreement shall not apply if:

- a) the entity of a Contracting State paying the dividends, interest, royalties or capital gains to a resident in the other Contracting State has derived its income from a jurisdiction that does not have a Double Taxation Agreement with that other Contracting State, and
- b) that income is exempt from or not subjected to tax in the first-mentioned Contracting State.

An entity which under the preceding subparagraph would not be entitled to the benefits of the Agreement in respect of the aforementioned items of income, could still be granted such benefits if the competent authorities of the Contracting States agree under Article 25 of the Agreement (Mutual Agreement Procedure) that the establishment of the entity and the conduct of its operations are founded on sound business reasons and thus do not have as its primary purpose the obtaining of such benefits.

II With reference to Article 2

The term “tax” means Omani tax or Spanish tax, as the context requires, but shall not include any amount which is payable in respect of any default or omission in relation to the taxes to which this Agreement applies or which represents a penalty imposed relating to those taxes.

III With reference to Article 4

For the purposes of paragraph 1 of Article 4, in the case of the Sultanate of Oman, the term “resident of a Contracting State” shall include any individual who has a substantial presence, permanent home or habitual abode in the Sultanate of Oman and the individual’s personal and economic relations are closer to the Sultanate of Oman than to any other State.

IV With reference to Article 4 and 19

For the purposes of paragraph 1 of Article 4 and Article 19, the term “statutory body” means a body constituted for the fulfilment of a public function under Royal Decree of the Sultanate of Oman or an Act of Parliament of Spain and is wholly owned by the Government of the Sultanate of Oman or the Government of Spain.

V With reference to Article 7

With respect to paragraph 3 of Article 7, the total amount of expenses which may be deducted in determining the profits of the permanent establishment shall not be limited solely to the amount of expenses incurred by the permanent establishment itself to acquire the taxable income, but shall also include expenses incurred by the enterprise in the State in which it is resident or in a third State and which contribute to the acquisition of taxable income of the permanent establishment.

VI With reference to Article 10

With respect to Article 10, it is understood that, notwithstanding any other provisions of this Agreement, where a company which is a resident of a Contracting State has a permanent establishment in the other Contracting State, that other Contracting State shall not tax any remittances or deemed remittances of profits transferred by

the permanent establishment to the company which is a resident of the first-mentioned Contracting State.

VII With reference to Articles 10 and 11

For the purposes of Articles 10 and 11, the term “Government” shall include:

- a) in the case of the Sultanate of Oman:
 - (i) the Central Bank of Oman;
 - (ii) the State General Reserve Fund;
 - (iii) the Omani Investment Fund; and
 - (iv) any other statutory body or institution wholly or mainly owned by the Government of the Sultanate of Oman, as may be agreed between the competent authorities of the Contracting States;

- b) b) in the case of the Kingdom of the Spain:
 - (i) the Central Bank of Spain;
 - (ii) Official Credit Institute (ICO: Instituto de Credito Oficial); and
 - (iii) any other institution created by the State, a political subdivision of, or local authority thereof, which is recognised as an integral part of the State, a political subdivision of, or local authority thereof, as may be agreed between the competent authorities of the Contracting States.

VIII With reference to Article 16

The term “board of directors” includes any similar body which performs the same functions.

IX With reference to Article 26

1. Notwithstanding paragraph 2 of Article 26 of the Agreement, the information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the law of the requesting State and the competent authority of the supplying State authorises such use.

2. It is understood that the following guidelines shall be followed when applying the provisions of Article 26 of the Agreement:

A. Definitions

For the purposes of this Protocol provision, it is understood that:

- a) the term "information gathering measures" means any provisions of law and administrative or judicial procedures enabling a Contracting State to obtain and provide the requested information;
- b) the term "information" means any fact, statement or record in whatever form;
- c) the term "publicly traded company" means any company whose principal class of shares is listed on a recognised stock exchange of either Oman or Spain provided its listed shares can be readily purchased or sold by the public. Shares can be purchased or sold "by the public" if the purchase or sale of shares is not implicitly or explicitly restricted to a limited group of investors;
- d) the term "principal class of shares" means the class or classes of shares representing a majority of the voting power and value of the company;
- e) the term "collective investment fund or scheme" means any pooled investment vehicle, irrespective of its legal form;
- f) the term "notification" means the delivery of documents to residents of either Contracting State according to the rules that govern the delivery of documents in that State.

B. Exchange of Information upon Request

1. The competent authority of a Contracting State shall provide upon request information for the purposes referred to in Article 26. Such information shall be exchanged without regard to whether the conduct being investigated would constitute a crime under the laws of that Contracting State if such conduct occurred therein.

2. If the information in the possession of the competent authority of a Contracting State is not sufficient to enable it to comply with a request for information, that Contracting State shall use its information gathering measures to provide the other Contracting State with the information requested, notwithstanding that the first-mentioned Contracting State may not need such information for its own tax purposes.

3. If specifically requested by the competent authority of a Contracting State, the competent authority of the other Contracting State shall provide information

under Article 26, to the extent allowable under its domestic laws, in the form of depositions of witnesses and authenticated copies of original records.

4. Each Contracting State shall ensure that its competent authorities for the purposes specified in Article 26 have the authority to obtain and provide upon request:

- a) information held by banks, other financial institutions, and any person, including nominees and trustees, acting in an agency or fiduciary capacity;
- b)
 - (i) information regarding the legal and beneficial ownership of companies, partnerships, foundations, and other persons, and within the constraints of Article 1 any other persons in an ownership chain, including in the case of collective investment schemes, information on shares, units and other interests;
 - (ii) in the case of trusts, information on settlors, trustees, protectors and beneficiaries; and
 - (iii) in the case of foundations, information on founders, members of the foundation council and beneficiaries.

Further, Article 26 does not create an obligation on the Contracting States to obtain or provide ownership information with respect to publicly traded companies or public collective investment funds, unless such information can be obtained without giving rise to disproportionate difficulties.

5. The competent authority of the Contracting State, when making a request for information under the Agreement from the competent authority of the other Contracting State, shall provide the following information to the competent authority of the other Contracting State to demonstrate the foreseeable relevance of the information requested:

- a) The identity of the person under examination or investigation.
- b) A statement of the information sought including its nature and the form in which the Contracting State making the request for information wishes to receive the information from the other Contracting State.
- c) The tax purpose for which the information is sought.

- d) Grounds for believing that the information requested is held in the other Contracting State or is in the possession or control of a person within the jurisdiction of the other Contracting State.
- e) To the extent known, the name and address of any person believed to be in possession of the requested information.
- f) A statement that the request is in conformity with the law and administrative practices of the Contracting State making the request for information, that if the requested information was within the jurisdiction of that Contracting State then the competent authority of that Contracting State would be able to obtain the information under the laws of that Contracting State or in the normal course of administrative practice and that it is in conformity with this Agreement.
- g) A statement that the Contracting State making the request for information has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

6. The competent authority of a Contracting State shall forward the requested information as promptly as possible to the other Contracting State. To ensure a prompt response, the competent authority of the first mentioned Contracting State shall:

- a) Confirm receipt of a request in writing to the competent authority of the other Contracting State no later than ten days after the receipt.
- b) Notify the competent authority of the other Contracting State of deficiencies in the request, if any, within 60 days of the confirmation of the receipt of the request.
- c) If the competent authority of the first mentioned Contracting State has been unable to obtain and provide the information within 90 days of the confirmation of the receipt of the request, including if it encounters obstacles in furnishing the information or it refuses to furnish the information, it shall immediately inform the other Contracting State, explaining the reason for its inability, the nature of the obstacles or the reasons for its refusal. The other Contracting State shall subsequently decide whether or not to rescind its request. If it decides not to rescind its request the Contracting States shall informally and directly, through Mutual Agreement or otherwise, discuss the possibilities to achieve

the purpose of the request and consult with each other the manner in which to achieve that objective.

- d) Provide the information no later than six months following the date of the confirmation of the receipt of the request. In certain complex cases both competent authorities may agree on a longer deadline.

The time restrictions mentioned in this Article do not in any way affect the validity and legality of information exchanged under this Agreement.

7. The Competent Authorities of the Contracting States may by mutual agreement settle the mode in which requests for information shall be submitted.

C. Possibility of Declining a Request

1. The Contracting State requested to provide information shall not be required to obtain or provide information that the Contracting State making the request would not be able to obtain under its own laws for purposes of the administration or enforcement of its own tax laws.

2. The provisions of this Agreement shall not impose on a Contracting State the obligation to obtain or provide information, which would reveal confidential communications between a client and an attorney, solicitor or other admitted legal representative where such communications are:

- a) produced for the purposes of seeking or providing legal advice or
- b) produced for the purposes of use in existing or contemplated legal proceedings.

3. A Contracting State may decline a request for information if the information is requested by the other Contracting State to administer or enforce a provision of the tax law of the other Contracting State, or any requirement connected therewith, which discriminates against a national of the first-mentioned Contracting State as compared with a national of the other Contracting State in the same circumstances.

D. Request for Notifications

It is understood that co-operation between both Contracting States includes assistance for notifications within the following framework:

1. The competent authority of a Contracting State, at the request of the Competent authority of the other Contracting State, and in accordance with the laws which govern the notification of such instruments in the first-mentioned Contracting State, shall notify, when possible, decisions and any other instrument which emanate from the administrative authorities of the other Contracting State and concern the application of taxes of every kind and description imposed on behalf of the Contracting States.

2. The competent authority of a Contracting State shall inform the competent authority of the other Contracting State of the name, address and any other relevant information of the addressee, when making a request for notification, if such information is available.

3. The competent authority of a Contracting State shall confirm receipt of a request in writing to the competent authority of the other Contracting State and shall notify its Competent Authority of any deficiencies in the request.

4. The competent authorities of the Contracting States may by mutual agreement settle the mode in which requests for notification shall be submitted.

E. Language

Requests for assistance and answers thereto shall be drawn up in Spanish and English or in Arabic and English.

In witness whereof the undersigned, duly authorised thereto, have signed this Protocol.

Done in duplicate at..... this.....day of.....14.... AH, corresponding to.... 200... , in the Spanish, Arabic and English languages, all texts being equally authentic. In case of divergence of interpretation between any of the texts, it shall be resolved in accordance with the procedure regulated under Article 25 of this Agreement.

For the Kingdom of Spain

For the Sultanate of Oman