

# **SYNTHESISED TEXT OF THE MLI AND THE AGREEMENT BETWEEN THE ARAB REPUBLIC OF EGYPT AND THE KINGDOM OF SPAIN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

## **General disclaimer on the Synthesised text document**

**This comprehensive document (the "Document") of the companion text of the Multilateral Convention promulgated by Presidential Decree No. 446 of 2020 and the Agreement on Avoidance of Double Taxation and Prevention of Tax Evasion with regard to Income and Capital Taxes between the Governments of the Arab Republic of Egypt and the Republic of Spain and published in the Official Gazette 29 on 20/7/2006 ("Agreement"), is only a guiding text, bearing in mind that that English version of the Agreement is the most likely and the first to be applied on the part of the authentic in case of difference between the versions of different languages themselves- without any responsibility on the authority that issued those texts.**

This document presents the synthesised text for the application of the Agreement between **The Arab Republic of Egypt** and **The Kingdom of Spain** with respect to Taxes on Income and on Capital signed on **10 June 2005** (the "Agreement"), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by **Egypt** on **7 June 2017** and by **Spain** on **7 June 2017** (the "MLI").

This document was prepared in consultation with the competent authority of **The Kingdom of Spain** and represents a shared understanding of the modifications made to the Convention by the MLI

The document was prepared on the basis of the MLI position of **Egypt** submitted to the Depository upon ratification on **30 September 2020** and of the MLI position of **Spain** submitted to the Depository upon ratification on **28 September 2021**. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on the Convention.

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

The provisions of the MLI that are applicable with respect to the provisions of the Agreement are included in boxes throughout the text of this document in the context of the relevant provisions of

the Agreement. The boxes containing the provisions of the MLI have generally been inserted in accordance with the ordering of the provisions of the 2017 OECD Model Tax Convention.

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

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

**References:**

The authentic legal texts of the MLI and the Agreement can be found [[www.eta.gov.eg](http://www.eta.gov.eg)]

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

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

Dates of the deposit of instruments of ratification, acceptance or approval: **30 September 2020** for **Egypt** and **28 September 2021** for **Spain**.

Entry into force of the MLI: **1 January 2021** for **Egypt** and **1 January 2022** for **Spain**.

On 1 June 2022, Spain notified the confirmation of the completion of its internal procedures pursuant to Article 35(7) (b) and MLI has effect as follows:

(a) The provisions of the MLI shall have effect in each Contracting State with respect to the Convention:

- (i) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2023; and
- (ii) With respect to all other taxes levied by that Contracting State, for taxes levied with respect to taxable periods beginning on or after 1 January 2023.

b) Notwithstanding (a), Article 16 (Mutual Agreement Procedure) of the MLI shall have effect with respect to the Convention for a case presented to the competent authority of a Contracting State on or after 1 January 2023, except for cases that were not eligible to be presented as of that date under

the Convention prior to its modification by the MLI, without regard to the taxable period to which the case relates.

**AGREEMENT  
BETWEEN  
THE ARAB REPUBLIC OF EGYPT  
AND  
THE KINGDOM OF SPAIN  
FOR THE AVOIDANCE OF DOUBLE TAXATION AND  
PREVENTION OF FISCAL EVASION  
WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

**Preamble**

**[MODIFIED by paragraph 3.6.2. of Article 6(3) of the MLI]**

The Government of the Arab Republic of Egypt, and the Government of the Kingdom of Spain  
~~[desiring to conclude an Agreement for the avoidance of double taxation and the prevention of  
fiscal evasion with respect to taxes on income and on capital]~~

*The following paragraph 1 and paragraph 3 of Article 6 of the MLI {replace the text referring to an intent to eliminate  
double taxation in the preamble of this Agreement}*

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

Desiring to further develop their economic relationship and to enhance their co-operation in tax  
matters,

Intending to eliminate double taxation with respect to the taxes covered by [*this Agreement*]  
without creating opportunities for non-taxation or reduced taxation through tax evasion or  
avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in  
[*the Agreement*] for the indirect benefit of residents of third jurisdictions)

**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 and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Agreement shall apply are in particular:
  - a) In **Egypt**:
    - (i) the tax on income derived from immovable property (including the land tax and the building tax);
    - (ii) the unified tax on income of individuals;
    - (iii) the tax on corporation profits; and
    - (iv) the duty for the development of the financial resources of the State; (hereafter referred to as “Egyptian tax”);
  - b) in **Spain**:
    - i) the income tax on individual;
    - ii) the corporation tax;
    - iii) the income tax on non residents;
    - iv) the capital tax; and
    - v) local taxes on income and on capital; (reafter referred to as “spanish tax”);
4. The Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of significant changes which have been made in their respective taxation laws.

## **Chapter II DEFINITION**

### **ARTICLE 3**

#### **GENERAL DEFINITIONS**

1. For the purposes of this Agreement, unless the context otherwise requires:
  - a) the terms "**Spain**" and "**Egypt**" mean, respectively, the Kingdom of Spain and the Arab Republic of Egypt; and, when used in a geographical sense include each Party's territory and territorial waters as well as any area outside the territorial sea where, in accordance with the domestic law of each Party and international law, either Party exercises or may in the future exercise jurisdiction or sovereign rights with respect to the seabed, subsoil and superjacent waters and their natural resources;
  - b) the terms "a Contracting State" and "the other Contracting State" mean Egypt or Spain as the context requires;
  - c) the term "person" includes an individual, a company and any other body of persons;
  - d) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
  - e) 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 State;
  - f) 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.
  - g) the term "competent authority" means:
    - (i) in Egypt: The Minister of Finance or his authorised representative;
    - (ii) in Spain: The Minister of Finance or his authorised representative;
  - h) 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 or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This terms, hover, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.
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 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 (center of vital interests);
  - b) if the State in which he has his center of vital interests cannot be determined, or if he has not a permanent home available to him in either 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 or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

## **ARTICLE 5**

### **PERMENANT 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. The term "permanent establishment" likewise encompasses:

- a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than nine months, within any twelve month period;
- b) the furnishing of services in a Contracting State, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise, but only where these employees or personnel are present in that Contracting State for the performance of the same or connected project, during a period or periods aggregating more than 183 days in any twelve month period.

4. ~~[Replaced by paragraph 2 of Article 13 of the MLI ] [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, provided that these facilities are not used as sales outlets in the Contracting State where these facilities are situated;~~
- ~~b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery, provided that these goods or merchandise are not sold in the Contracting State where the stock is situated;~~
- ~~e) 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.]~~

*The following paragraph 2 of Article 13 of the MLI replaces paragraph {4} of Article {5} of this Agreement:*

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

Notwithstanding [Article {5} of the Agreement], the term “permanent establishment” shall be deemed not to include:



- a) 1) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise, provided that these facilities are not used as sales-outlets in the Contracting State where these facilities are situated;
- 2) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery, provided that these goods or merchandise are not sold in the Contracting State where the stock is situated;
- 3) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- 4) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- b) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any activity not described in subparagraph a);
- c) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) and b), provided that such activity or, in the case of subparagraph c), the overall activity of the fixed place of business, is of a preparatory or auxiliary character.

*The following paragraph 4 of Article 13 of the MLI applies to paragraph {4} of Article {5} of this Agreement (as modified by paragraph {2}/{3} of Article 13 of the MLI):*

*[Article {5} of the Agreement, (as modified by paragraph {2} of Article 13 of the MLI)] shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related carries on business activities at the same place or at another place in the same [Contracting State] and:*

- a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of *[Article {5} of the Agreement]*; or
- b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

provided that the business activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, constitute complementary functions that are part of a cohesive business operation.

**5. [ Replaces by paragraph 1 of Article 12 of the MLI ]** ~~[Notwithstanding the provisions of paragraphs 1 and 2, where a person other than an agent of an independent status to whom paragraph 7 applies is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:~~

- ~~a) has and habitually exercises in that Contracting State an authority to conclude contracts in the name of 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; or]~~

*The following paragraph 1 of Article 12 of the MLI replaces paragraph {5} of Article {5} of this Agreement:*

**ARTICLE 12 OF THE MLI – ARTIFICIAL AVOIDANCE OF PERMANENT  
ESTABLISHMENT STATUS THROUGH COMMISSIONNAIRE  
ARRANGEMENTS AND SIMILAR STRATEGIES**

Notwithstanding [Article {5} of the Agreement], but subject to [paragraph 2 of Article 12 of the MLI], where a person is acting in a [Contracting State] on behalf of an enterprise and, in doing so, habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the enterprise, and these contracts are:

- a) in the name of the enterprise; or
- b) for the transfer of the ownership of, or for the granting of the right to use, property owned by that enterprise or that the enterprise has the right to use; or
- c) for the provision of services by that enterprise,

that enterprise shall be deemed to have a permanent establishment in that [Contracting State] in respect of any activities which that person undertakes for the enterprise unless these activities, if they were exercised by the enterprise through a fixed place of business of that enterprise situated in that [Contracting State], would not cause that fixed place of business to be deemed to constitute a permanent establishment under the definition of permanent establishment included in the provisions of [Article {5} of the Agreement].

- b) has no such authority, but habitually maintains in the first mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandises on behalf of the enterprise, provided that these goods or merchandise are sold in the Contracting State where the stock is situated.

6. [ Replaced by paragraph 2 of Article 12 of the MLI ] ~~{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, he will not be considered an agent of an independent status within the meaning of this paragraph.}~~

*The following paragraph 2 of Article 12 of the MLI replaces paragraph {6} of Article {5} of this Agreement:*

**ARTICLE 12 OF THE MLI – ARTIFICIAL AVOIDANCE OF PERMANENT  
ESTABLISHMENT STATUS THROUGH COMMISSIONNAIRE  
ARRANGEMENTS AND SIMILAR STRATEGIES**

[Paragraph 1 of Article 12 of the MLI] shall not apply where the person acting in a [Contracting State] on behalf of an enterprise of the other [Contracting State] carries on business in the first-mentioned [Contracting State] as an independent agent and acts for the enterprise in the ordinary course of that business. Where, however, a person acts exclusively or almost exclusively on behalf

of one or more enterprises to which it is closely related, that person shall not be considered to be an independent agent within the meaning of this paragraph with respect to any such enterprise.

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.

*The following paragraph 1 of Article 15 of the MLI applies to provisions of this Agreement:*

**ARTICLE 15 OF THE MLI – DEFINITION OF A PERSON CLOSELY RELATED TO AN ENTERPRISE**

For the purposes of the provisions of [Article {5} of the Agreement], a person is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, a person shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise.

**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, 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. 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 State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment..
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
4. 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 these Articles shall not be affected by the provisions of the 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. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency

## **ARTICLE 9**

### **ASSOCIATED ENTERPRISES**

1. Where
  - a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
  - b) The same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.
2. Where a Contracting State includes in the profits of an enterprise of that State -- and taxes accordingly -- profits on which an enterprise of the other Contracting State has been charged to tax in that other State and 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 may 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) [ **Modified by paragraph 1 of Article 8 of MLI**] [9 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 25 per cent of the capital of the company paying the dividends;],

*The following paragraph 1 of Article 8 of the MLI applies to subparagraph {a} of paragraph {2} of Article {10} of this Agreement:*

#### **ARTICLE 8 OF THE MLI – DIVIDEND TRANSFER TRANSACTIONS**

[*Subparagraph {a} paragraph {2} of Article {10} of the Agreement*] shall apply only if the ownership conditions described in those provisions are met throughout a 365 day period that includes the day of the payment of the dividends (for the purpose of computing that period, no account shall be taken of changes of ownership that would directly result from a corporate reorganisation, such as a merger or divisive reorganisation, of the company that holds the shares or that pays the dividends).

- b) 12 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. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is 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.

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 a 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 in so far as such dividends are paid a resident of that other State or in so far 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 10 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 a resident of the other Contracting State shall be taxable only in that other State if the recipient is the beneficial owner of the interest and
  - (a) The interest is beneficially owned by a Contracting State, a political subdivision, public statutory body or a local authority thereof or
  - (b) The interest is paid to the Central Bank of the other Contracting 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, as well as all other income assimilated to income from money lent by the taxation laws of the State in which the income arises. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1,2 and 3 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.
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 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-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 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 12 per cent of the gross amount of the royalties.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and films, tapes other means of image or sound reproduction, any patent, trade mark, design or model, computer software, 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. It also includes payments for technical assistance performed in a Contracting State by a resident of the other Contracting State where it is connected only to the application of the above mentioned rights, properties or information.



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 a case, 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 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.
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 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 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. ~~[Replaced paragraph 4 of Article 9 of the ] [Gains from the alienation of company shares (other than shares listed on an approved stock exchange) or other participation~~

~~rights in a company, the property of which consists, directly or indirectly, mainly of immovable property situated in a Contracting State may be taxed in that State.~~

~~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.]~~

*The following paragraph 4 of Article 9 of the MLI replaces paragraph {4} of Article {13} of this Agreement:*

**ARTICLE 9 OF THE MLI – CAPITAL GAINS FROM ALIENATION OF SHARES OR INTERESTS OF ENTITIES DERIVING THEIR VALUE PRINCIPALLY FROM IMMOVABLE PROPERTY**

For purposes of [the Agreement], gains derived by a resident of a [Contracting State] from the alienation of shares or comparable interests, such as interests in a partnership or trust, may be taxed in the other [Contracting State] if, at any time during the 365 days preceding the alienation, these shares or comparable interests derived more than 50 per cent of their value directly or indirectly from immovable property (real property) situated in that other [Contracting State].

5. Gains from the alienation of shares or other rights forming part of a substantial participation in a company which is a resident of 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, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State.
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, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that 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 twelvemonth 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 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 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 remuneration 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 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 sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.
3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from activities referred to in paragraph 1 performed under a cultural or sports agreement or arrangement between the Contracting States shall be exempt from tax in the Contracting State in which the activities are exercised if the visit to that State is wholly or substantially supported by public funds of the other Contracting State or of a political subdivision or of a local authority thereof.

## **ARTICLE 18**

### **PENSIONS AND ANNUITIES**

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of the other Contracting State in consideration of past employment shall be taxable only in that State.
2. . The term "annuity" means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

## **ARTICLE 19**

### **GOVERNMENT SERVICES**

1. (a) Salaries, wages and similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.  
  
(b) However, such salaries, wages and 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) Any pension or annuity paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.  
  
(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
3. The provisions of Articles 15, 16 and 18 shall apply to salaries, wages and other similar remuneration and to pensions in respect of services rendered in connection with a business carried on by a contracting state or a political subdivision or a local authority thereof.

## **ARTICLE 20**

### **PAYMENTS RECEIVED BY STUDENTS AND APPRENTICES**

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 21**

### **OTHER INCOME**

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles 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**  
**TAXATION OF CAPITAL**

**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 contracting State.
3. Capital represented by ships and aircraft operated in international traffic and by movable property pertaining to the operation of such ships and aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. Capital constituted by shares, rights or comparable interest in a company, in any other legal person or in a partnership, the assets of which consist principally of, or of rights in, immovable property situated in a Contracting State or by shares or other rights which entitle its owner to a right of enjoyment of immovable property situated in a Contracting State, may be taxed in the Contracting State in which the immovable property is situated.
5. Capital represented by shares or other rights constituting a substantial participation in a company that is a resident of a Contracting State, may be taxed in that State.
6. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

**Chapter V**  
**METHODS FOR ELIMINATION OF DOUBLE TAXATION**

**ARTICLE 23**

**ELIMINATION OF DOUBLE TAXATION**

1. Where a resident of a Contracting State derives income or owns elements of capital which in accordance with the provisions of this Agreement may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income or the capital of that resident an amount equal to the tax paid in that other State. Such deduction, in either case, shall not, however, exceed that part of the tax as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in that other State.
2. Where in accordance with any provision of this Agreement income derived or capital owned by a resident of a Contracting State, is exempted from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital

**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 favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

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. 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 provision of Article 2, apply to taxes of every kind and description.
6. Nothing in this article shall 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

## **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 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. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a commission consisting of representatives of the competent authorities of the Contracting States.

## **ARTICLE 26**

### **EXCHANGE OF INFORMATION**

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement insofar as the taxation there under is not contrary to the Agreement. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved 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 the 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 27**

### **MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS**

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

**ARTICLE**  
**PREVENTION OF TREATY ABUSE**

*The following paragraph 1 of Article 7 of the MLI applies and supersedes the provisions of this Agreement:*

**ARTICLE 7 OF THE MLI –PREVENTION OF TREATY ABUSE**  
***(Principal purposes test provision)***

Notwithstanding any provisions of [*the Agreement*], a benefit under [*the Agreement*] shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of [*the Agreement*].

**Chapter VII**  
**FINAL PROVISIONS**

**ARTICLE 28**

**ENTRY INTO FORCE**

1. This Agreement shall enter into force on the date of the exchange of the last notification confirming the completion of the legal procedures necessary to its entry into force in the two Contracting States.
2. After the entry into force of this Agreement its provisions shall have effect for the first time:
  - a) in respect of taxes withheld at source, on amounts paid or credited on or after the first day of January in the calendar year following its entry into force; and
  - b) in respect of other taxes, for taxation years or periods beginning on or after the first day of January in the calendar year following its entry into force.

## **ARTICLE 30**

### **TERMINATION**

This Agreement shall continue in effect indefinitely, but either Contracting State may, on or before 30 of June in any calendar year after the expiration of a period of five years from date of entry into force, give to the other Contracting State a notice of termination in writing through diplomatic channels. In such event, the Agreement shall cease to have effect:

- a) in respect of taxes withheld at source, on amounts paid or credited on or after the first day of January in the calendar year following that in which the notice has been given; and
- b) in respect of other taxes, for taxation years beginning on or after the first day of January in the calendar year following that in which the notice is given.

In witness whereof the undersigned, duly authorised thereto, have Signed his Agreement.

Done in duplicate in Madrid on the 10<sup>th</sup> day of May 2005, in the Spanish, Arabic and English languages, all the texts being equally authentic. In case of divergence between any of the texts, the English text shall prevail.

**For**  
**the Arab Republic of Egypt**

**For**  
**the Kingdom of Spain**

## **PROTOCOL**

At the moment of signing the Agreement between the Kingdom of Spain and the Arab Republic of Egypt for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital, the undersigned have agreed upon the following provisions which shall be an integral part of the Agreement.

### **I. Ad Article 10, paragraph 3**

In the case of the winding up of a company, the profits will be taxed under the Corporation Tax of this company, and the amount distributed to the shareholders will be considered as dividends.

### **II. Ad Article 13 and 22**

It is understood that the term "substantial" contained in Article 13, paragraph 5, and Article 22, paragraph 5, means 25% percent of participation in the company.

### **III. Ad Article 17, paragraph 3**

It is understood that the visit of artistes and sportsmen is "substantially" supported by public funds when 75 per cent or more of the total expenses on transport, accommodation and daily allowance are financed by funds of such nature.

### **IV. Ad Article 22**

It is understood that this Article shall enter into force from the moment in which Egypt shall establish a tax on capital.

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

Done in duplicate in Madrid on the 10<sup>th</sup> day of May 2005, in the Spanish, Arabic and English languages, all the texts being equally authentic. In case of divergence between any of the texts, the English text shall prevail.

**For  
the Arab Republic of Egypt**

**For  
the Kingdom of Spain**