File Ref: **(TsyB R2 183/800-1-1/14/0 (C))**
(TsyB R2 183/800-1-1/27/0 (C))
(TsyB R2 183/800-1-1/51/0 (C))
(TsyB R2 183/800-1-1/140/0 (C))
(TsyB R2 183/800-1-1/64/0 (C))

LEGISLATIVE COUNCIL BRIEF

Inland Revenue Ordinance
(Chapter 112)

INLAND REVENUE (DOUBLE TAXATION RELIEF WITH RESPECT TO TAXES ON INCOME AND PREVENTION OF TAX EVASION AND AVOIDANCE) (REPUBLIC OF ARMENIA) ORDER

INLAND REVENUE (DOUBLE TAXATION RELIEF WITH RESPECT TO TAXES ON INCOME AND PREVENTION OF TAX EVASION AND AVOIDANCE) (KINGDOM OF BAHRAIN) ORDER

INLAND REVENUE (DOUBLE TAXATION RELIEF WITH RESPECT TO TAXES ON INCOME AND PREVENTION OF TAX EVASION AND AVOIDANCE) (PEOPLE'S REPUBLIC OF BANGLADESH) ORDER

INLAND REVENUE (DOUBLE TAXATION RELIEF WITH RESPECT TO TAXES ON INCOME AND CAPITAL AND PREVENTION OF TAX EVASION AND AVOIDANCE) (REPUBLIC OF CROATIA) ORDER

INLAND REVENUE (DOUBLE TAXATION RELIEF WITH RESPECT TO TAXES ON INCOME AND PREVENTION OF TAX EVASION AND AVOIDANCE) (REPUBLIC OF TÜRKIYE) ORDER

INTRODUCTION

At the meeting of the Executive Council on 22 October 2024, the Council ADVISED and the Chief Executive ORDERED that the following five orders should be made under section 49(1A) of the Inland Revenue Ordinance (Cap. 112) ("IRO") –

(a) the Inland Revenue (Double Taxation Relief with respect to Taxes on Income and Prevention of Tax Evasion and Avoidance) (Republic of Armenia) Order ("Armenia Order") (at **Annex A**);

A

(b) the Inland Revenue (Double Taxation Relief with respect to Taxes on Income and Prevention of Tax Evasion and Avoidance) (Kingdom of Bahrain) Order ("Bahrain Order") (at **Annex B**);

B

(c) the Inland Revenue (Double Taxation Relief with respect to Taxes on Income and Prevention of Tax Evasion and Avoidance) (People's Republic of Bangladesh) Order ("Bangladesh Order") (at **Annex C**);

C

(d) the Inland Revenue (Double Taxation Relief with respect to Taxes on Income and Capital and Prevention of Tax Evasion and Avoidance) (Republic of Croatia) Order ("Croatia Order") (at **Annex D**); and

D

(e) the Inland Revenue (Double Taxation Relief with respect to Taxes on Income and Prevention of Tax Evasion and Avoidance) (Republic of Türkiye) Order ("Türkiye Order") (at **Annex E**).

E

2. The Bangladesh Order, Bahrain Order, Croatia Order, Armenia Order and Türkiye Order implement (i) the Comprehensive Avoidance of Double Taxation Agreements ("CDTAs") signed with Bangladesh and Bahrain in August 2023 and March 2024 respectively, and (ii) the CDTAs and the corresponding Protocols signed with Croatia, Armenia and Türkiye in January, June and September 2024 respectively (hereinafter referred to as "Bangladesh CDTA", "Bahrain CDTA", "Croatia CDTA", "Armenia CDTA" and "Türkiye CDTA" respectively, and collectively as "the five CDTAs").

JUSTIFICATIONS

Benefits of CDTAs in General

3. Double taxation refers to the imposition of comparable taxes by more than one tax jurisdiction in respect of the same source of income. The international community generally recognises that double taxation hinders the exchange of goods and services as well as movements of capital, technology and human resources, and undermines the development of economic relations between economies. As a business facilitation initiative, it is our policy to enter into CDTAs with our trading and investment partners so as to minimise double taxation.

4. Hong Kong adopts the territorial source principle of taxation whereby generally only income sourced from Hong Kong is subject to tax[1]. However, double taxation may still occur where a jurisdiction overseas taxes its residents' income derived from Hong Kong. CDTAs will enhance the certainty in respect of allocation of taxing rights and elimination of double taxation. Although many jurisdictions offer unilateral tax relief to their residents for the Hong Kong tax paid on income derived from Hong Kong, the tax relief available under CDTAs may exceed the level provided unilaterally by the jurisdictions concerned.

Benefits of the Five CDTAs

5. Each of the five CDTAs sets out the allocation of taxing rights between Hong Kong and the jurisdiction concerned, and the relief on the tax rates on different types of income. They will help investors assess their potential tax liabilities from cross-border economic activities, and provide incentives for enterprises of the jurisdictions concerned to conduct business or invest in Hong Kong, and vice versa.

6. In the absence of the five CDTAs, profits of Hong Kong companies conducting business through a permanent establishment in Armenia/ Bahrain[2]/ Bangladesh/ Croatia/ Türkiye may be taxed in both Hong Kong and the relevant jurisdictions if the income is Hong Kong-sourced.

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[1] Subsequent to the implementation of the foreign-sourced income exemption regime on 1 January 2023, specified foreign-sourced passive income received in Hong Kong by multinational enterprise ("MNE") entities will be exempt from tax only if the MNE entities concerned have a substantial economic presence in Hong Kong or meet certain exemption conditions.

[2] At present, Bahrain only imposes corporate income tax on profits derived from oil companies.

7. Under the five CDTAs, any Armenian/ Bahrain/ Bangladesh/ Croatian/ Turkish tax paid, whether directly or by deduction, in respect of income derived by Hong Kong residents from sources in the jurisdiction concerned will be allowed as a credit against the Hong Kong tax payable in respect of the same income, subject to the provisions of our tax laws.

8. Income from employment derived by a Hong Kong resident in Armenia/ Bahrain[3]/ Bangladesh/ Croatia/ Türkiye that is not paid by (or on behalf of) an employer resident in the jurisdiction concerned, and is not borne by a permanent establishment which the employer has in that jurisdiction, will be exempt from tax in the jurisdiction concerned if the resident's aggregate stay in that jurisdiction in any relevant 12-month period does not exceed 183 days.

9. Profits from the operation of ships in international traffic earned by Hong Kong enterprises arising from Armenia/ Croatia/ Türkiye, which are currently subject to tax in the jurisdiction concerned, will no longer be taxed in that jurisdiction under the respective CDTA[4]. Under the Bangladesh CDTA, such profits arising from Bangladesh will be taxed in Bangladesh with a tax rate reduced by 50%. Profits from the operation of aircraft in international traffic earned by Hong Kong enterprises arising from Armenia/ Türkiye, which are currently subject to tax in the jurisdiction concerned, will no longer be taxed in that jurisdiction under the respective CDTA[5].

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[3] Bahrain does not impose tax on employment income at present. Hong Kong residents deriving employment income from Bahrain will be entitled to the said exemption if Bahrain imposes tax on employment income in future.

[4] At present, Bahrain does not impose corporate income tax on profits from operation of ships. Hong Kong enterprises deriving profits from operation of ships in international traffic will be entitled to the said exemption if Bahrain imposes corporate income tax on such profits in future.

[5] In respect of the operation of aircraft in international traffic, Hong Kong has already been given the exclusive right to tax profits arising from Bangladesh/Croatia from such activities earned by Hong Kong enterprises under the air services agreement between Hong Kong and Bangladesh/Croatia currently in force (Specification of Arrangements (Government of the People's Republic of Bangladesh Concerning Air Services) (Double Taxation) Order (Cap. 112AD) and Specification of Arrangements (Government of the Republic of Croatia Concerning Air Services) (Avoidance of Double Taxation) Order (Cap. 112AK) refer). Such profits are currently not taxable in Bangladesh/Croatia.

At present, Bahrain does not impose corporate income tax on profits from operation of aircraft. Hong Kong enterprises deriving profits from operation of aircraft in international traffic will be entitled to the said exemption if Bahrain imposes corporate income tax on such profits in future.

10. Respective withholding tax rates applicable to Hong Kong residents under the five CDTAs are summarised below –

	Withholding tax rates set out in the five CDTAs (*current tax rates generally applicable in the relevant jurisdiction*)		
	Dividends	Interest	Royalties
Armenia CDTA	0%[6,7]/5% *(5%)*	0%[6]/5% (*Individuals* – 10%/20% *Companies* – *10%*)	5% *(10%)*
Bahrain CDTA[8]	– *(–)*	– *(–)*	5% *(–)*
Bangladesh CDTA	10%[9]/15% *(Individuals* – *30% Companies* – *20%)*	0%[10]/10% *(20%)*	10% *(20%)*
Croatia CDTA	0%[6]/5% *(Individuals* – *12% Companies* – *10%*)	0%[6]/5% (*Individuals* – 12% *Companies* – *15%*)	5% (*Individuals* – 24% *Companies* – *15%*)

[6] The withholding tax will be exempt if the dividends/interest are/is paid to the Hong Kong Special Administrative Region ("HKSAR") Government, the Hong Kong Monetary Authority, the Exchange Fund or any entity wholly or mainly owned by the HKSAR Government as may be agreed from time to time between the competent authorities of Hong Kong and Armenia/Croatia.

[7] The withholding tax rate will be 0% if the beneficial owner of the dividends is a company which holds directly at least 10% of the capital of the dividend-paying company throughout a 365-day period.

[8] Bahrain currently does not impose withholding taxes on dividends, interest and royalties. In respect of royalties, the 5% cap will be applicable if Bahrain imposes withholding tax on royalties in future.

[9] The 10% cap will be applicable if the beneficial owner of the dividends is a company which holds directly at least 10% of the capital of the dividend-paying company.

[10] The withholding tax will be exempt if the interest is paid to the HKSAR Government, the Hong Kong Monetary Authority, the Exchange Fund or any entity wholly owned by the HKSAR Government as may be agreed from time to time between the competent authorities of Hong Kong and Bangladesh.

	Withholding tax rates set out in the five CDTAs (*current tax rates generally applicable in the relevant jurisdiction*)		
	Dividends	Interest	Royalties
Türkiye CDTA	5%[11]/10% *(10%)*	0%[12]/7.5%[13]/10% *(0% to 25%[14])*	7.5%[15]/10% *(20%)*

Exchange of Information ("EoI")

11. Every CDTA entered into by Hong Kong contains an EoI Article to facilitate exchange of tax information for meeting the requirements of the Organisation for Economic Co-operation and Development ("OECD"). To protect taxpayers' privacy and confidentiality of any information exchanged, the Government will continue to adopt highly prudent safeguard measures in our CDTAs.

12. Under the five CDTAs, the following safeguards would be adopted –

(a) the information sought should be foreseeably relevant, i.e. there will be no fishing expeditions;

(b) information received by the tax authorities concerned should be treated as confidential;

(c) information will only be disclosed to persons or authorities (including courts and administrative bodies) or their oversight bodies concerned with the assessment or collection of, the

[11] The 5% cap will be applicable if the beneficial owner of the dividends is a company (other than a partnership) which holds directly at least 25% of the capital of the dividend-paying company throughout a 365-day period.

[12] The withholding tax will be exempt if the interest is paid to the HKSAR Government, the Hong Kong Monetary Authority or the Exchange Fund.

[13] The 7.5% cap will be applicable if the interest is received by a financial institution in respect of a loan or debt instrument with a maturity period exceeding 2 years.

[14] Türkiye imposes withholding tax at the rates of 0% to 25% on various types of interest income.

[15] The 7.5% cap will be applicable if the royalties are for the use of, or the right to use, industrial, commercial or scientific equipment.

enforcement or prosecution in respect of, or the determination of appeals in relation to, the relevant taxes[16];

(d) information requested should not be disclosed to a third jurisdiction;

(e) there is no obligation to supply information under certain circumstances, for example, where the supply of information would disclose any trade, business, industrial, commercial or professional secret or trade process (including such information covered by legal professional privilege); and

(f) the tax information exchanged pursuant to the Croatia CDTA is allowed for certain non-tax related purposes[17] only if such purposes are allowed under the laws of both Hong Kong and Croatia and the competent authority of the supplying side authorises such use[18].

13. The scope of tax types for the purposes of EoI is confined to the taxes covered by the respective CDTAs.

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[16] The Armenia CDTA, Croatia CDTA and Türkiye CDTA allow for the disclosure of information to the oversight bodies of the tax authorities concerned. These CDTAs follow the formulation of the Convention on Mutual Administrative Assistance in Tax Matters ("Multilateral Convention"), which was promulgated by the OECD and entered into force in Hong Kong in September 2018. Armenia advised that there is no oversight body in Armenia to which the information may be disclosed. Croatia advised that the oversight bodies in Croatia are the Ministry of Finance and the Committees of Croatian Parliament. As stated in the protocol to the Türkiye CDTA, the competent authority of Türkiye may disclose information to the Turkish Court of Accounts, the Turkish Tax Inspection Board, the Turkish Ombudsman Institution and their staff.

[17] Under the laws of Hong Kong, tax information may only be used for limited non-tax related purposes, such as purposes relating to recovery of proceeds from drug trafficking, organised and serious crimes and terrorist acts under the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405), the Organised and Serious Crimes Ordinance (Cap. 455) and the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) respectively. Hence, Croatia may only use the tax information exchanged under the Croatia CDTA for the said limited non-tax related purposes if it also has similar laws permitting the use of tax information for the same purposes, and if the Hong Kong Commissioner of Inland Revenue (or his authorised representative) authorises such use. Croatia cannot use the tax information exchanged for other purposes (even if permitted under its laws) if so doing will go beyond the permitted use under the laws of Hong Kong.

[18] While the Armenia CDTA, Bahrain CDTA and Türkiye CDTA do not provide for the use of tax information exchanged for certain non-tax related purposes, this is allowed under the Multilateral Convention, which is in force in Hong Kong and the three aforementioned jurisdictions. If Hong Kong or any of the three jurisdictions makes a request for tax information under the Multilateral Convention and subsequently seeks to use such information for non-tax purposes, the restrictions under the Multilateral Convention shall apply. This means that such non-tax purposes must be allowed under the laws of both Hong Kong and the other jurisdiction and the competent authority of the supplying side authorises such use. The safeguards will operate in the same manner as outlined in footnote 17 above. Bangladesh has not joined the Multilateral Convention.

Legal Basis

14. Under section 49(1A) of the IRO, if the Chief Executive in Council by order declares that arrangements specified in the order have been made with the government of any territory outside Hong Kong, and that it is expedient that those arrangements should have effect, those arrangements shall have effect. Under section 49(1B) of the IRO, only arrangements made for the purposes of affording relief from double taxation; exchanging information in relation to any tax imposed by the laws of Hong Kong or any territory concerned or implementing an initiative of international tax cooperation may be specified in an order under section 49(1A) of the IRO. To bring the five CDTAs into effect, the Chief Executive in Council has to declare by order that the arrangements with each of the five jurisdictions (i.e. Armenia, Bahrain, Bangladesh, Croatia and Türkiye) on double taxation relief and exchange of information have been made, and that it is expedient that those arrangements should have effect. The five CDTAs will enter into force after both Hong Kong and the relevant tax jurisdictions have completed their respective ratification procedures.

OTHER OPTIONS

15. An order made in respect of each CDTA by the Chief Executive in Council under section 49(1A) of the IRO is the only way to give effect to the five CDTAs. There is no other option.

THE ORDERS

16. **Section 3** of each of the Armenia Order, Bahrain Order, Bangladesh Order, Croatia Order and Türkiye Order declares that the arrangements in the respective CDTA have been made and that it is expedient that those arrangements should have effect.

17. The Armenia CDTA, Bahrain CDTA, Croatia CDTA and Türkiye CDTA were done in three languages (i.e. Chinese, English and the respective country's language). Their texts are set out in the **Schedule** to the respective Orders. The Bangladesh CDTA was done in the English language. Its text is set out in the English version of the Schedule to the Bangladesh Order, and a Chinese translation is set out in the Chinese version of the Schedule.

LEGISLATIVE TIMETABLE

18. The legislative timetable is as follows –

Publication in the Gazette	25 October 2024
Tabling at Legislative Council ("LegCo")	30 October 2024
Commencement of the Orders	20 December 2024

IMPLICATIONS OF THE PROPOSALS

19. The proposals are in conformity with the Basic Law, including the provisions concerning human rights. The proposals will not affect the binding effect of the existing provisions of the IRO and its subsidiary legislation. They have no environmental, sustainability, gender or productivity implications. The financial, economic, civil service and family implications of the proposals are set out in **Annex F**.

F

PUBLIC CONSULTATION

20. The business and professional sectors have all along been supporting our policy to conclude more CDTAs with trading and investment partners of Hong Kong.

PUBLICITY

21. We issued a press release on the signing of the Bangladesh CDTA on 30 August 2023, Croatia CDTA on 24 January 2024, Bahrain CDTA on 4 March 2024, Armenia CDTA on 24 June 2024 and Türkiye CDTA on 24 September 2024. We will issue a press release on the gazettal of the Armenia Order, Bahrain Order, Bangladesh Order, Croatia Order and Türkiye Order. A spokesperson will be available to answer media and public enquiries.

BACKGROUND

22. As at the date of issuance of this Brief, we have signed CDTAs with 51 jurisdictions, including Armenia, Bahrain, Bangladesh, Croatia and Türkiye. A list of Hong Kong's CDTA partners is at **Annex G**. A summary of the main provisions of the five CDTAs can be found at **Annex H to Annex L** respectively.

G

H - L

23. We will continue to expand our CDTA network and seek to conclude CDTAs with jurisdictions participating in the Belt and Road Initiative and with emerging markets such as the Association of Southeast Asian Nations, the Middle East, Central Asia and Africa in particular.

ENQUIRIES

24. Enquiries on this Brief can be addressed to Mr Ian Chin, Principal Assistant Secretary for Financial Services and the Treasury (Treasury), at 2810 2317.

Financial Services and the Treasury Bureau
23 October 2024

Inland Revenue (Double Taxation Relief with respect to Taxes on Income and Prevention of Tax Evasion and Avoidance) (Republic of Armenia) Order

(Made by the Chief Executive in Council under section 49(1A) of the Inland Revenue Ordinance (Cap. 112))

1. Commencement

This Order comes into operation on 20 December 2024.

2. Interpretation

In this Order—

Agreement (《協定》) means the Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of Armenia for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance, done in duplicate at Yerevan on 24 June 2024 in the Chinese, Armenian and English languages;

Protocol (《議定書》) means the protocol to the Agreement, done in duplicate at Yerevan on 24 June 2024 in the Chinese, Armenian and English languages.

3. Declaration under section 49(1A)

(1) For the purposes of section 49(1A) of the Ordinance, it is declared—

(a) that the arrangements in the Agreement and the Protocol have been made; and

(b) that it is expedient that those arrangements should have effect.

(2) The text of the Agreement is reproduced in Part 1 of the Schedule.

(3) The text of the Protocol is reproduced in Part 2 of the Schedule.

Schedule

[s. 3]

Part 1

Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of Armenia for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance

The Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of Armenia,

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

Intending to conclude an Agreement for the elimination of double taxation with respect to taxes on income without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third jurisdictions),

Have agreed as follows:

ARTICLE 1

PERSONS COVERED

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

2. For the purposes of the Agreement, income derived by or through an entity or arrangement that is treated as wholly or partly fiscally transparent under the tax law of either Contracting Party shall be considered to be income of a resident of a Contracting Party but only to the extent that the income is treated, for purposes of taxation by that Party, as the income of a resident of that Party.

3. The Agreement shall not affect the taxation, by a Contracting Party, of its residents except with respect to the benefits granted under paragraph 2 of Article 9, paragraph 2 of Article 17 and Articles 18, 19, 21, 22, 23 and 25.

ARTICLE 2

TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting Party, 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 Hong Kong Special Administrative Region,

(i) profits tax;

(ii) salaries tax; and

(iii) property tax;

whether or not charged under personal assessment

(hereinafter referred to as "Hong Kong Special Administrative Region tax");

b) in the case of Armenia,

(i) the profit tax; and

(ii) the income tax

(hereinafter referred to as "Armenian 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 Parties shall notify each other of any significant changes that have been made in their taxation laws.

ARTICLE 3

GENERAL DEFINITIONS

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

a) (i) the term "Hong Kong Special Administrative Region" means any place where the tax laws of the Hong Kong Special Administrative Region of the People's Republic of China apply;

(ii) the term "Armenia" means the Republic of Armenia;

b) the term "business" includes the performance of professional services and of other activities of an independent character;

c) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;

d) the term "competent authority" means:

(i) in the case of the Hong Kong Special Administrative Region, the Commissioner of Inland Revenue or his authorised representative;

(ii) in the case of Armenia, the Ministry of Finance and the State Revenue Committee or their authorised representatives;

e) the term "Contracting Party" or "Party" means the Hong Kong Special Administrative Region or Armenia, as the context requires;

f) the term "enterprise" applies to the carrying on of any business;

g) the terms "enterprise of a Contracting Party" and "enterprise of the other Contracting Party" mean respectively an enterprise carried on by a resident of a Contracting Party and an enterprise carried on by a resident of the other Contracting Party;

h) the term "international traffic" means any transport by a ship or aircraft except when the ship or aircraft is operated solely between places in a Contracting Party and the enterprise that operates the ship or aircraft is not an enterprise of that Party;

i) the term "national", in relation to Armenia, means:

(i) any individual possessing the nationality or citizenship of Armenia;

(ii) any legal person, partnership or association deriving its status as such from the laws in force in Armenia;

j) the term "person" includes an individual, a company, a trust, a partnership and any other body of persons;

k) the term "recognised pension fund" of a Contracting Party means an entity or arrangement established in that Party that is treated as a separate person under the taxation laws of that Party and:

(i) that is established and operated exclusively or almost exclusively to administer or provide retirement benefits and ancillary or incidental benefits to individuals and that is regulated as such by that Party; or

(ii) that is established and operated exclusively or almost exclusively to invest funds for the benefit of entities or arrangements referred to in subdivision (i).

2. As regards the application of the Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires or the competent authorities agree to a different meaning pursuant to the provisions of Article 23, have the meaning that it has at that time under the law of that Party for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

ARTICLE 4

RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting Party" means:

a) in the case of the Hong Kong Special Administrative Region,

(i) any individual who ordinarily resides in the Hong Kong Special Administrative Region;

(ii) any individual who stays in the Hong Kong Special Administrative Region for more than 180 days during a

year of assessment or for more than 300 days in two consecutive years of assessment one of which is the relevant year of assessment;

(iii) a company incorporated in the Hong Kong Special Administrative Region or, if incorporated outside the Hong Kong Special Administrative Region, being normally managed or controlled in the Hong Kong Special Administrative Region;

(iv) any other person constituted under the laws of the Hong Kong Special Administrative Region or, if constituted outside the Hong Kong Special Administrative Region, being normally managed or controlled in the Hong Kong Special Administrative Region;

b) in the case of Armenia, any person who, under the laws of Armenia, is liable to tax therein by reason of his domicile, residence, place of incorporation, place of management or any other criterion of a similar nature. This term, however, does not include any person who is liable to tax in Armenia in respect only of income from sources in Armenia;

c) in the case of either Contracting Party, the Government of that Party and any local authority thereof as well as a recognised pension fund of that Party.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting Parties, then his status shall be determined as follows:

a) he shall be deemed to be a resident only of the Party in which he has a permanent home available to him; if he has a permanent home available to him in both Parties, he shall be deemed to be a resident only of the Party with which his personal and economic relations are closer (centre of vital interests);

b) if the Party 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 Party, he shall be deemed to be a resident only of the Party in which he has an habitual abode;

c) if he has an habitual abode in both Parties or in neither of them, he shall be deemed to be a resident only of the Party in which he has the right of abode (in the case of the Hong Kong Special Administrative Region) or of which he is a national (in the case of Armenia);

d) if he has the right of abode in the Hong Kong Special Administrative Region and is also a national of Armenia, or if he does not have the right of abode in the Hong Kong Special Administrative Region nor is he a national of Armenia, the competent authorities of the Contracting Parties 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 Parties, the competent authorities of the Contracting Parties shall endeavour to determine by mutual agreement the Contracting Party of which such person shall be deemed to be a resident for the purposes of the Agreement, having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of such agreement, such person shall not be

entitled to any relief or exemption from tax provided by the Agreement except to the extent and in such manner as may be agreed upon by the competent authorities of the Contracting Parties.

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 exploration or extraction of natural resources.

3. The term "permanent establishment" also encompasses:

   a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities last more than nine months;

   b) the furnishing of services, including consultancy services, by an enterprise directly or through employees or other personnel engaged by the enterprise for such purpose, but only if activities of that nature continue in a Contracting Party for a period or periods aggregating more than 183 days in any twelve-month period commencing or ending in the taxable period concerned.

4. For the sole purpose of determining:

   a) whether the nine-month period referred to in subparagraph a) of paragraph 3 has been exceeded:

      (i) where an enterprise of a Contracting Party carries on activities in the other Contracting Party at a place that constitutes a building site or a construction, assembly or installation project, or carries on supervisory activities in connection with such a place, and these activities are carried on during one or more periods of time that, in the aggregate, exceed 30 days without exceeding nine months; and

      (ii) connected activities are carried on at (or, in the case of supervisory activities, in connection with) the same building site or construction, assembly or installation project during different periods of time, each exceeding 30 days, by one or more enterprises closely related to the first-mentioned enterprise,

   these different periods of time shall be added to the period of time during which the first-mentioned enterprise has carried on activities at that building site or construction, assembly or installation project.

b) whether the 183-day period referred to in subparagraph b) of paragraph 3 has been exceeded, where an enterprise of a Contracting Party carries on activities referred to in that subparagraph in the other Contracting Party and substantially similar activities are carried on in that other Contracting Party during different periods of time by one or more enterprises closely related to the first-mentioned enterprise, these different periods of time shall be added to the aggregate period of time during which the first-mentioned enterprise has carried on the activities.

5. 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 or display 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 or display;

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;

f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e),

provided that such activity or, in the case of subparagraph f), the overall activity of the fixed place of business, is of a preparatory or auxiliary character.

6. Paragraph 5 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 enterprise carries on business activities at the same place or at another place in the same Contracting Party and:

a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of this Article; 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.

7. Notwithstanding the provisions of paragraphs 1 and 2 but subject to the provisions of paragraph 8, where a person is acting in a Contracting Party 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 Party 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 5 which, if exercised through a fixed place of business (other than a fixed place of business to which paragraph 6 would apply), would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

8. Paragraph 7 shall not apply where the person acting in a Contracting Party on behalf of an enterprise of the other Contracting Party carries on business in the first-mentioned Party 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.

9. The fact that a company which is a resident of a Contracting Party controls or is controlled by a company which is a resident of the other Contracting Party, or which carries on business in that other Party

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

10. For the purposes of this Article, a person or enterprise 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 or enterprise 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 or enterprise 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 or in the two enterprises.

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting Party from immovable property (including income from agriculture or forestry) situated in the other Contracting Party may be taxed in that other Party.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting Party 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, quarries, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

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

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

ARTICLE 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting Party shall be taxable only in that Party unless the enterprise carries on business in the other Contracting Party 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 Party 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 Party carries on business in the other Contracting Party through a permanent establishment situated therein, there shall in each Contracting Party 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 Contracting Party in which the permanent establishment is situated or elsewhere.

4. Insofar as it has been customary in a Contracting Party to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting Party from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

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

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

ARTICLE 8

INTERNATIONAL SHIPPING AND AIR TRANSPORT

1. Profits of an enterprise of a Contracting Party from the operation of ships or aircraft in international traffic shall be taxable only in that Party.

2. 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 Party participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting Party; or

   b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting Party and an enterprise of the other Contracting Party,

   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 Party includes in the profits of an enterprise of that Party - and taxes accordingly - profits on which an enterprise of the other Contracting Party has been charged to tax in that other Party and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Party if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Party shall make an appropriate adjustment to the amount of the tax charged therein on those profits, where that other Party considers the adjustment justified. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting Parties shall if necessary consult each other.

ARTICLE 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting Party to a resident of the other Contracting Party may be taxed in that other Party.

2. However, dividends paid by a company which is a resident of a Contracting Party may also be taxed in that Party according to the laws of that Party, but if the beneficial owner of the dividends is a resident of the other Contracting Party, 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 which holds directly at least 10 per cent of the capital of the company paying the dividends 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) 5 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 arising in a Contracting Party are exempt from tax in that Party, if they are paid to:

a) in the case of the Hong Kong Special Administrative Region,

(i) the Government of the Hong Kong Special Administrative Region;

(ii) the Hong Kong Monetary Authority;

(iii) the Exchange Fund;

(iv) any entity wholly or mainly owned by the Government of the Hong Kong Special Administrative Region, as may be

agreed from time to time between the competent authorities of the Contracting Parties;

b) in the case of Armenia,

(i) the Government of Armenia or any local authority thereof;

(ii) the Central Bank of Armenia;

(iii) any entity wholly or mainly owned by the Government of Armenia or any local authority thereof, as may be agreed from time to time between the competent authorities of the Contracting Parties.

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

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting Party, carries on business in the other Contracting Party of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

6. Where a company which is a resident of a Contracting Party derives profits or income from the other Contracting Party, that other Party 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 Party or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other Party, 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 Party.

ARTICLE 11

INTEREST

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

2. However, interest arising in a Contracting Party may also be taxed in that Party according to the laws of that Party, but if the beneficial owner of the interest is a resident of the other Contracting Party, 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 Party is exempt from tax in that Party, if it is paid to:

a) in the case of the Hong Kong Special Administrative Region,

(i) the Government of the Hong Kong Special Administrative Region;

(ii) the Hong Kong Monetary Authority;

(iii) the Exchange Fund;

(iv) any entity wholly or mainly owned by the Government of the Hong Kong Special Administrative Region, as may be agreed from time to time between the competent authorities of the Contracting Parties;

b) in the case of Armenia,

(i) the Government of Armenia or any local authority thereof;

(ii) the Central Bank of Armenia;

(iii) any entity wholly or mainly owned by the Government of Armenia or any local authority thereof, as may be agreed from time to time between the competent authorities of the Contracting Parties.

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. The term "interest" shall not include any item of income which is considered as a dividend under the provisions of paragraph 4 of Article 10 of this Agreement.

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 Party, carries on business in the other Contracting Party in which the interest arises through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

6. Interest shall be deemed to arise in a Contracting Party when the payer is a resident of that Party. Where, however, the person paying the interest, whether he is a resident of a Contracting Party or not, has in a Contracting Party a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Party in which the permanent establishment 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 case, the excess part of the payments shall remain taxable according to the laws of each Contracting Party, due regard being had to the other provisions of the Agreement.

ARTICLE 12

ROYALTIES

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

2. However, royalties arising in a Contracting Party may also be taxed in that Party according to the laws of that Party, but if the beneficial owner of the royalties is a resident of the other Contracting Party, the tax so charged shall not exceed 5 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, any patent, trade mark, design or model, plan, secret formula or process, 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 Party, carries on business in the other Contracting Party in which the royalties arise through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

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

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

ARTICLE 13

CAPITAL GAINS

1. Gains derived by a resident of a Contracting Party from the alienation of immovable property referred to in Article 6 and situated in the other Contracting Party may be taxed in that other Party.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other Party.

3. Gains that an enterprise of a Contracting Party that operates ships or aircraft in international traffic derives from the alienation of such ships or aircraft, or of movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that Party.

4. Gains derived by a resident of a Contracting Party from the alienation of shares or comparable interests, such as interests in a partnership

or trust, may be taxed in the other Contracting Party 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, as defined in Article 6, situated in that other Party. However, this paragraph does not apply to gains derived from the alienation of shares:

a) quoted on such stock exchange as may be agreed between the competent authorities of the Contracting Parties; or

b) alienated or exchanged in the framework of a reorganisation of a company, a merger, a scission or a similar operation.

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

ARTICLE 14

INCOME FROM EMPLOYMENT

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

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

a) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the taxable period concerned; and

b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Party; and

c) the remuneration is not borne by a permanent establishment which the employer has in the other Party.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting Party shall be taxable only in that Party.

ARTICLE 15

DIRECTORS' FEES

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

ARTICLE 16

ENTERTAINERS AND SPORTSPERSONS

1. Notwithstanding the provisions of Article 14, income derived by a resident of a Contracting Party 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 Party, may be taxed in that other Party.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson acting as such accrues not to the entertainer or sportsperson but to another person, that income may, notwithstanding the provisions of Article 14, be taxed in the Contracting Party in which the activities of the entertainer or sportsperson are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities performed in a Contracting Party by entertainers or sportspersons if the visit to that Party is wholly or mainly supported by public funds of one or both of the Contracting Parties or local authorities thereof or if the activities are exercised within the framework of a cultural or sports exchange programme approved by both Contracting Parties. In such a case, the income is taxable only in the Contracting Party of which the entertainer or sportsperson is a resident.

ARTICLE 17

PENSIONS AND ANNUITIES

1. Subject to the provisions of paragraph 2 of Article 18, pensions, annuities and other similar remuneration (including a lump sum payment) paid to a resident of a Contracting Party in consideration of past employment or self-employment shall be taxable only in that Party.

2. Notwithstanding the provisions of paragraph 1, pensions, annuities and other similar remuneration (including a lump sum payment) made under a pension or retirement scheme which is:

a) a public scheme which is part of the social security system of a Contracting Party; or

b) a scheme in which individuals may participate to secure retirement benefits and which is recognised for tax purposes in a Contracting Party,

shall be taxable only in that Party.

3. 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 18

GOVERNMENT SERVICE

1. a) Salaries, wages and other similar remuneration, other than a pension, paid by the Government of a Contracting Party or a local authority thereof to an individual in respect of services rendered to that Party or local authority shall be taxable only in that Party.

b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting Party if the services are rendered in that Party and the individual is a resident of that Party who:

(i) in the case of the Hong Kong Special Administrative Region, has the right of abode therein and in the case of Armenia, is a national thereof; or

(ii) did not become a resident of that Party solely for the purpose of rendering the services.

2. a) Any pension (including a lump sum payment) paid by, or paid out of funds created or contributed by, the Government of a Contracting Party to an individual in respect of services rendered to that Party shall be taxable only in that Party.

b) However, if the individual who rendered the services is a resident of the other Contracting Party and the case falls within subparagraph b) of paragraph 1, any corresponding pension (whether a payment in lump sum or by instalments) shall be taxable only in that other Party.

3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages, pensions (including a lump sum payment), and other similar remuneration in respect of services rendered in connection with a business carried on by the Government of a Contracting Party or a local authority thereof.

ARTICLE 19

STUDENTS

Payments which a student who is or was immediately before visiting a Contracting Party a resident of the other Contracting Party and who is present in the first-mentioned Party solely for the purpose of his education receives

for the purpose of his maintenance or education shall not be taxed in that Party, provided that such payments arise from sources outside that Party.

ARTICLE 20

OTHER INCOME

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

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 Party, carries on business in the other Contracting Party through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

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

ARTICLE 21

ELIMINATION OF DOUBLE TAXATION

1. In the case of the Hong Kong Special Administrative Region, double taxation shall be eliminated as follows:

Subject to the provisions of the laws of the Hong Kong Special Administrative Region relating to the allowance of a credit against Hong Kong Special Administrative Region tax of tax paid in a jurisdiction outside the Hong Kong Special Administrative Region (which shall not affect the general principle of this Article), Armenian tax paid under the laws of Armenia and in accordance with the provisions of this Agreement (except to the extent that these provisions allow taxation by Armenia solely because the income is also income derived by a resident of Armenia), whether directly or by deduction, in respect of income derived by a person who is a resident of the Hong Kong Special Administrative Region from sources in Armenia, shall be allowed as a credit against Hong Kong Special Administrative Region tax payable in respect of that income, provided that the credit so allowed does not exceed the amount of Hong Kong Special Administrative Region tax computed in respect of that income in accordance with the tax laws of the Hong Kong Special Administrative Region.

2. In the case of Armenia, double taxation shall be eliminated as follows:

   a) where a resident of Armenia derives income which, in accordance with the provisions of the Agreement, may be taxed in the Hong Kong Special Administrative Region, Armenia shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in the Hong Kong Special Administrative Region. 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 the Hong Kong Special Administrative Region.

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

ARTICLE 22

NON-DISCRIMINATION

1. Persons who, in the case of the Hong Kong Special Administrative Region, have the right of abode or are incorporated or otherwise constituted therein, and, in the case of Armenia, are Armenian nationals, shall not be subjected in the other Contracting Party to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which persons who have the right of abode or are incorporated or otherwise constituted in that other Party (where that other Party is the Hong Kong Special Administrative Region) or are nationals of that other Party (where that other Party is Armenia) 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 Parties.

2. Stateless persons who are residents of a Contracting Party shall not be subjected in either Contracting Party to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which persons who have the right of abode in the Party (where the Party is the Hong Kong Special Administrative Region) or are nationals of

the Party (where the Party is Armenia) in the same circumstances, in particular with respect to residence, are or may be subjected.

3. The taxation on a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party shall not be less favourably levied in that other Party than the taxation levied on enterprises of that other Party carrying on the same activities. This provision shall not be construed as obliging a Contracting Party to grant to residents of the other Contracting Party any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

4. 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 Party to a resident of the other Contracting Party 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 Party.

5. Enterprises of a Contracting Party, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting Party, shall not be subjected in the first-mentioned Party 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 Party are or may be subjected.

6. The provisions of this Article shall apply only to taxes which are covered by Article 2 of this Agreement.

ARTICLE 23

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting Parties 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 internal laws of those Parties, present his case to the competent authority of the Contracting Party of which he is a resident or, if his case comes under paragraph 1 of Article 22, to that of the Contracting Party in which he has the right of abode or is incorporated or otherwise constituted (in the case of the Hong Kong Special Administrative Region) or of which he is a national (in the case of Armenia). 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 Party, 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 internal laws of the Contracting Parties.

3. The competent authorities of the Contracting Parties 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 Parties may communicate with each other directly, including through a joint

commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

ARTICLE 24

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting Parties shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the internal laws of the Contracting Parties concerning taxes covered by the Agreement, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1.

2. Any information received under paragraph 1 by a Contracting Party shall be treated as secret in the same manner as information obtained under the internal laws of that Party 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, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Information received shall not be disclosed to any third jurisdiction for any purpose.

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

a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting Party;

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 Party;

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 Party in accordance with this Article, the other Contracting Party shall use its information gathering measures to obtain the requested information, even though that other Party 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 Party to decline to supply information solely because there is no tax interest in such information to that Party.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting Party 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 25

MEMBERS OF GOVERNMENT MISSIONS

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

ARTICLE 26

ENTITLEMENT TO BENEFITS

1. Notwithstanding the other provisions of this Agreement, a benefit under the Agreement shall not be granted in respect of an item of income 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.

2. Nothing in the Agreement shall prejudice the right of each Contracting Party to apply its internal laws and measures concerning tax evasion or avoidance, whether or not described as such.

ARTICLE 27

ENTRY INTO FORCE

1. Each of the Contracting Parties shall notify the other in writing, through official channels, of the completion of the procedures required by its law for the entry into force of this Agreement.

2. The Agreement shall enter into force on the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect:

a) in the Hong Kong Special Administrative Region,

in respect of Hong Kong Special Administrative Region tax, for any year of assessment beginning on or after the first day of April in the calendar year next following the year in which the Agreement enters into force;

b) in Armenia,

(i) in respect of taxes withheld at source, on income derived on or after the first day of January in the calendar year next following the year in which the Agreement enters into force; and

(ii) in respect of other taxes on income, for taxes chargeable for any tax year beginning on or after the first day of January in the calendar year next following the year in which the Agreement enters into force.

ARTICLE 28

TERMINATION

This Agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may terminate the Agreement by giving the other Contracting Party written notice of termination, through official channels, at least six months before the end of any calendar year after the expiration of a

period of five years from the date of entry into force of the Agreement. In such event, the Agreement shall cease to have effect:

a) in the Hong Kong Special Administrative Region,

in respect of Hong Kong Special Administrative Region tax, for any year of assessment beginning on or after the first day of April in the calendar year next following the year in which the notice of termination is given;

b) in Armenia,

(i) in respect of taxes withheld at source, on income derived on or after the first day of January in the calendar year next following the year in which the notice of termination is given; and

(ii) in respect of other taxes on income, for taxes chargeable for any tax year beginning on or after the first day of January in the calendar year next following the year in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Agreement.

DONE in duplicate at Yerevan on 24th day of June 2024, in the Chinese, Armenian and English languages, all texts being equally authentic. In case of divergence in interpretation, the English text shall prevail.

[SIGNED]

Part 2

Protocol to the Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of Armenia for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance

At the time of signing the Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of Armenia for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance (hereinafter referred to as the "Agreement"), the two Governments have agreed upon the following provisions which shall form an integral part of the Agreement.

1. With reference to paragraph 1 of ARTICLE 23 (MUTUAL AGREEMENT PROCEDURE) of the Agreement

   It is understood that the competent authority of the Contracting Party to which a person has presented a mutual agreement procedure case will implement a bilateral notification or consultation process with the competent authority of the other Contracting Party where the first-mentioned competent authority does not consider that person's objection to be justified.

2. With reference to ARTICLE 25 (MEMBERS OF GOVERNMENT MISSIONS) of the Agreement

It is understood that the term "government missions", in the case of Armenia, means diplomatic missions.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Protocol.

DONE in duplicate at Yerevan on 24th day of June 2024, in the Chinese, Armenian and English languages, all texts being equally authentic. In case of divergence in interpretation, the English text shall prevail.

[SIGNED]

Clerk to the Executive Council

COUNCIL CHAMBER

2024

Explanatory Note

The Hong Kong Special Administrative Region Government and the Government of the Republic of Armenia signed an agreement for the elimination of double taxation with respect to taxes on income and the prevention of tax evasion and avoidance (***Agreement***) together with a protocol to the Agreement (***Protocol***) on 24 June 2024.

2. This Order specifies the arrangements in the Agreement and the Protocol (***arrangements***) as arrangements under section 49(1A) of the Inland Revenue Ordinance (Cap. 112), and declares that it is expedient that those arrangements should have effect. The Agreement and the Protocol were done in the Chinese, Armenian and English languages which are equally authentic, and the English text prevails if there is a divergence in interpretation.

3. The effects of the declaration are—

(a) that the arrangements have effect in relation to tax under the Inland Revenue Ordinance (Cap. 112) despite anything in any enactment; and

(b) that the arrangements, for the purposes of any provision of the arrangements that requires disclosure of information concerning tax of Armenia, have effect in relation to any tax of Armenia that is the subject of that provision.

Inland Revenue (Double Taxation Relief with respect to Taxes on Income and Prevention of Tax Evasion and Avoidance) (Kingdom of Bahrain) Order

(Made by the Chief Executive in Council under section 49(1A) of the Inland Revenue Ordinance (Cap. 112))

1. Commencement

This Order comes into operation on 20 December 2024.

2. Interpretation

In this Order—

Agreement (《協定》) means the Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Kingdom of Bahrain for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance, done in duplicate at Manama at the Kingdom of Bahrain on 3 March 2024 in the Chinese, Arabic and English languages.

3. Declaration under section 49(1A)

(1) For the purposes of section 49(1A) of the Ordinance, it is declared—

(a) that the arrangements in the Agreement have been made; and

(b) that it is expedient that those arrangements should have effect.

(2) The text of the Agreement is reproduced in the Schedule.

Schedule

[s. 3]

Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Kingdom of Bahrain for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance

The Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Kingdom of Bahrain;

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

Intending to conclude an Agreement for the elimination of double taxation with respect to taxes on income without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third Parties);

Have agreed as follows:

Article 1

Persons Covered

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

Article 2

Taxes Covered

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting Party, 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 this Agreement shall apply are:

   (a) in the case of the Hong Kong Special Administrative Region,

      (i) profits tax;

      (ii) salaries tax; and

      (iii) property tax,

      whether or not charged under personal assessment;

   (b) in the case of Bahrain, income tax payable under Amiri Decree No. 22/1979.

4. This Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes, as well as any other taxes falling within paragraphs 1 and 2 of this Article which a Contracting Party may impose in future. The competent authorities of the Contracting Parties shall notify each other of any significant changes that have been made in their taxation laws.

5. The existing taxes, together with the taxes imposed after the signature of this Agreement, are hereinafter referred to as "Hong Kong Special Administrative Region tax" or "Bahrain tax", as the context requires.

Article 3

General Definitions

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

   (a) (i) the term "Hong Kong Special Administrative Region" means any place where the tax laws of the Hong Kong Special Administrative Region of the People's Republic of China apply;

      (ii) the term "Bahrain" means the territory of the Kingdom of Bahrain as well as the maritime areas, seabed and subsoil over which Bahrain exercises, in accordance with international law, sovereign rights and jurisdiction;

(b) the term "business" includes the performance of professional services and of other activities of an independent character;

(c) the term "company" means any legal entity that is treated as a company or body corporate for tax purposes or any other entity constituted or recognised under the laws of one or other of the Contracting Parties as a body corporate;

(d) the term "competent authority" means:

(i) in the case of the Hong Kong Special Administrative Region, the Commissioner of Inland Revenue or his authorized representative;

(ii) in the case of Bahrain, the Minister of Finance and National Economy or his authorized representative;

(e) the term "Contracting Party" or "Party" means the Hong Kong Special Administrative Region or the Kingdom of Bahrain, as the context requires;

(f) the term "enterprise" applies to the carrying on of any business;

(g) the terms "enterprise of a Contracting Party" and "enterprise of the other Contracting Party" mean respectively an enterprise carried on by a resident of a Contracting Party and an enterprise carried on by a resident of the other Contracting Party;

(h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting Party except when the ship or aircraft is operated solely between places in the other Contracting Party;

(i) the term "national" in relation to Bahrain means:

(i) any individual possessing the nationality of Bahrain; and

(ii) any legal person, partnership or association deriving its status as such from the laws in force in Bahrain;

(j) the term "person" includes an individual, a company, a trust, a partnership and any other body of persons;

(k) the term "tax" means the Hong Kong Special Administrative Region tax or the Bahrain tax, as the context requires.

2. In this Agreement, the terms "Hong Kong Special Administrative Region tax" and "Bahrain tax" do not include any penalty or surcharges imposed under the laws of either Contracting Party relating to the taxes to which this Agreement applies by virtue of Article 2.

3. As regards the application of this Agreement at any time by a Contracting Party, 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 Party for the purposes of the taxes to which this Agreement applies, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

Article 4

Resident

1. For the purposes of this Agreement, the term "resident of a Contracting Party" means:

(a) in the case of the Hong Kong Special Administrative Region,

(i) any individual who ordinarily resides in the Hong Kong Special Administrative Region;

(ii) any individual who stays in the Hong Kong Special Administrative Region for more than 180 days during a year of assessment or for more than 300 days in two consecutive years of assessment one of which is the relevant year of assessment;

(iii) a company incorporated in the Hong Kong Special Administrative Region or, if incorporated outside the Hong Kong Special Administrative Region, being normally managed or controlled in the Hong Kong Special Administrative Region;

(iv) any other person constituted under the laws of the Hong Kong Special Administrative Region or, if constituted outside the Hong Kong Special Administrative Region, being normally managed or controlled in the Hong Kong Special Administrative Region;

(b) in the case of Bahrain, any individual who has a permanent home, his centre of vital interests, or habitual abode in Bahrain, for a period or periods totalling in the aggregate at least 183 days in any twelve-month period commencing or ending in the taxable period concerned, and a company or other legal person incorporated or having its place of effective management in Bahrain.

2. The term "resident of a Contracting Party" also includes the Government of that Party, its local authorities and any statutory body thereof.

3. Where by reason of the provisions of paragraphs 1 and 2, an individual is a resident of both Contracting Parties, then his status shall be determined as follows:

(a) he shall be deemed to be a resident only of the Party in which he has a permanent home available to him; if he has a permanent home available to him in both Parties, he shall be deemed to be a resident only of the Party with which his personal and economic relations are closer ("centre of vital interests");

(b) if the Party 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 Party, he shall be deemed to be a resident only of the Party in which he has an habitual abode;

(c) if he has an habitual abode in both Parties or in neither of them, he shall be deemed to be a resident only of the Party in which he has the right of abode (in the case of the Hong Kong Special Administrative Region) or of which he is a national (in the case of Bahrain);

(d) if he has the right of abode in the Hong Kong Special Administrative Region and is also a national of Bahrain, or if he does not have the right of abode in the Hong Kong Special Administrative Region nor is he a national of Bahrain, the competent authorities of the Contracting Parties shall settle the question by mutual agreement.

4. Where by reason of the provisions of paragraphs 1 and 2, a person other than an individual is a resident of both Contracting Parties, then it shall be deemed to be a resident only of the Party 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;

(f) a mine, an oil or gas well, a quarry or any other place of extraction of or exploration for natural resources;

(g) a sales outlet; and

(h) a warehouse in relation to a person providing storage facilities for others.

3. The term "permanent establishment" also encompasses:

(a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities last more than six months;

(b) the furnishing of services, including consultancy services, by an enterprise directly or through employees or other personnel engaged by the enterprise for such purpose, but only if activities of that nature continue (for the same or a connected project) within a Contracting Party for a period or periods aggregating more than 183 days in any twelve-month period commencing or ending in the taxable period concerned.

4. Notwithstanding the provisions of this Article, an enterprise shall be deemed to have a permanent establishment in a Contracting Party and to carry on business through that permanent establishment if in that Party it carries on for a period of more than 90 days:

(a) any activity which is directly connected with the exploration for or production of crude oil or other natural hydrocarbons from the ground in that Party for its own account, or in refining crude oil owned by it or by others, wheresoever produced, in its facilities in that Party; or

(b) any sales of crude oil or other natural hydrocarbons produced from the ground in that Party, or of finished or semi-finished products manufactured in that Party from crude oil or other natural hydrocarbons; or

(c) any activity that results in amounts of income receivable by reason of an interest in crude oil or other natural hydrocarbons produced from the ground in that Party or the proceeds thereof.

5. 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 or display 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 or display;

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

6. 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 Party on behalf of an enterprise of the other Contracting Party, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting Party in respect of any activities which that person undertakes for the enterprise, if such a person:

(a) has, and habitually exercises, in the first-mentioned Contracting Party an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 5 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

(b) has no such authority, but habitually maintains in the first-mentioned Party a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

7. An enterprise shall not be deemed to have a permanent establishment in a Contracting Party merely because it carries on business in that Party 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.

8. The fact that a company which is a resident of a Contracting Party controls or is controlled by a company which is a resident of the other Contracting Party, or which carries on business in that other Party (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

Income from Immovable Property

1. Income derived by a resident of a Contracting Party from immovable property (including income from agriculture or forestry) situated in the other Contracting Party may be taxed in that other Party.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting Party 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, quarries, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. Any property or right referred to in paragraph 2 shall be regarded as situated where the land, standing timber, mineral deposits, quarries, sources or natural resources, as the case may be, are situated or where the working may take place.

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

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

Article 7

Business Profits

1. The profits of an enterprise of a Contracting Party shall be taxable only in that Party unless the enterprise carries on business in the other Contracting Party 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 Party, 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 Party carries on business in the other Contracting Party through a permanent establishment situated therein, there shall in each Contracting Party 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 Party in which the permanent establishment is situated or elsewhere.

4. Insofar as it has been customary in a Contracting Party to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, or on the basis of such other method as may be prescribed by the laws of that Party, nothing in paragraph 2 shall preclude that Contracting Party from determining the profits to be taxed by such

apportionment or other method; the method adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

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

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

Article 8

Shipping and Air Transport

1. Profits of an enterprise of a Contracting Party from the operation of ships or aircraft in international traffic shall be taxable only in that Party.

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

3. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic shall include in particular:

(a) revenues and gross receipts from the operation of ships or aircraft for the transport of persons, livestock, goods, mail or merchandise in international traffic including:

(i) income derived from the lease of ships or aircraft on a bareboat charter basis where such lease is incidental to the operation of ships or aircraft in international traffic;

(ii) income derived from the sale of tickets and the provision of services connected with such transport whether for the enterprise itself or for any other enterprise, provided that in the case of provision of services, such provision is incidental to the operation of ships or aircraft in international traffic;

(b) income from debt-claims derived from funds directly connected with the operation of ships or aircraft in international traffic;

(c) profits from the lease of containers by the enterprise, when such lease is incidental to the operation of ships or aircraft in international traffic.

Article 9

Associated Enterprises

1. Where:

(a) an enterprise of a Contracting Party participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting Party, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting Party and an enterprise of the other Contracting Party,

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

Article 10

Dividends

1. Dividends paid by a company which is a resident of a Contracting Party to a resident of the other Contracting Party shall be taxable only in that other Party.

2. 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 Party of which the company making the distribution is a resident.

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

4. Where a company which is a resident of a Contracting Party derives profits or income from the other Contracting Party, that other Party 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 Party or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other Party, 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 Party.

Article 11

Income from Debt-Claims

1. Income from debt-claims arising in a Contracting Party and paid to a resident of the other Contracting Party shall be taxable only in that other Party.

2. The terms "income from debt-claims" and "income" as used in this Article mean income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as income for the purpose of this Article.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the income, being a resident of a Contracting Party, carries on business in the other Contracting Party in which the income arises through a permanent establishment situated therein and the debt-claim in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

4. Income from a debt-claim shall be deemed to arise in a Contracting Party when the payer is a resident of that Party. Where, however, the person paying the income, whether he is a resident of a Contracting Party or not, has in a Contracting Party a permanent establishment in connection with which the indebtedness on which the income is paid was incurred, and such income is borne by such permanent establishment, then such income shall be deemed to arise in the Party in which the permanent establishment is situated.

5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the income exceeds, for whatever reasons, 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 Party, due regard being had to the other provisions of this Agreement.

Article 12

Royalties

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

2. However, such royalties may also be taxed in the Contracting Party in which they arise and according to the laws of that Party, but if the beneficial owner of the royalties is a resident of the other Contracting Party, the tax so charged shall not exceed 5 per cent of the gross amount of the royalties. The competent authorities of the Contracting Parties shall by mutual agreement settle the mode of application of this limitation.

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, or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial,

commercial or scientific equipment or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting Party, carries on business in the other Contracting Party in which the royalties arise through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

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

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties exceeds, for whatever reasons, 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 Party, due regard being had to the other provisions of this Agreement.

Article 13

Capital Gains

1. Gains derived by a resident of a Contracting Party from the alienation of immovable property referred to in Article 6 and situated in the other Contracting Party may be taxed in that other Party.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other Party.

3. Gains derived by an enterprise of a Contracting Party 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 that Party.

4. Gains derived by a resident of a Contracting Party from the alienation of shares of a company deriving more than 50 per cent of its asset value directly or indirectly from immovable property situated in the other Contracting Party may be taxed in that other Party. However, this paragraph does not apply to gains derived from the alienation of shares:

   (a) quoted on such stock exchange as may be agreed between the Parties; or

   (b) alienated or exchanged in the framework of a reorganisation of a company, a merger, a scission or a similar operation; or

   (c) in a company deriving more than 50 per cent of its asset value from immovable property in which it carries on its business.

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

Article 14

Income from Employment

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

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

   (a) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the taxable period concerned, and

   (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Party, and

   (c) the remuneration is not borne by a permanent establishment which the employer has in the other Party.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting Party shall be taxable only in that Party.

Article 15

Directors' Fees

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

Article 16

Artistes and Sportsmen

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Contracting Party 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 Party, may be taxed in that other Party.

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

Article 17

Pensions

1. Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration (including a lump sum payment) paid to a resident of a Contracting Party in consideration of past employment or self-employment shall be taxable only in that Party.

2. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration (including a lump sum payment) made under a pension or retirement scheme which is:

   (a) a public scheme which is part of the social security system of a Contracting Party; or

   (b) a scheme in which individuals may participate to secure retirement benefits and which is recognised for tax purposes in a Contracting Party,

   shall be taxable only in that Contracting Party.

Article 18

Government Service

1. (a) Salaries, wages and other similar remuneration, other than a pension, paid by the Government of a Contracting Party to an individual in respect of services rendered to that Party shall be taxable only in that Party.

   (b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting Party if the services are rendered in that Party and the individual is a resident of that Party who:

      (i) in the case of the Hong Kong Special Administrative Region has the right of abode therein and in the case of Bahrain is a national thereof; or

      (ii) did not become a resident of that Party solely for the purpose of rendering the services.

2. (a) Any pension (including a lump sum payment) paid by, or paid out of funds created or contributed by, the Government of a Contracting Party to an individual in respect of services rendered to that Party shall be taxable only in that Party.

   (b) However, if the individual who rendered the services is a resident of the other Contracting Party and the case falls within subparagraph (b) of paragraph 1 of this Article, any corresponding pension (whether a payment in lump sum or by instalments) shall be taxable only in that other Contracting Party.

3. The provisions of Articles 14, 15, 16, and 17 shall apply to salaries, wages, pensions (including a lump sum payment), and other similar remuneration in respect of services rendered in connection with a business carried on by the Government of a Contracting Party.

Article 19

Students

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

Article 20

Other Income

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

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 Party, carries on business in the other Contracting Party through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

3. Alimony or other maintenance payment paid by a resident of a Contracting Party to a resident of the other Contracting Party shall, to the extent it is not allowable as a deduction to the payer in the first-mentioned Party, be taxable only in that Party.

Article 21

Methods for Elimination of Double Taxation

1. Subject to the provisions of the laws of the Hong Kong Special Administrative Region relating to the allowance of a credit against Hong Kong Special Administrative Region tax of tax paid in a jurisdiction outside the Hong Kong Special Administrative Region (which shall not affect the general principle of this Article), Bahrain tax paid under the laws of Bahrain and in accordance with this Agreement, whether directly or by deduction, in respect of income derived by a person who is a resident of the Hong Kong Special Administrative Region from sources in Bahrain, shall be allowed as a credit against Hong Kong Special Administrative Region tax payable in respect of that income, provided that the credit so allowed does not exceed the amount of Hong Kong Special Administrative Region tax computed in respect of that income in accordance with the tax laws of the Hong Kong Special Administrative Region.

2. Where a resident of Bahrain derives income which, in accordance with the provisions of this Agreement, may be taxed in the Hong Kong Special Administrative Region, Bahrain shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in the Hong Kong Special Administrative Region. Such deduction shall not, however, exceed the amount of tax computed for such income according to the legislation and taxation rules of Bahrain.

Article 22

Non-Discrimination

1. Persons who, in the case of the Hong Kong Special Administrative Region, have the right of abode or are incorporated or otherwise constituted therein, and, in the case of Bahrain, are nationals thereof,

shall not be subjected in the other Contracting Party to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which persons who have the right of abode or are incorporated or otherwise constituted in that other Party (where that other Party is the Hong Kong Special Administrative Region) or nationals of that other Party (where that other Party is Bahrain) 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 Parties.

2. Stateless persons who are residents of a Contracting Party shall not be subjected in either Contracting Party to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which persons who have the right of abode in the Party (where the Party is the Hong Kong Special Administrative Region) or nationals of the Party (where the Party is Bahrain) in the same circumstances, in particular with respect to residence, are or may be subjected.

3. The taxation on a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party shall not be less favourably levied in that other Party than the taxation levied on enterprises of that other Party carrying on the same activities. This provision shall not be construed as obliging a Contracting Party to grant to residents of the other Contracting Party any personal allowances, reliefs and reduction for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

4. Except where the provisions of paragraph 1 of Article 9, paragraph 5 of Article 11, or paragraph 6 of Article 12, apply, income from

debt-claims, royalties and other disbursements paid by an enterprise of a Contracting Party to a resident of the other Contracting Party 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 Party.

5. Enterprises of a Contracting Party, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting Party, shall not be subjected in the first-mentioned Party 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 Party are or may be subjected.

Article 23

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting Parties 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 internal laws of those Parties, present his case to the competent authority of either Contracting Party. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting Party, with a view to the avoidance of taxation which is not in accordance with this Agreement. Any

agreement reached shall be implemented notwithstanding any time limits in the internal laws of the Contracting Parties.

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

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

Article 24

Exchange of Information

1. The competent authorities of the Contracting Parties shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the internal laws of the Contracting Parties concerning taxes covered by this Agreement, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1.

2. Any information received under paragraph 1 by a Contracting Party shall be treated as secret in the same manner as information obtained under the internal laws of that Party and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or

prosecution in respect of, or the determination of appeals in relation to the taxes referred to in paragraph 1. 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. Information shall not be disclosed to any third jurisdiction for any purpose.

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

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting Party;

(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 Party;

(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 Party in accordance with this Article, the other Contracting Party shall use its information gathering measures to obtain the requested information, even though that other Party 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 Party to decline to supply information solely because there is no tax interest in such information to that Party.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting Party 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 25

Members of Government Missions

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

Article 26

Miscellaneous Rules

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

2. Where a benefit under this Agreement is denied to a person under paragraph 1, the competent authority of the Contracting Party that would otherwise have granted this benefit shall nevertheless treat

that person as being entitled to this benefit, or to different benefits with respect to a specific item of income, if such competent authority, upon request from that person and after consideration of the relevant facts and circumstances, determines that such benefits would have been granted to that person in the absence of the transaction or arrangement referred to in paragraph 1. The competent authority of the Contracting Party to which the request has been made will consult with the competent authority of the other Contracting Party before rejecting a request made under this paragraph by a resident of that other Party.

3. Nothing in this Agreement shall prejudice the right of each Contracting Party to apply its internal laws and measures concerning tax avoidance, whether or not described as such.

Article 27

Entry into Force

1. Each of the Contracting Parties shall notify the other in writing of the completion of the procedures required by its law for the bringing into force of this Agreement. This Agreement shall enter into force on the date of the later of these notifications.

2. The provisions of this Agreement shall thereupon have effect:

   (a) in the Hong Kong Special Administrative Region: in respect of Hong Kong Special Administrative Region tax, for any year of assessment beginning on or after the first day of April of the year next following that of entry into force of this Agreement;

(b) in Bahrain: for taxes with respect to every taxable period beginning on or after the first day of January of the year next following that of entry into force of this Agreement.

Article 28

Termination

This Agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may terminate this Agreement by giving the other Contracting Party written notice of termination at least six months before the end of any calendar year. In such event, this Agreement shall cease to have effect:

(a) in the Hong Kong Special Administrative Region: in respect of Hong Kong Special Administrative Region tax, for any year of assessment beginning on or after the first day of April of the year next following that in which the notice is given;

(b) in Bahrain: for taxes with respect to every taxable period beginning on or after the first day of January of the year next following that in which the notice is given.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto, have signed this Agreement.

DONE in duplicate at Manama at the Kingdom of Bahrain this 3rd day of March 2024, in the Chinese, Arabic and English languages, all texts being equally authentic. In case of divergence between the texts, the English text shall prevail.

[SIGNED]

Clerk to the Executive Council

COUNCIL CHAMBER

2024

Explanatory Note

The Hong Kong Special Administrative Region Government and the Government of the Kingdom of Bahrain signed an agreement for the elimination of double taxation with respect to taxes on income and the prevention of tax evasion and avoidance (***Agreement***) on 3 March 2024.

2. This Order specifies the arrangements in the Agreement (***arrangements***) as arrangements under section 49(1A) of the Inland Revenue Ordinance (Cap. 112), and declares that it is expedient that those arrangements should have effect. The Agreement was done in the Chinese, Arabic and English languages which are equally authentic, and the English text prevails if there is a divergence between the texts.

3. The effects of the declaration are—

(a) that the arrangements have effect in relation to tax under the Inland Revenue Ordinance (Cap. 112) despite anything in any enactment; and

(b) that the arrangements, for the purposes of any provision of the arrangements that requires disclosure of information concerning tax of Bahrain, have effect in relation to any tax of Bahrain that is the subject of that provision.

Inland Revenue (Double Taxation Relief with respect to Taxes on Income and Prevention of Tax Evasion and Avoidance) (People's Republic of Bangladesh) Order

(Made by the Chief Executive in Council under section 49(1A) of the Inland Revenue Ordinance (Cap. 112))

1. Commencement

This Order comes into operation on 20 December 2024.

2. Interpretation

In this Order—

Agreement (《協定》) means the Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the People's Republic of Bangladesh for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance, done in duplicate at Hong Kong on 30 August 2023 in the English language.

3. Declaration under section 49(1A)

(1) For the purposes of section 49(1A) of the Ordinance, it is declared—

(a) that the arrangements in the Agreement have been made; and

(b) that it is expedient that those arrangements should have effect.

(2) The English text of the Agreement is reproduced in the English text of the Schedule. A Chinese translation of the Agreement is set out in the Chinese text of the Schedule.

Schedule

[s. 3]

Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the People's Republic of Bangladesh for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance

The Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the People's Republic of Bangladesh;

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

Intending to conclude an Agreement for the elimination of double taxation with respect to taxes on income without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third jurisdictions);

Have agreed as follows:

Article 1

Persons Covered

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

Article 2

Taxes Covered

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting Party, 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 and taxes on the total amounts of wages or salaries paid by enterprises.

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

   (a) in the case of the Hong Kong Special Administrative Region,

      (i) profits tax;

      (ii) salaries tax; and

      (iii) property tax;

      whether or not charged under personal assessment;

   (b) in the case of Bangladesh, the income tax.

4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed under the laws of a Contracting Party after the date of signature of the Agreement in addition to, or in place of, the existing taxes, as well as any other taxes falling within paragraphs 1 and 2 which a Contracting Party may impose in future. The competent authorities of the Contracting Parties shall notify each other of any significant changes that have been made in their respective taxation laws.

5. The existing taxes, together with the taxes imposed after the signature of the Agreement, are hereinafter referred to as "Hong Kong Special Administrative Region tax" or "Bangladesh tax", as the context requires.

Article 3

General Definitions

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

(a) the term "Bangladesh" means all the territory of the People's Republic of Bangladesh including the part of the seabed and its sub-soil thereof, to the extent that area in accordance with international law has been or may hereafter be designated under Bangladesh law as an area within which Bangladesh may exercise sovereign rights with respect to the exploration and exploitation of the natural resources of the seabed or its sub-soil;

(b) the term "Hong Kong Special Administrative Region" means any place where the tax laws of the Hong Kong Special Administrative Region of the People's Republic of China apply;

(c) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;

(d) the term "competent authority" means:

(i) in the case of the Hong Kong Special Administrative Region, the Commissioner of Inland Revenue or his authorized representative;

(ii) in the case of Bangladesh, the National Board of Revenue or its authorized representative;

(e) the terms "a Contracting Party" and "the other Contracting Party" mean the Hong Kong Special Administrative Region or Bangladesh, as the context requires;

(f) the terms "enterprise of a Contracting Party" and "enterprise of the other Contracting Party" mean respectively an enterprise carried on by a resident of a Contracting Party and an enterprise carried on by a resident of the other Contracting Party;

(g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting Party except when the ship or aircraft is operated solely between places in the other Contracting Party;

(h) the term "national", in relation to Bangladesh, means:

(i) any individual possessing the nationality of Bangladesh; and

(ii) any legal person, partnership or association deriving its status as such from the laws in force in Bangladesh;

(i) the term "person" includes an individual, a company, a partnership, a trust and any other body of persons;

(j) the term "tax" means Hong Kong Special Administrative Region tax or Bangladesh tax, as the context requires.

2. As regards the application of the Agreement at any time by a Contracting Party, 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 Party for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

Article 4

Resident

1. For the purposes of this Agreement, the term "resident of a Contracting Party" means:

(a) in the case of the Hong Kong Special Administrative Region,

(i) any individual who ordinarily resides in the Hong Kong Special Administrative Region;

(ii) any individual who stays in the Hong Kong Special Administrative Region for more than 180 days during a year of assessment or for more than 300 days in two consecutive years of assessment one of which is the relevant year of assessment;

(iii) a company incorporated in the Hong Kong Special Administrative Region or, if incorporated outside the Hong Kong Special Administrative Region, being normally managed or controlled in the Hong Kong Special Administrative Region;

(iv) any other person constituted under the laws of the Hong Kong Special Administrative Region or, if constituted outside the Hong Kong Special Administrative Region, being normally managed or controlled in the Hong Kong Special Administrative Region;

(b) in the case of Bangladesh, any person who, under the laws of Bangladesh, is liable to tax therein by reason of his domicile, residence, place of incorporation, place of management or any other criterion of a similar nature. This term, however, does not include any person who is liable to tax in Bangladesh in respect only of income from sources in Bangladesh;

(c) in the case of either Contracting Party, the Government of that Party.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting Parties, then his status shall be determined as follows:

(a) he shall be deemed to be a resident only of the Party in which he has a permanent home available to him; if he has a permanent home available to him in both Parties, he shall be deemed to be a resident only of the Party with which his personal and economic relations are closer (centre of vital interests);

(b) if the Party 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 Party, he shall be deemed to be a resident only of the Party in which he has an habitual abode;

(c) if he has an habitual abode in both Parties or in neither of them, he shall be deemed to be a resident only of the Party:

(i) in the case of the Hong Kong Special Administrative Region, in which he has the right of abode; or

(ii) in the case of Bangladesh, of which he is a national;

(d) if he has the right of abode in the Hong Kong Special Administrative Region and is also a national of Bangladesh, or if he does not have the right of abode in the Hong Kong Special Administrative Region nor is he a national of Bangladesh, the competent authorities of the Contracting Parties 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 Parties, then it shall be deemed to be a resident only of the Party 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;

(f) a mine, an oil or gas well, a quarry or any other place of exploration and extraction of natural resources; and

(g) a sales outlet.

3. The term "permanent establishment" also encompasses:

(a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, including an offshore drilling rig or working ship used for the exploration of natural resources, but only where such site, project or activities continue for a period or periods aggregating more than 183 days in any twelve-month period;

(b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within a Contracting Party for a period or periods aggregating more than 183 days in any twelve-month period;

(c) an enterprise which provides in a Contracting Party facilities, plant and machinery on hire used for the prospecting for, extraction or exploitation of mineral oils in that Party.

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 or display 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 or display;

(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 in a Contracting Party on behalf of an enterprise of the other Contracting Party, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Party in respect of any activities which that person undertakes for the enterprise, if such a person:

(a) has, and habitually exercises, in the first-mentioned Party 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

(b) has no such authority, but habitually maintains in the first-mentioned Party a stock of goods or merchandise from which

he regularly delivers goods or merchandise on behalf of the enterprise.

6. An enterprise of a Contracting Party shall not be deemed to have a permanent establishment in the other Contracting Party merely because it carries on business in that other Party 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 that 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 Party controls or is controlled by a company which is a resident of the other Contracting Party, or which carries on business in that other Party (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

Income from Immovable Property

1. Income derived by a resident of a Contracting Party from immovable property (including income from agriculture or forestry) situated in the other Contracting Party may be taxed in that other Party.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting Party 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, quarries, sources and other natural resources. Ships, boats and aircraft shall not be regarded as immovable property.

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

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

Business Profits

1. The profits of an enterprise of a Contracting Party shall be taxable only in that Party unless the enterprise carries on business in the other Contracting Party 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 Party, 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 Party carries on business in the other Contracting Party through a permanent establishment situated therein, there shall in each Contracting Party 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 business of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Contracting Party in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way

of interest on moneys lent to the head office of the enterprise or any of its other offices.

4. In so far as it has been customary in a Contracting Party to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, or on the basis of such other method as may be prescribed by the laws of that Party, nothing in paragraph 2 shall preclude that Party from determining the profits to be taxed by such apportionment or other method; the method adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

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

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

Article 8

Shipping and Air Transport

1. Profits of an enterprise of a Contracting Party from the operation of aircraft in international traffic shall be taxable only in that Party.

2. Profits of an enterprise of a Contracting Party derived in the other Contracting Party from the operation of ships in international traffic may be taxed in the other Party but the tax so charged shall be reduced by an amount equal to 50 per cent thereof.

3. The provisions of paragraphs 1 and 2 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

4. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic shall include in particular:

   (a) revenues and gross receipts from the operation of ships or aircraft for the transport of persons, livestock, goods, mail or merchandise in international traffic including:

      (i) income derived from the lease of ships or aircraft on a bareboat charter basis where such lease is incidental to the operation of ships or aircraft in international traffic;

      (ii) income derived from the sale of tickets and the provision of services connected with such transport whether for the enterprise itself or for any other enterprise, provided that in the case of provision of services, such provision is incidental to the operation of ships or aircraft in international traffic;

   (b) interest on funds directly connected with the operation of ships or aircraft in international traffic;

   (c) profits from the lease of containers by the enterprise, when such lease is incidental to the operation of ships or aircraft in international traffic.

Article 9

Associated Enterprises

1. Where

   (a) an enterprise of a Contracting Party participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting Party, or

   (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting Party and an enterprise of the other Contracting Party,

   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 Party includes in the profits of an enterprise of that Party – and taxes accordingly – profits on which an enterprise of the other Contracting Party has been charged to tax in that other Party and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Party if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Party 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 for this purpose the competent authorities of the Contracting Parties shall, if necessary, consult each other.

Article 10

Dividends

1. Dividends paid by a company which is a resident of a Contracting Party to a resident of the other Contracting Party may be taxed in that other Party.

2. However, such dividends may also be taxed in the Contracting Party of which the company paying the dividends is a resident and according to the laws of that Party, but if the beneficial owner of the dividends is a resident of the other Contracting Party, the tax so charged shall not exceed:

   (a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 10 per cent of the capital of the company paying the dividends;

   (b) 15 per cent of the gross amount of 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 taxation laws of the Contracting Party 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 Party, carries on business in the other Contracting Party of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other Party 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 15, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting Party derives profits or income from the other Contracting Party, that other Party may not impose any tax on the dividends paid by the company, except in so far as such dividends are paid to a resident of that other Party 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 Party, 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 Party.

6. Notwithstanding any other provisions of this Agreement, where a company which is a resident of a Contracting Party has a permanent establishment in the other Contracting Party, the profits of the permanent establishment may be subjected to an additional tax in that other Party in accordance with its laws, but the additional tax so charged shall not exceed 10 per cent of the amount of such profits.

Article 11

Interest

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

2. However, such interest may also be taxed in the Contracting Party in which it arises and according to the laws of that Party, but if the beneficial owner of the interest is a resident of the other Contracting Party, 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 Party is exempt from tax in that Party, if it is paid:

(a) in the case of the Hong Kong Special Administrative Region,

(i) to the Government of the Hong Kong Special Administrative Region;

(ii) to the Hong Kong Monetary Authority;

(iii) to the Exchange Fund;

(iv) to any entity wholly owned by the Government of the Hong Kong Special Administrative Region as may be agreed from time to time between the competent authorities of the Contracting Parties;

(b) in the case of Bangladesh,

(i) to the Government of the People's Republic of Bangladesh;

(ii) to the Bangladesh Bank;

(iii) to the Investment Corporation of Bangladesh;

(iv) to any entity wholly owned by the Government of the People's Republic of Bangladesh as may be agreed from time to time between the competent authorities of the Contracting Parties.

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, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting Party, carries on business in the other Contracting Party in which the interest arises, through a permanent establishment situated therein, or performs in that other Party 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 15, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting Party when the payer is a resident of that Party. Where, however, the person paying the interest, whether he is a resident of a Contracting Party or not, has in a Contracting Party 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 Party 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 case, the excess part of the payments shall remain taxable according to the laws of each Contracting Party, due regard being had to the other provisions of this Agreement.

Article 12

Royalties

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

2. However, such royalties may also be taxed in the Contracting Party in which they arise and according to the laws of that Party, but if the beneficial owner of the royalties is a resident of the other Contracting Party, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial, agricultural 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 Party, carries on business in the other Contracting Party in which the royalties arise, through a permanent establishment situated therein, or performs in that other Party independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting Party when the payer is a resident of that Party. Where, however, the person paying the royalties, whether he is a resident of a Contracting Party or not, has in a Contracting Party 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 Party 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 Party, due regard being had to the other provisions of this Agreement.

Article 13

Fees for Technical Services

1. Fees for technical services arising in a Contracting Party and paid to a resident of the other Contracting Party may be taxed in that other Party.

2. However, notwithstanding the provisions of Article 15 and subject to the provisions of Articles 8, 17 and 18, fees for technical services

arising in a Contracting Party may also be taxed in the Contracting Party in which they arise and according to the laws of that Party, but if the beneficial owner of the fees is a resident of the other Contracting Party, the tax so charged shall not exceed 10 per cent of the gross amount of the fees.

3. The term "fees for technical services" as used in this Article means any payment in consideration for any service of a managerial, technical or consultancy nature, unless the payment is made:

(a) to an employee of the person making the payment;

(b) for teaching in an educational institution or for teaching by an educational institution; or

(c) by an individual for services for the personal use of an individual.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the fees for technical services, being a resident of a Contracting Party, carries on business in the other Contracting Party in which the fees for technical services arise, through a permanent establishment situated therein, or performs in that other Party independent personal services from a fixed base situated therein, and the fees for technical services are effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

5. For the purposes of this Article, subject to paragraph 6, fees for technical services shall be deemed to arise in a Contracting Party if the payer is a resident of that Party or if the person paying the fees, whether that person is a resident of a Contracting Party or not, has in

a Contracting Party a permanent establishment or a fixed base in connection with which the obligation to pay the fees was incurred, and such fees are borne by the permanent establishment or fixed base.

6. For the purposes of this Article, fees for technical services shall be deemed not to arise in a Contracting Party if the payer is a resident of that Party and carries on business in the other Contracting Party through a permanent establishment situated therein or performs independent personal services through a fixed base situated therein, and such fees are borne by that permanent establishment or fixed base.

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 fees for technical services, having regard to the services 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 fees shall remain taxable according to the laws of each Contracting Party, due regard being had to the other provisions of this Agreement.

Article 14

Capital Gains

1. Gains derived by a resident of a Contracting Party from the alienation of immovable property referred to in Article 6 and situated in the other Contracting Party may be taxed in that other Party.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party or of movable property pertaining to a fixed base available to a resident of a Contracting Party in the other Contracting Party 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 Party.

3. Gains derived by an enterprise of a Contracting Party 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 that Party.

4. Gains derived by a resident of a Contracting Party from the alienation of shares of a company deriving more than 50 per cent of its asset value directly or indirectly from immovable property situated in the other Contracting Party may be taxed in that other Party. However, this paragraph does not apply to gains derived from the alienation of shares:

(a) quoted on such stock exchange as may be agreed between the competent authorities of the Parties; or

(b) alienated or exchanged in the framework of a reorganisation of a company, a merger, a scission or a similar operation; or

(c) in a company deriving more than 50 per cent of its asset value from immovable property in which it carries on its business.

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

Article 15

Independent Personal Services

1. Income derived by an individual who is a resident of a Contracting Party in respect of professional services or other activities of an independent character shall be taxable only in that Party except in the following circumstances, when such income may also be taxed in the other Contracting Party:

   (a) if he has a fixed base regularly available to him in the other Party 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 Party; or

   (b) if his stay in the other Contracting Party is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve- month period commencing or ending in the taxable period concerned; in that case only so much of the income as is derived from his activities performed in that other Party may be taxed in that other Party.

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 16

Dependent Personal Services

1. Subject to the provisions of Articles 17, 19, 20, 21 and 22, salaries, wages and other similar remuneration derived by a resident of a Contracting Party in respect of an employment shall be taxable only in that Party unless the employment is exercised in the other Contracting Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Party.

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

   (a) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the taxable period concerned;

   (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Party; and

   (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Party.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting Party shall be taxable only in that Party.

Article 17

Directors' Fees

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

Article 18

Artistes and Sportsmen

1. Notwithstanding the provisions of Articles 15 and 16, income derived by a resident of a Contracting Party 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 Party, may be taxed in that other Party.

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, 15 and 16, be taxed in the Contracting Party in which the activities of the entertainer or sportsman are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived by entertainers or sportsmen who are residents of a Contracting Party from personal activities as such exercised in the other Contracting Party if their visit to that other Party is

substantially supported from the public funds of the first-mentioned Party.

Article 19

Pensions

1. Subject to the provisions of paragraph 2 of Article 20, pensions and other similar remuneration and annuities paid (whether in the form of periodic or lump sum payments) to a resident of a Contracting Party shall be taxable only in that Party.

2. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration made under a pension or retirement scheme which is:

   (a) a public scheme which is part of the social security system of a Contracting Party; or

   (b) a scheme in which individuals may participate to secure retirement benefits and which is recognized for tax purposes in a Contracting Party,

   shall be taxable only in that Party.

3. The term "annuity" as used in this Article means a stated sum payable to an individual 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 20

Government Service

1. (a) Salaries, wages and other similar remuneration, other than a pension, paid by the Government of a Contracting Party to an individual in respect of services rendered to that Party shall be taxable only in that Party.

(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting Party if the services are rendered in that Party and the individual is a resident of that Party who:

(i) in the case of the Hong Kong Special Administrative Region, has the right of abode therein and in the case of Bangladesh, is a national thereof; or

(ii) did not become a resident of that Party solely for the purpose of rendering the services.

2. (a) Any pension and other similar remuneration paid by, or paid out of funds created or contributed by, the Government of a Contracting Party (whether in the form of periodic or lump sum payments) to an individual in respect of services rendered to that Party shall be taxable only in that Party.

(b) However, if the individual who rendered the services is a resident of the other Contracting Party and the case falls within subparagraph (b) of paragraph 1, any corresponding pension and other similar remuneration (whether paid in the form of

periodic or lump sum payments) shall be taxable only in that other Party.

3. The provisions of Articles 16, 17, 18 and 19 shall apply to salaries, wages, pensions (whether paid in the form of periodic or lump sum payments), and other similar remuneration in respect of services rendered in connection with a business carried on by the Government of a Contracting Party.

Article 21

Teachers and Researchers

1. Where an individual is employed by a university, college or school in a Contracting Party or by an educational institution or scientific research institution recognized by the Government of that Party and is, or was immediately before visiting the other Contracting Party, a resident of the first-mentioned Party and is present in that other Party for the primary purpose of teaching or research at a university, college or school in that other Party or at an educational institution or scientific research institution recognized by the Government of that other Party, the remuneration derived by the individual in respect of such teaching or research, to the extent it is paid by, or on behalf of, the employer of the first-mentioned Party, shall not be taxed in that other Party for a period of three years, provided that such remuneration is subject to tax in the first-mentioned Party.

2. The period of "three years" provided in paragraph 1 shall begin on the date of the individual's first arrival in the other Contracting Party for the above purpose or the date on which the provisions become

effective in accordance with paragraph 2 of Article 30 of this Agreement, whichever is the later.

3. Paragraph 1 shall not apply to income derived from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

Article 22

Students

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

2. In respect of grants, scholarships and remuneration not covered by paragraph 1, a student described in paragraph 1 shall be entitled during such education to the same exemptions, relief or reductions in respect of taxes available to residents of the Contracting Party which he is visiting.

Article 23

Other Income

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

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 Party, carries on business in the other Contracting Party through a permanent establishment situated therein, or performs in that other Party 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 15, as the case may be, shall apply.

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

Article 24

Methods for Elimination of Double Taxation

1. In the case of the Hong Kong Special Administrative Region,

Subject to the provisions of the laws of the Hong Kong Special Administrative Region relating to the allowance of a credit against Hong Kong Special Administrative Region tax of tax paid in a jurisdiction outside the Hong Kong Special Administrative Region (which shall not affect the general principle of this Article),

Bangladesh tax paid under the laws of Bangladesh and in accordance with this Agreement, whether directly or by deduction, in respect of income derived by a person who is a resident of the Hong Kong Special Administrative Region from sources in Bangladesh, shall be allowed as a credit against Hong Kong Special Administrative Region tax payable in respect of that income, provided that the credit so allowed does not exceed the amount of Hong Kong Special Administrative Region tax computed in respect of that income in accordance with the tax laws of the Hong Kong Special Administrative Region.

2. In the case of Bangladesh,

Subject to the provisions of the laws of Bangladesh relating to the allowance of a credit against Bangladesh tax of tax paid in a jurisdiction outside Bangladesh (which shall not affect the general principle of this Article), Hong Kong Special Administrative Region tax paid under the laws of the Hong Kong Special Administrative Region and in accordance with the Agreement, whether directly or by deduction, in respect of income derived by a person who is a resident of Bangladesh from sources in the Hong Kong Special Administrative Region, shall be allowed as a credit against Bangladesh tax payable in respect of that income, provided that the credit so allowed does not exceed the amount of Bangladesh tax computed in respect of that income in accordance with the tax laws of Bangladesh.

3. Where, in accordance with any provision of the Agreement, income derived by a resident of a Contracting Party is exempt from tax in that Party, such Party may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

4. For the purpose of allowance as a credit in a Contracting Party, the tax paid in the other Contracting Party shall be deemed to include the tax which is otherwise payable in that other Party but which has been reduced or exempted in accordance with special incentive laws designed to promote economic development in that other Party.

5. The provision of paragraph 4 shall cease to have effect after 10 years from:

(a) in the Hong Kong Special Administrative Region,

the year of assessment beginning on 1 April in the calendar year next following that in which the Agreement enters into force;

(b) in Bangladesh,

the year of assessment beginning on 1 July in the calendar year next following that in which the Agreement enters into force.

The competent authorities of the Contracting Parties may consult each other to determine whether this period shall be extended.

Article 25

Non-discrimination

1. Persons who, in the case of the Hong Kong Special Administrative Region, have the right of abode or are incorporated or otherwise constituted therein, and, in the case of Bangladesh, are nationals, shall not be subjected in the other Contracting Party to any taxation

or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which persons who have the right of abode or are incorporated or otherwise constituted in that other Party (where that other Party is the Hong Kong Special Administrative Region) or nationals of that other Party (where that other Party is Bangladesh) 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 Parties.

2. The taxation on a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party shall not be less favourably levied in that other Party than the taxation levied on enterprises of that other Party carrying on the same activities. This provision shall not be construed as obliging a Contracting Party to grant to residents of the other Contracting Party 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, paragraph 6 of Article 12 or paragraph 7 of Article 13 apply, interest, royalties, fees for technical services and other disbursements paid by an enterprise of a Contracting Party to a resident of the other Contracting Party 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 Party.

4. Enterprises of a Contracting Party, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more

residents of the other Contracting Party, shall not be subjected in the first-mentioned Party 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 Party are or may be subjected.

Article 26

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting Parties 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 internal laws of those Parties, present his case to the competent authority of either Contracting Party. 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 Party, 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 internal laws of the Contracting Parties.

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

Article 27

Exchange of Information

1. The competent authorities of the Contracting Parties shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the internal laws of the Contracting Parties concerning taxes covered by the Agreement, in so far as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1.

2. Any information received under paragraph 1 by a Contracting Party shall be treated as secret in the same manner as information obtained under the internal laws of that Party and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to the taxes referred to in paragraph 1. 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.

Information received shall not be disclosed to any third jurisdiction for any purpose.

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

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting Party;

(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 Party;

(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 Party in accordance with this Article, the other Contracting Party shall use its information gathering measures to obtain the requested information, even though that other Party 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 Party to decline to supply information solely because there is no tax interest in such information to that Party.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting Party 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 28

Members of Government Missions

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

Article 29

Entitlement to Benefits

Notwithstanding the other provisions of this Agreement, a benefit under the Agreement shall not be granted in respect of an item of income 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.

Article 30

Entry into Force

1. Each of the Contracting Parties shall notify the other in writing of the completion of the procedures required by its law for the bringing into

force of this Agreement. The Agreement shall enter into force on the date of the later of these notifications.

2. The provisions of the Agreement shall thereupon have effect:

(a) in the Hong Kong Special Administrative Region,

in respect of Hong Kong Special Administrative Region tax, for any year of assessment beginning on or after 1 April in the calendar year next following that in which the Agreement enters into force;

(b) in Bangladesh,

in respect of Bangladesh tax, for any year of assessment beginning on or after 1 July in the calendar year next following that in which the Agreement enters into force.

3. Until such time as the provisions of the Agreement become effective in accordance with paragraph 2, Article 9 of the Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the People's Republic of Bangladesh Concerning Air Services signed in Hong Kong on 24 October 2000 shall, notwithstanding paragraph 8 of that Article, continue to have effect.

Article 31

Termination

This Agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may terminate the Agreement by giving the other Contracting Party written notice of termination at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect:

(a) in the Hong Kong Special Administrative Region,

in respect of Hong Kong Special Administrative Region tax, for any year of assessment beginning on or after 1 April in the calendar year next following that in which the notice is given;

(b) in Bangladesh,

in respect of Bangladesh tax, for any year of assessment beginning on or after 1 July in the calendar year next following that in which the notice is given.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto by their respective governments, have signed this Agreement.

DONE in duplicate at Hong Kong this 30th day of August 2023 in the English language.

[SIGNED]

Clerk to the Executive Council

COUNCIL CHAMBER

2024

Explanatory Note

The Hong Kong Special Administrative Region Government and the Government of the People's Republic of Bangladesh signed an agreement for the elimination of double taxation with respect to taxes on income and the prevention of tax evasion and avoidance (***Agreement***) on 30 August 2023.

2. This Order specifies the arrangements in the Agreement (***arrangements***) as arrangements under section 49(1A) of the Inland Revenue Ordinance (Cap. 112), and declares that it is expedient that those arrangements should have effect. The Agreement was done in the English language and is reproduced in the English text of the Schedule to this Order. A Chinese translation of the Agreement is set out in the Chinese text of the Schedule to this Order.

3. The effects of the declaration are—

(a) that the arrangements have effect in relation to tax under the Inland Revenue Ordinance (Cap. 112) despite anything in any enactment; and

(b) that the arrangements, for the purposes of any provision of the arrangements that requires disclosure of information concerning tax of Bangladesh, have effect in relation to any tax of Bangladesh that is the subject of that provision.

Inland Revenue (Double Taxation Relief with respect to Taxes on Income and Capital and Prevention of Tax Evasion and Avoidance) (Republic of Croatia) Order

(Made by the Chief Executive in Council under section 49(1A) of the Inland Revenue Ordinance (Cap. 112))

1. Commencement

This Order comes into operation on 20 December 2024.

2. Interpretation

In this Order—

Agreement (《協定》) means the Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of Croatia for the Elimination of Double Taxation with respect to Taxes on Income and on Capital and the Prevention of Tax Evasion and Avoidance, done in duplicate at Hong Kong on 24 January 2024 in the Chinese, Croatian and English languages;

Protocol (《議定書》) means the protocol to the Agreement, done in duplicate at Hong Kong on 24 January 2024 in the Chinese, Croatian and English languages.

3. Declaration under section 49(1A)

(1) For the purposes of section 49(1A) of the Ordinance, it is declared—

(a) that the arrangements in the Agreement and the Protocol have been made; and

Inland Revenue (Double Taxation Relief with respect to Taxes on Income and Capital and Prevention of Tax Evasion and Avoidance) (Republic of Croatia) Order

(b) that it is expedient that those arrangements should have effect.

(2) The text of the Agreement is reproduced in Part 1 of the Schedule.

(3) The text of the Protocol is reproduced in Part 2 of the Schedule.

Schedule

[s. 3]

Part 1

Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of Croatia for the Elimination of Double Taxation with respect to Taxes on Income and on Capital and the Prevention of Tax Evasion and Avoidance

The Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of Croatia,

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

Intending to conclude an Agreement for the elimination of double taxation with respect to taxes on income and on capital without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third jurisdictions),

Have agreed as follows:

Article 1

PERSONS COVERED

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

2. For the purposes of the Agreement, income derived by or through an entity or arrangement that is treated as wholly or partly fiscally transparent under the tax law of either Contracting Party shall be considered to be income of a resident of a Contracting Party but only to the extent that the income is treated, for purposes of taxation by that Contracting Party, as the income of a resident of that Contracting Party.

3. The Agreement shall not affect the taxation, by a Contracting Party, of its residents except with respect to the benefits granted under paragraph 3 of Article 7, paragraph 2 of Article 9, paragraph 2 of Article 17 and Articles 18, 19, 22, 23, 24 and 26.

Article 2

TAXES COVERED

1. This Agreement shall apply to taxes on income and on capital imposed on behalf of a Contracting Party 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:

a) in the case of the Republic of Croatia:

(i) the profit tax;

(ii) the income tax;

(iii) the surtax on the income tax; and

(iv) the tax on vacation houses

(hereinafter referred to as "Croatian tax");

b) in the case of the Hong Kong Special Administrative Region:

(i) the profits tax;

(ii) the salaries tax; and

(iii) the property tax;

whether or not charged under personal assessment

(hereinafter referred to as "Hong Kong Special Administrative Region 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 Parties shall notify each other of any significant changes that have been made in their taxation laws.

Article 3

GENERAL DEFINITIONS

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

a) (i) the term "Croatia" means the whole territory of the Republic of Croatia in its internationally recognized boundaries, including its territorial sea, in which the Croatian laws relating to taxation apply, and any area beyond its territorial sea, within which the Republic of Croatia has sovereign rights of exploration for and exploitation of resources of the sea-bed and its sub-soil and superjacent water resources in accordance with international law;

(ii) the term "Hong Kong Special Administrative Region" means any place where the tax laws of the Hong Kong Special Administrative Region of the People's Republic of China apply;

b) the term "business" includes the performance of professional services and of other activities of an independent character;

c) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;

d) the term "competent authority" means:

(i) in the case of Croatia, the Minister of Finance or his authorised representative;

(ii) in the case of the Hong Kong Special Administrative Region, the Commissioner of Inland Revenue or his authorised representative;

e) the terms "a Contracting Party" and "the other Contracting Party" mean Croatia or the Hong Kong Special Administrative Region, as the context requires;

f) the term "enterprise" applies to the carrying on of any business;

g) the terms "enterprise of a Contracting Party" and "enterprise of the other Contracting Party" mean respectively an enterprise carried on by a resident of a Contracting Party and an enterprise carried on by a resident of the other Contracting Party;

h) the term "international traffic" means any transport by a ship or aircraft except when the ship or aircraft is operated solely between places in a Contracting Party and the enterprise that operates the ship or aircraft is not an enterprise of that Contracting Party;

i) the term "national", in relation to Croatia, means:

(i) any individual possessing the nationality of Croatia; and

(ii) any legal person, partnership or association deriving its status as such from the laws in force in Croatia;

j) the term "person" includes an individual, a company, a trust, a partnership and any other body of persons;

k) the term "tax" means Croatian tax or Hong Kong Special Administrative Region tax, as the context requires.

2. As regards the application of the Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires or the competent authorities agree to a different meaning pursuant to the provisions of Article 24, have the meaning that it has at that time under the law of that Contracting Party for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Contracting Party prevailing over a meaning given to the term under other laws of that Contracting Party.

Article 4

RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting Party" means:

a) in the case of Croatia, any person who, under the laws of Croatia, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. This term, however, does not include any person who is liable to tax in Croatia in respect only of income from sources in Croatia or capital situated therein;

b) in the case of the Hong Kong Special Administrative Region:

(i) any individual who ordinarily resides in the Hong Kong Special Administrative Region;

(ii) any individual who stays in the Hong Kong Special Administrative Region for more than 180 days during a year of assessment or for more than 300 days in two consecutive years of assessment one of which is the relevant year of assessment;

(iii) a company incorporated in the Hong Kong Special Administrative Region or, if incorporated outside the Hong Kong Special Administrative Region, being normally managed or controlled in the Hong Kong Special Administrative Region;

(iv) any other person constituted under the laws of the Hong Kong Special Administrative Region or, if constituted outside the Hong Kong Special Administrative Region, being normally managed or controlled in the Hong Kong Special Administrative Region;

c) in the case of either Contracting Party, the Government of that Contracting Party and any political subdivision or local authority thereof.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting Parties, then his status shall be determined as follows:

a) he shall be deemed to be a resident only of the Contracting Party in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting Parties, he shall be deemed to be a resident only of the Contracting Party with which his personal and economic relations are closer (centre of vital interests);

b) if the Contracting Party 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 Contracting Party, he shall be deemed to be a resident only of the Contracting Party in which he has an habitual abode;

c) if he has an habitual abode in both Contracting Parties or in neither of them, he shall be deemed to be a resident only of the Contracting Party of which he is a national (in the case of Croatia) or in which he has the right of abode (in the case of the Hong Kong Special Administrative Region);

d) if he is a national of Croatia and has also the right of abode in the Hong Kong Special Administrative Region, or if he is not a national of Croatia nor does he have the right of abode in the Hong Kong Special Administrative Region, the competent authorities of the Contracting Parties 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 Parties, then it shall be deemed to be a resident only of the Contracting Party 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 installation project constitutes a permanent establishment only if it lasts more than twelve months.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

   a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

   b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

   c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

   d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

   e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity;

   f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e),

   provided that such activity or, in the case of subparagraph f), the overall activity of the fixed place of business, is of a preparatory or auxiliary character.

5. Paragraph 4 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 enterprise carries on business activities at the same place or at another place in the same Contracting Party and:

   a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of this Article, 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.

6. Notwithstanding the provisions of paragraphs 1 and 2 but subject to the provisions of paragraph 7, where a person is acting in a Contracting Party 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 Party 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 (other than a fixed place of business to which paragraph 5 would apply), would not make this fixed place

of business a permanent establishment under the provisions of that paragraph.

7. Paragraph 6 shall not apply where the person acting in a Contracting Party on behalf of an enterprise of the other Contracting Party carries on business in the first-mentioned Contracting Party 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.

8. The fact that a company which is a resident of a Contracting Party controls or is controlled by a company which is a resident of the other Contracting Party, or which carries on business in that other Contracting Party (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

9. For the purposes of this Article, a person or enterprise 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 or enterprise 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 or enterprise 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 or in the two enterprises.

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting Party from immovable property (including income from agriculture or forestry) situated in the other Contracting Party may be taxed in that other Contracting Party.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting Party 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, quarries, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

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

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

Article 7

BUSINESS PROFITS

1. Profits of an enterprise of a Contracting Party shall be taxable only in that Contracting Party unless the enterprise carries on business in the other Contracting Party through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits that are attributable to the permanent establishment in accordance with the provisions of paragraph 2 may be taxed in that other Contracting Party.

2. For the purposes of this Article and Article 22, the profits that are attributable in each Contracting Party to the permanent establishment referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise.

3. Where, in accordance with paragraph 2, a Contracting Party adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting Parties and taxes accordingly profits of the enterprise that have been charged to tax in the other Contracting Party, the other Contracting Party shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment to the amount of the tax charged on those profits. In determining such adjustment, the competent authorities of the Contracting Parties shall if necessary consult each other.

4. 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

INTERNATIONAL SHIPPING AND AIR TRANSPORT

1. Profits of an enterprise of a Contracting Party from the operation of ships or aircraft in international traffic shall be taxable only in that Contracting Party.

2. 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 Party participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting Party, or

   b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting Party and an enterprise of the other Contracting Party,

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

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting Party to a resident of the other Contracting Party may be taxed in that other Contracting Party.

2. However, dividends paid by a company which is a resident of a Contracting Party may also be taxed in that Contracting Party according to the laws of that Contracting Party, but if the beneficial owner of the dividends is a resident of the other Contracting Party, the tax so charged shall not exceed 5 per cent of the gross amount of the dividends.

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

3. Notwithstanding the provisions of paragraph 2, dividends arising in a Contracting Party are exempt from tax in that Contracting Party, if they are paid to:

a) in the case of Croatia:

(i) the Government of Croatia or any political subdivision or local authority thereof;

(ii) the Croatian National Bank;

(iii) the Croatian Bank for Reconstruction and Development;

(iv) any entity wholly or mainly owned by the Government of Croatia or any political subdivision or local authority thereof, as may be agreed from time to time between the competent authorities of the Contracting Parties;

b) in the case of the Hong Kong Special Administrative Region:

(i) the Government of the Hong Kong Special Administrative Region;

(ii) the Hong Kong Monetary Authority;

(iii) the Exchange Fund;

(iv) any entity wholly or mainly owned by the Government of the Hong Kong Special Administrative Region as may be agreed from time to time between the competent authorities of the Contracting Parties.

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

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting Party, carries on business in the other Contracting Party of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

6. Where a company which is a resident of a Contracting Party derives profits or income from the other Contracting Party, that other Contracting Party 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 Contracting Party or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other Contracting Party, 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 Contracting Party.

Article 11

INTEREST

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

2. However, interest arising in a Contracting Party may also be taxed in that Contracting Party according to the laws of that Contracting Party, but if the beneficial owner of the interest is a resident of the other Contracting Party, 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 Party is exempt from tax in that Contracting Party, if it is paid to:

   a) in the case of Croatia:

      (i) the Government of Croatia or any political subdivision or local authority thereof;

      (ii) the Croatian National Bank;

      (iii) the Croatian Bank for Reconstruction and Development;

      (iv) any entity wholly or mainly owned by the Government of Croatia or any political subdivision or local authority thereof, as may be agreed from time to time between the competent authorities of the Contracting Parties;

   b) in the case of the Hong Kong Special Administrative Region:

      (i) the Government of the Hong Kong Special Administrative Region;

      (ii) the Hong Kong Monetary Authority;

      (iii) the Exchange Fund;

      (iv) any entity wholly or mainly owned by the Government of the Hong Kong Special Administrative Region as may be agreed from time to time between the competent authorities of the Contracting Parties.

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, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting Party, carries on business in the other Contracting Party in which the interest arises through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

6. Interest shall be deemed to arise in a Contracting Party when the payer is a resident of that Contracting Party. Where, however, the person paying the interest, whether he is a resident of a Contracting

Party or not, has in a Contracting Party a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting Party in which the permanent establishment 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 case, the excess part of the payments shall remain taxable according to the laws of each Contracting Party, due regard being had to the other provisions of this Agreement.

Article 12

ROYALTIES

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

2. However, royalties arising in a Contracting Party may also be taxed in that Contracting Party according to the laws of that Contracting Party, but if the beneficial owner of the royalties is a resident of the other Contracting Party, the tax so charged shall not exceed 5 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, any patent, trade mark, design or model, plan, secret formula or process, 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 Party, carries on business in the other Contracting Party in which the royalties arise through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

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

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

Article 13

CAPITAL GAINS

1. Gains derived by a resident of a Contracting Party from the alienation of immovable property referred to in Article 6 and situated in the other Contracting Party may be taxed in that other Contracting Party.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other Contracting Party.

3. Gains that an enterprise of a Contracting Party that operates ships or aircraft in international traffic derives from the alienation of such ships or aircraft, or of movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that Contracting Party.

4. Gains derived by a resident of a Contracting Party from the alienation of shares or comparable interests, such as interests in a partnership or trust, may be taxed in the other Contracting Party 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, as defined in Article 6, situated in that other Contracting Party. However, this paragraph does not apply to gains derived from the alienation of shares:

   a) quoted on such stock exchange as may be agreed between the competent authorities of the Contracting Parties; or

   b) alienated or exchanged in the framework of a reorganisation of a company, a merger, a scission or a similar operation.

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

Article 14

INCOME FROM EMPLOYMENT

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

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

   a) the recipient is present in the other Contracting Party for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the taxable year (in the case of Croatia) or year of assessment (in the case of the Hong Kong Special Administrative Region) concerned, and

b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Contracting Party, and

c) the remuneration is not borne by a permanent establishment which the employer has in the other Contracting Party.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting Party may be taxed in that Contracting Party.

Article 15

DIRECTORS' FEES

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

Article 16

ENTERTAINERS AND SPORTSPERSONS

1. Notwithstanding the provisions of Article 14, income derived by a resident of a Contracting Party 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 Party, may be taxed in that other Contracting Party.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson acting as such accrues not to the entertainer or sportsperson but to another person, that income may, notwithstanding the provisions of Article 14, be taxed in the Contracting Party in which the activities of the entertainer or sportsperson are exercised.

Article 17

PENSIONS

1. Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration (including a lump sum payment) paid to a resident of a Contracting Party in consideration of past employment or self-employment shall be taxable only in that Contracting Party.

2. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration (including a lump sum payment) made under a pension or retirement scheme which is:

a) a public scheme which is part of the social security system of a Contracting Party; or

b) a pension scheme established under the Act on Mandatory Pension Funds or the Act on Voluntary Pension Funds (in the case of Croatia) or a recognized retirement scheme as defined under the Inland Revenue Ordinance (in the case of the Hong Kong Special Administrative Region),

shall be taxable only in that Contracting Party.

Article 18

GOVERNMENT SERVICE

1. a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting Party or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Contracting Party or political subdivision or local authority shall be taxable only in that Contracting Party.

b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting Party if the services are rendered in that Contracting Party and the individual is a resident of that Contracting Party who:

(i) in the case of Croatia, is a national thereof and in the case of the Hong Kong Special Administrative Region, has the right of abode therein; or

(ii) did not become a resident of that Contracting Party solely for the purpose of rendering the services.

2. a) Any pension (including a lump sum payment) paid by, or paid out of funds created or contributed by, a Contracting Party or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Contracting Party or political subdivision or local authority shall be taxable only in that Contracting Party.

b) However, if the individual who rendered the services is a resident of the other Contracting Party and the case falls within subparagraph b) of paragraph 1, any corresponding pension

(whether a payment in lump sum or by instalments) shall be taxable only in that other Contracting Party.

3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages, pensions (including a lump sum payment), and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting Party or a political subdivision or a local authority thereof.

Article 19

STUDENTS

Payments which a student or business apprentice who is or was immediately before visiting a Contracting Party a resident of the other Contracting Party and who is present in the first-mentioned Contracting Party 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 Contracting Party, provided that such payments arise from sources outside that Contracting Party.

Article 20

OTHER INCOME

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

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 Party, carries on business in the other Contracting Party through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

Article 21

CAPITAL

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

2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party may be taxed in that other Contracting Party.

3. Capital of an enterprise of a Contracting Party that operates ships or aircraft in international traffic represented by such ships or aircraft, and by movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that Contracting Party.

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

Article 22

ELIMINATION OF DOUBLE TAXATION

1. In the case of Croatia, double taxation shall be eliminated as follows:

   a) Where a resident of Croatia derives income or owns capital which may be taxed in the Hong Kong Special Administrative Region in accordance with the provisions of this Agreement (except to the extent that these provisions allow taxation by the Hong Kong Special Administrative Region solely because the income is also income derived by a resident of the Hong Kong Special Administrative Region or because the capital is also capital owned by a resident of the Hong Kong Special Administrative Region), Croatia 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 Hong Kong Special Administrative Region;

      (ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in the Hong Kong Special Administrative Region.

   Such deduction in either case shall not, however, exceed that part of the income tax or capital 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 the Hong Kong Special Administrative Region.

   b) Where in accordance with any provision of the Agreement income derived or capital owned by a resident of Croatia is exempt from tax in Croatia, Croatia 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.

2. In the case of the Hong Kong Special Administrative Region, subject to the provisions of the laws of the Hong Kong Special Administrative Region relating to the allowance of a credit against Hong Kong Special Administrative Region tax of tax paid in a jurisdiction outside the Hong Kong Special Administrative Region (which shall not affect the general principle of this Article), double taxation shall be eliminated as follows:

Croatian tax paid under the laws of Croatia and in accordance with the provisions of the Agreement (except to the extent that these provisions allow taxation by Croatia solely because the income is also income derived by a resident of Croatia), whether directly or by deduction, in respect of income derived by a person who is a resident of the Hong Kong Special Administrative Region from sources in Croatia, shall be allowed as a credit against Hong Kong Special Administrative Region tax payable in respect of that income, provided that the credit so allowed does not exceed the amount of Hong Kong Special Administrative Region tax computed in respect of that income in accordance with the tax laws of the Hong Kong Special Administrative Region.

Article 23

NON-DISCRIMINATION

1. Persons who, in the case of Croatia, are Croatian nationals, and, in the case of the Hong Kong Special Administrative Region, have the right of abode or are incorporated or otherwise constituted therein, shall not be subjected in the other Contracting Party to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which persons who are nationals of that other Contracting Party (where that

other Contracting Party is Croatia) or have the right of abode or are incorporated or otherwise constituted in that other Contracting Party (where that other Contracting Party is the Hong Kong Special Administrative Region) 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 Parties.

2. Stateless persons who are residents of a Contracting Party shall not be subjected in either Contracting Party to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which persons who are nationals of the Contracting Party concerned (where the Contracting Party is Croatia) or have the right of abode in the Contracting Party concerned (where the Contracting Party is the Hong Kong Special Administrative Region) in the same circumstances, in particular with respect to residence, are or may be subjected.

3. The taxation on a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party shall not be less favourably levied in that other Contracting Party than the taxation levied on enterprises of that other Contracting Party carrying on the same activities. This provision shall not be construed as obliging a Contracting Party to grant to residents of the other Contracting Party any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

4. 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 Party to a resident of the other Contracting Party 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 Contracting Party. Similarly, any debts of an enterprise of a Contracting Party to a resident of the other Contracting Party 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 Contracting Party.

5. Enterprises of a Contracting Party, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting Party, shall not be subjected in the first-mentioned Contracting Party 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 Contracting Party are or may be subjected.

6. The provisions of this Article shall apply only to taxes which are covered by Article 2 of this Agreement.

Article 24

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting Parties 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 internal law of those Contracting Parties, present his case to the competent authority of the Contracting Party of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting Party of which

he is a national (in the case of Croatia) or in which he has the right of abode or is incorporated or otherwise constituted (in the case of the Hong Kong Special Administrative Region). 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 Party, 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 internal law of the Contracting Parties.

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

Article 25

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting Parties shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the internal laws of the Contracting Parties concerning taxes covered by the Agreement, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1.

2. Any information received under paragraph 1 by a Contracting Party shall be treated as secret in the same manner as information obtained under the internal laws of that Contracting Party 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, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting Party may be used for other purposes when such information may be used for such other purposes under the laws of both Contracting Parties and the competent authority of the supplying Contracting Party authorises such use.

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

   a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting Party;

   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 Party;

   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 Party in accordance with this Article, the other Contracting Party shall use its information gathering measures to obtain the requested information, even though that other Contracting Party 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 Party to decline to supply information solely because there is no tax interest in such information to that Contracting Party.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting Party 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 26

MEMBERS OF GOVERNMENT MISSIONS

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

Article 27

ENTITLEMENTS TO BENEFITS

1. Notwithstanding the other provisions of this 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.

2. Nothing in the Agreement shall prejudice the right of each Contracting Party to apply its internal laws and measures concerning tax evasion or avoidance, whether or not described as such.

Article 28

ENTRY INTO FORCE

1. Each of the Contracting Parties shall notify the other in writing, through official channels, of the completion of the procedures required by its law for the bringing into force of this Agreement. The Agreement shall enter into force on the date of the later of these notifications.

2. The provisions of the Agreement shall have effect:

   a) in Croatia:

   in respect of the taxes on income derived and the taxes on capital owned in each taxable year beginning on or after the first day of January in the calendar year next following the year in which the Agreement enters into force;

   b) in the Hong Kong Special Administrative Region:

   in respect of Hong Kong Special Administrative Region tax, for any year of assessment beginning on or after the first day of April in the calendar year next following the year in which the Agreement enters into force.

3. Until such time as the provisions of the Agreement become effective in accordance with paragraph 2, Article 9 of the Air Services Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of Croatia signed in Zagreb on 7 June 2002 shall, notwithstanding paragraph 8 of that Article, continue to have effect.

Article 29

TERMINATION

This Agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may terminate the Agreement by giving the other Contracting Party written notice of termination, through official channels, at least six months before the end of any calendar year after the expiration of a period of five years from the date of entry into force of the Agreement. In such event, the Agreement shall cease to have effect:

a) in Croatia:

in respect of the taxes on income derived and the taxes on capital owned in each taxable year beginning on or after the first day of January in the calendar year next following the year in which the notice of termination is given;

b) in the Hong Kong Special Administrative Region:

in respect of Hong Kong Special Administrative Region tax, for any year of assessment beginning on or after the first day of April in the calendar year next following the year in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Agreement.

DONE at Hong Kong this 24th day of January 2024 in two originals, in the Chinese, Croatian and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

[SIGNED]

Part 2

Protocol to the Agreement between the Government of the Hong Kong Special Administrative Region of the

People's Republic of China and the Government of the Republic of Croatia for the Elimination of Double Taxation with respect to Taxes on Income and on Capital and the Prevention of Tax Evasion and Avoidance

At the time of signing the Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of Croatia for the Elimination of Double Taxation with respect to Taxes on Income and on Capital and the Prevention of Tax Evasion and Avoidance (hereinafter referred to as the "Agreement"), the two Governments have agreed upon the following provisions which shall form an integral part of the Agreement.

1. With reference to paragraph 1 of Article 4 (Resident) of the Agreement

It is understood that the term "resident of a Contracting Party" includes:

a) in the case of either Contracting Party:

(i) an entity or arrangement established in that Contracting Party and:

(A) that is established and operated exclusively or almost exclusively to administer or provide retirement benefits and ancillary or incidental benefits to individuals and that is regulated as such

by that Contracting Party or one of its political subdivisions or local authorities; or

(B) that is established and operated exclusively or almost exclusively to invest funds for the benefit of entities or arrangements referred to in clause (A);

(ii) an entity or arrangement that is established and regulated as an investment fund under the internal laws of that Contracting Party;

b) in the case of Croatia, an organisation that is established and maintained as a non-profit organisation in Croatia exclusively for religious, charitable, scientific, artistic, cultural, or educational purposes under the internal laws of Croatia.

2. With reference to Articles 10 (Dividends), 11 (Interest) and 12 (Royalties) of the Agreement

It is understood that for the purposes of Articles 10, 11 and 12 of the Agreement, in determining whether an entity, arrangement or organisation referred to in subparagraphs a) and b) of paragraph 1 of this Protocol is a beneficial owner of the dividends, interest or royalties, due regard shall be had to the principles on the interpretation of the term "beneficial owner" as set out in the Commentaries on the Articles of the Model Tax Convention on Income and on Capital of the Organisation for Economic Co-operation and Development, as they may read from time to time.

3. With reference to paragraph 1 of Article 24 (Mutual Agreement Procedure) of the Agreement

It is understood that the competent authority of the Contracting Party to which a person has presented a mutual agreement procedure case will implement a bilateral notification or consultation process with the competent authority of the other Contracting Party where the first-mentioned competent authority does not consider that person's objection to be justified.

4. With reference to Article 25 (Exchange of Information) of the Agreement

It is understood that:

a) in addition to the taxes covered by the Agreement, the provisions of Article 25 of the Agreement also apply to the following taxes that are administrated and enforced in Croatia, for any taxable year beginning on or after the first day of January in the calendar year next following the year in which the Agreement enters into force:

(i) the value-added tax; and

(ii) the real estate transaction tax;

in case of termination under Article 29 of the Agreement, the provisions of Article 25 of the Agreement shall cease to apply to the above mentioned taxes for any taxable year beginning on or after the first day of January in the calendar year next following the year in which the notice of termination is given;

b) information received shall not be disclosed to any third jurisdiction for any purpose without the consent of the Contracting Party originally furnishing the information.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Protocol.

DONE at Hong Kong this 24th day of January 2024 in two originals, in the Chinese, Croatian and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

[SIGNED]

Clerk to the Executive Council

COUNCIL CHAMBER

2024

Explanatory Note

The Hong Kong Special Administrative Region Government and the Government of the Republic of Croatia signed an agreement for the elimination of double taxation with respect to taxes on income and on capital and the prevention of tax evasion and avoidance (***Agreement***) together with a protocol to the Agreement (***Protocol***) on 24 January 2024.

2. This Order specifies the arrangements in the Agreement and the Protocol (***arrangements***) as arrangements under section 49(1A) of the Inland Revenue Ordinance (Cap. 112), and declares that it is expedient that those arrangements should have effect. The Agreement and the Protocol were done in the Chinese, Croatian and English languages which are equally authentic, and the English text prevails if there is a divergence of interpretation.

3. The effects of the declaration are—

(a) that the arrangements have effect in relation to tax under the Inland Revenue Ordinance (Cap. 112) despite anything in any enactment; and

(b) that the arrangements, for the purposes of any provision of the arrangements that requires disclosure of information concerning tax of Croatia, have effect in relation to any tax of Croatia that is the subject of that provision.

Inland Revenue (Double Taxation Relief with respect to Taxes on Income and Prevention of Tax Evasion and Avoidance) (Republic of Türkiye) Order

(Made by the Chief Executive in Council under section 49(1A) of the Inland Revenue Ordinance (Cap. 112))

1. Commencement

This Order comes into operation on 20 December 2024.

2. Interpretation

In this Order—

Agreement (《協定》) means the Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of Türkiye for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance, done in duplicate at Hong Kong on 24 September 2024 in the Chinese, Turkish and English languages;

Protocol (《議定書》) means the protocol to the Agreement, done in duplicate at Hong Kong on 24 September 2024 in the Chinese, Turkish and English languages.

3. Declaration under section 49(1A)

(1) For the purposes of section 49(1A) of the Ordinance, it is declared—

(a) that the arrangements in the Agreement and the Protocol have been made; and

(b) that it is expedient that those arrangements should have effect.

(2) The text of the Agreement is reproduced in Part 1 of the Schedule.

(3) The text of the Protocol is reproduced in Part 2 of the Schedule.

Schedule

[s. 3]

Part 1

Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of Türkiye for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance

The Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of Türkiye;

Desiring to further develop their economic relationship and to enhance their cooperation in tax matters;

Intending to conclude an Agreement for the elimination of double taxation with respect to taxes on income without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third jurisdictions);

Have agreed as follows:

Article 1

Persons Covered

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

2. For the purposes of the Agreement, income derived by or through an entity or arrangement that is treated as wholly or partly fiscally transparent under the tax law of either Contracting Party shall be considered to be income of a resident of a Contracting Party but only to the extent that the income is treated, for purposes of taxation by that Contracting Party, as the income of a resident of that Contracting Party.

Article 2

Taxes Covered

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting Party 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 and taxes on the total amounts of wages or salaries paid by enterprises.

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

   (a) in the case of the Hong Kong Special Administrative Region:

      (i) profits tax;

(ii) salaries tax; and

(iii) property tax,

whether or not charged under personal assessment

(hereinafter referred to as "Hong Kong Special Administrative Region tax");

(b) in the case of Türkiye:

(i) the income tax; and

(ii) the corporation tax

(hereinafter referred to as "Turkish 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 Parties shall notify each other of any significant changes that have been made in their respective taxation laws.

Article 3

General Definitions

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

(a) (i) the term "Hong Kong Special Administrative Region" means any place where the tax laws of the Hong Kong Special Administrative Region of the People's Republic of China apply;

(ii) the term "Türkiye" means the land territory, internal waters, the territorial sea and the airspace above them, as well as the maritime areas over which Türkiye has sovereign rights or jurisdiction for the purposes of exploration, exploitation and preservation of natural resources, whether living or non-living pursuant to international law;

(b) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;

(c) the term "competent authority" means:

(i) in the case of the Hong Kong Special Administrative Region, the Commissioner of Inland Revenue or his authorized representative;

(ii) in the case of Türkiye, the Minister of Treasury and Finance or his authorized representative;

(d) the terms "a Contracting Party" and "the other Contracting Party" mean the Hong Kong Special Administrative Region or Türkiye, as the context requires;

(e) the terms "enterprise of a Contracting Party" and "enterprise of the other Contracting Party" mean respectively an enterprise

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

(f) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting Party, except when the ship or aircraft is operated solely between places in the other Contracting Party;

(g) the term "legal head office", in the case of Türkiye, means the registered office registered under the Turkish Code of Commerce;

(h) the term "national", in relation to Türkiye, means:

(i) any individual possessing the nationality or citizenship of Türkiye; and

(ii) any legal person, partnership or association deriving its status as such from the laws in force in Türkiye;

(i) the term "person" includes an individual, a company and any other body of persons;

(j) the term "tax" means Hong Kong Special Administrative Region tax or Turkish tax, as the context requires.

2. As regards the application of the Agreement at any time by a Contracting Party, 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 Contracting Party for the purposes of the taxes to which the Agreement applies, any meaning under the applicable

tax laws of that Contracting Party prevailing over a meaning given to the term under other laws of that Contracting Party.

Article 4

Resident

1. For the purposes of this Agreement, the term "resident of a Contracting Party" means:

(a) in the case of the Hong Kong Special Administrative Region:

(i) any individual who ordinarily resides in the Hong Kong Special Administrative Region;

(ii) any individual who stays in the Hong Kong Special Administrative Region for more than 180 days during a year of assessment or for more than 300 days in two consecutive years of assessment one of which is the relevant year of assessment;

(iii) a company incorporated in the Hong Kong Special Administrative Region or, if incorporated outside the Hong Kong Special Administrative Region, being normally managed or controlled in the Hong Kong Special Administrative Region;

(iv) any other person constituted under the laws of the Hong Kong Special Administrative Region or, if constituted outside the Hong Kong Special Administrative Region, being normally managed or controlled in the Hong Kong Special Administrative Region;

(b) in the case of Türkiye, any person who, under the laws of Türkiye, is liable to tax therein by reason of his domicile, residence, legal head office, place of management or any other criterion of a similar nature. This term, however, does not include any person who is liable to tax in Türkiye in respect only of income from sources in Türkiye;

(c) in the case of either Contracting Party, the Government of that Contracting Party and any political subdivision or local authority thereof.

2. Where by reason of the provisions of paragraph 1, an individual is a resident of both Contracting Parties, then his status shall be determined as follows:

(a) he shall be deemed to be a resident only of the Contracting Party in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting Parties, he shall be deemed to be a resident only of the Contracting Party with which his personal and economic relations are closer ("centre of vital interests");

(b) if the Contracting Party 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 Contracting Party, he shall be deemed to be a resident only of the Contracting Party in which he has an habitual abode;

(c) if he has an habitual abode in both Contracting Parties or in neither of them, he shall be deemed to be a resident only of the Contracting Party in which he has the right of abode (in the case

of the Hong Kong Special Administrative Region) or of which he is a national (in the case of Türkiye);

(d) if he has the right of abode in the Hong Kong Special Administrative Region and is also a national of Türkiye, or if he does not have the right of abode in the Hong Kong Special Administrative Region nor is he a national of Türkiye, the competent authorities of the Contracting Parties 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 Parties, the competent authorities of the Contracting Parties shall endeavour to determine by mutual agreement the Contracting Party of which such person shall be deemed to be a resident for the purposes of the Agreement, having regard to the place where it is incorporated or otherwise constituted, the place where its legal head office is situated and any other relevant factors. In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by the Agreement except to the extent and in such manner as may be agreed upon by the competent authorities of the Contracting Parties.

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. The term "permanent establishment" also encompasses:

(a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities last more than 183 days;

(b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only if activities of that nature continue (for the same or a connected project) within a Contracting Party for a period or periods aggregating more than 183 days in any twelve-month period commencing or ending in the taxable period concerned.

4. For the sole purpose of determining whether the 183-day period referred to in paragraph 3(a) has been exceeded:

(a) where an enterprise of a Contracting Party carries on activities in the other Contracting Party at a place that constitutes a

building site or a construction, assembly or installation project, or carries on supervisory activities in connection with such a place, and these activities are carried on during one or more periods of time that, in the aggregate, exceed 30 days without exceeding 183 days; and

(b) connected activities are carried on in the other Contracting Party at the same building site or construction, assembly or installation project, or supervisory activities are carried on in connection with such site or project, during different periods of time, each exceeding 30 days, by one or more enterprises closely related to the first-mentioned enterprise,

these different periods of time shall be added to the period of time during which the first-mentioned enterprise has carried on activities at that building site or construction, assembly or installation project.

5. 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 or display 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 or display;

(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;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e),

provided that such activity or, in the case of subparagraph (f), the overall activity of the fixed place of business, is of a preparatory or auxiliary character.

6. Paragraph 5 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 enterprise carries on business activities at the same place or at another place in the same Contracting Party and:

(a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of this Article; 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.

7. Notwithstanding the provisions of paragraphs 1 and 2, but subject to the provisions of paragraph 8, where a person is acting in a Contracting Party on behalf of an enterprise of the other Contracting Party, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting Party in respect of any activities which that person undertakes for the enterprise, if such a person:

(a) 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:

(i) in the name of the enterprise; or

(ii) 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

(iii) for the provision of services by that enterprise,

unless the activities of such person are limited to those mentioned in paragraph 5 which, if exercised through a fixed place of business (other than a fixed place of business to which paragraph 6 would apply), would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or

(b) does not habitually conclude contracts nor play the principal role leading to the conclusion of such contracts, but habitually maintains in the first-mentioned Contracting Party a stock of

goods or merchandise from which that person regularly delivers goods or merchandise on behalf of the enterprise.

8. Paragraph 7 shall not apply where the person acting in a Contracting Party on behalf of an enterprise of the other Contracting Party carries on business in the first-mentioned Contracting Party 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.

9. The fact that a company which is a resident of a Contracting Party controls or is controlled by a company which is a resident of the other Contracting Party, or which carries on business in that other Contracting Party (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

10. For the purposes of this Article, a person or enterprise 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 or enterprise 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 or enterprise 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 or in the two enterprises.

Article 6

Income from Immovable Property

1. Income derived by a resident of a Contracting Party from immovable property (including income from agriculture or forestry) situated in the other Contracting Party may be taxed in that other Contracting Party.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting Party 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 (including the breeding and cultivation of fish) and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

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

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise 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 Party shall be taxable only in that Contracting Party unless the enterprise carries on business in the other Contracting Party 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 Contracting Party, but only so much of them as is attributable to:

   (a) that permanent establishment;

   (b) sales in that other Contracting Party of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or

   (c) other business activities carried on in that other Contracting Party of the same or similar kind as those effected through that permanent establishment,

   provided that subparagraph (b) or (c) shall not apply where an enterprise is able to demonstrate that the sales or business activities were carried out for reasons other than obtaining benefits under this Agreement.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting Party carries on business in the other Contracting Party through a permanent establishment situated therein, there shall in each Contracting Party 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 the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment including executive and general administrative expenses so incurred, whether in the Contracting Party in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

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. Where profits include items of income which are dealt with separately in other Articles of the 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 of an enterprise of a Contracting Party from the operation of ships or aircraft in international traffic shall be taxable only in that Contracting Party.

2. 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 Party participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting Party; or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting Party and an enterprise of the other Contracting Party,

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 Party includes in the profits of an enterprise of that Contracting Party - and taxes accordingly - profits on which an enterprise of the other Contracting Party has been charged to tax in that other Contracting Party and the profits so included are claimed by the first-mentioned Contracting Party to be profits which would have accrued to the enterprise of the first-mentioned Contracting Party if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Contracting Party shall make an appropriate adjustment to the amount of the tax charged therein on those profits, where that other Contracting Party considers the adjustment justified. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting Parties shall if necessary consult each other.

Article 10

Dividends

1. Dividends paid by a company which is a resident of a Contracting Party to a resident of the other Contracting Party may be taxed in that other Contracting Party.

2. However, dividends paid by a company which is a resident of a Contracting Party may also be taxed in that Contracting Party according to the laws of that Contracting Party, but if the beneficial owner of the dividends is a resident of the other Contracting Party, the tax so charged shall not exceed:

(a) 5 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 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 reorganization, such as a merger or divisive reorganization, of the company that holds the shares or that pays 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. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, 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 Contracting Party of which the company making the distribution is a resident, and income derived from an investment fund or investment trust.

4. Profits of a company of a Contracting Party carrying on business in the other Contracting Party through a permanent establishment

situated therein may, after having been taxed under Article 7, be taxed on the remaining amount in the Contracting Party in which the permanent establishment is situated and in accordance with paragraph 2(a) of this Article.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting Party, carries on business in the other Contracting Party of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other Contracting Party 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.

Article 11

Interest

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

2. However, interest arising in a Contracting Party may also be taxed in that Contracting Party according to the laws of that Contracting Party, but if the beneficial owner of the interest is a resident of the other Contracting Party, the tax so charged shall not exceed:

(a) 7.5 per cent of the gross amount of the interest if it is received by a financial institution in respect of a loan or debt instrument with a maturity period exceeding 2 years;

(b) 10 per cent of the gross amount of the interest in all other cases.

3. Notwithstanding the provisions of paragraph 2 of this Article, interest arising in a Contracting Party is exempt from tax in that Contracting Party, if it is paid:

(a) in the case of the Hong Kong Special Administrative Region:

(i) to the Government of the Hong Kong Special Administrative Region;

(ii) to the Hong Kong Monetary Authority;

(iii) to the Exchange Fund;

(b) in the case of Türkiye:

(i) to the Government of Türkiye, its political subdivisions or local authorities;

(ii) to the Central Bank of Türkiye (Türkiye Cumhuriyet Merkez Bankası);

(iii) to Eximbank of Türkiye (Türkiye Ihracat Kredi Bankası A.S.).

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

treated as income from money lent by the laws, relating to tax, of the Contracting Party 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 Party, carries on business in the other Contracting Party in which the interest arises, through a permanent establishment situated therein, or performs in that other Contracting Party 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 (a) such permanent establishment or fixed base, or with (b) business activities referred to in paragraph 1(c) of Article 7. 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 Party when the payer is a resident of that Contracting Party. Where, however, the person paying the interest, whether he is a resident of a Contracting Party or not, has in a Contracting Party a permanent establishment or 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 Party 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 case, the excess part of the payments

shall remain taxable according to the laws of each Contracting Party, due regard being had to the other provisions of this Agreement.

Article 12

Royalties

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

2. However, royalties arising in a Contracting Party may also be taxed in that Contracting Party according to the laws of that Contracting Party, but if the beneficial owner of the royalties is a resident of the other Contracting Party, the tax so charged shall not exceed:

   (a) 7.5 per cent of the gross amount of the royalties for the use of, or the right to use, industrial, commercial or scientific equipment;

   (b) 10 per cent of the gross amount of the royalties in all other cases.

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, or films or tapes used for radio or television broadcasting, any patent, trademark, 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 Party, carries on business in the other Contracting Party in which the royalties arise, through a permanent establishment situated therein, or performs in that other Contracting Party 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 (a) such permanent establishment or fixed base, or with (b) business activities referred to in paragraph 1(c) of Article 7. 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 Party when the payer is a resident of that Contracting Party. Where, however, the person paying the royalties, whether he is a resident of a Contracting Party or not, has in a Contracting Party a permanent establishment or 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 Party 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 Party, due regard being had to the other provisions of this Agreement.

Article 13

Capital Gains

1. Gains derived by a resident of a Contracting Party from the alienation of immovable property referred to in Article 6 and situated in the other Contracting Party may be taxed in that other Contracting Party.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party or of movable property pertaining to a fixed base available to a resident of a Contracting Party in the other Contracting Party 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 Contracting Party.

3. Gains derived by an enterprise of a Contracting Party 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 that Contracting Party.

4. Gains derived by a resident of a Contracting Party from the alienation of shares or comparable interests, such as interests in a partnership or trust, may be taxed in the other Contracting Party 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, as defined in Article 6, situated in that other Contracting Party.

5. Gains sourced in a Contracting Party from the alienation of any property other than those referred to in paragraphs 1, 2, 3 and 4 and

derived by a resident of the other Contracting Party may be taxed in the first-mentioned Contracting Party.

Article 14

Independent Personal Services

1. Income derived by an individual who is a resident of a Contracting Party in respect of professional services or other activities of an independent character shall be taxable only in that Contracting Party except in the following circumstances, when such income may also be taxed in the other Contracting Party:

   (a) if he has a fixed base regularly available to him in the other Contracting Party 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 Party; or

   (b) if his stay in the other Contracting Party is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the taxable period concerned; in that case, only so much of the income as is derived from his activities performed in that other Contracting Party may be taxed in that other Contracting Party.

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

Article 15

Dependent Personal Services

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting Party in respect of an employment shall be taxable only in that Contracting Party unless the employment is exercised in the other Contracting Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Contracting Party.

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

   (a) the recipient is present in the other Contracting Party for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the taxable period concerned; and

   (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Contracting Party; and

   (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Contracting Party.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting Party shall be taxable only in that Contracting Party.

Article 16

Directors' Fees

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

Article 17

Entertainers and Sportspersons

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting Party 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 Party, may be taxed in that other Contracting Party.

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

3. Income derived by an entertainer or a sportsperson from activities exercised in a Contracting Party shall be exempt from tax in that Contracting Party, if the visit to that Contracting Party is supported wholly or mainly by public funds of the other Contracting Party or a political subdivision or 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 (including a lump sum payment) arising in a Contracting Party and paid to a resident of the other Contracting Party in consideration of past employment or self-employment and social security pensions shall be taxable only in the first-mentioned Contracting Party. This provision shall also apply to annuities paid to a resident of a Contracting Party.

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 Service

1. (a) Salaries, wages and other similar remuneration, other than a pension, paid by the Government of a Contracting Party or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Contracting Party or subdivision or authority shall be taxable only in that Contracting Party.

(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting Party if the

services are rendered in that Contracting Party and the individual is a resident of that Contracting Party who:

(i) in the case of the Hong Kong Special Administrative Region, has the right of abode therein and in the case of Türkiye, is a national thereof; or

(ii) did not become a resident of that Contracting Party solely for the purpose of rendering the services.

2. (a) Any pension and other similar remuneration (including a lump sum payment) paid by, or paid out of funds created or contributed by, the Government of a Contracting Party or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Contracting Party or subdivision or authority shall be taxable only in that Contracting Party.

(b) However, such pension or similar remuneration (including a lump sum payment) may also be taxed in the other Contracting Party if the individual is a resident of that Contracting Party who:

(i) in the case of the Hong Kong Special Administrative Region, has the right of abode therein;

(ii) in the case of Türkiye, is a national thereof.

3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages, pensions (including a lump sum payment), and other similar remuneration in respect of services rendered in connection with a

business carried on by a Contracting Party or a political subdivision or a local authority thereof.

Article 20

Students

Payments which a student or business apprentice who is or was immediately before visiting a Contracting Party a resident of the other Contracting Party and who is present in the first-mentioned Contracting Party 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 Contracting Party, provided that such payments arise from sources outside that Contracting Party.

Article 21

Other Income

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

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 Party, carries on business in the other Contracting Party through a permanent establishment situated therein, or performs in that other Contracting Party independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such

permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 22

Elimination of Double Taxation

1. In the case of the Hong Kong Special Administrative Region, double taxation shall be eliminated as follows:

   Subject to the provisions of the laws of the Hong Kong Special Administrative Region relating to the allowance of a credit against Hong Kong Special Administrative Region tax of tax paid in a jurisdiction outside the Hong Kong Special Administrative Region (which shall not affect the general principle of this Article), Turkish tax paid under the laws of Türkiye and in accordance with the provisions of this Agreement (except to the extent that these provisions allow taxation by Türkiye solely because the income is also income derived by a resident of Türkiye), whether directly or by deduction, in respect of income derived by a person who is a resident of the Hong Kong Special Administrative Region from sources in Türkiye, shall be allowed as a credit against Hong Kong Special Administrative Region tax payable in respect of that income, provided that the credit so allowed does not exceed the amount of Hong Kong Special Administrative Region tax computed in respect of that income in accordance with the tax laws of the Hong Kong Special Administrative Region.

2. In the case of Türkiye, double taxation shall be eliminated as follows:

   (a) Where a resident of Türkiye derives income which, in accordance with the provisions of this Agreement, may be

taxed in the Hong Kong Special Administrative Region, Türkiye shall, subject to the provisions of Turkish taxation laws regarding credit for foreign taxes, allow as a deduction from the tax on income of that person, an amount equal to the tax on income paid in the Hong Kong Special Administrative Region. Such deduction shall not, however, exceed that part of the income tax calculated in Türkiye before the deduction is given, which is appropriate to the income which may be taxed in the Hong Kong Special Administrative Region.

(b) Where a resident of Türkiye derives income which, in accordance with the provisions of the Agreement, shall be taxable only in the Hong Kong Special Administrative Region, Türkiye may, when determining the graduated rate of Turkish tax, take into account the income which shall be taxable only in the Hong Kong Special Administrative Region.

Article 23

Non-Discrimination

1. Persons who, in the case of the Hong Kong Special Administrative Region, have the right of abode or are incorporated or otherwise constituted therein, and, in the case of Türkiye, are Turkish nationals, shall not be subjected in the other Contracting Party to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which persons who have the right of abode or are incorporated or otherwise constituted in that other Contracting Party (where that other Contracting Party is the Hong Kong Special Administrative Region) or nationals of that other Contracting Party (where that other

Contracting Party is Türkiye) in the same circumstances, in particular with respect to residence, are or may be subjected.

2. Stateless persons who are residents of a Contracting Party shall not be subjected in either Contracting Party to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which persons who have the right of abode in the Contracting Party (where the Contracting Party is the Hong Kong Special Administrative Region) or nationals of the Contracting Party (where the Contracting Party is Türkiye) in the same circumstances, in particular with respect to residence, are or may be subjected.

3. The taxation on a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party shall not be less favourably levied in that other Contracting Party than the taxation levied on enterprises of that other Contracting Party carrying on the same activities. This provision shall not be construed as obliging a Contracting Party to grant to residents of the other Contracting Party any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

4. 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 Party to a resident of the other Contracting Party 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 Contracting Party.

5. Enterprises of a Contracting Party, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more

residents of the other Contracting Party, shall not be subjected in the first-mentioned Contracting Party 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 Contracting Party are or may be subjected.

Article 24

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting Parties 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 internal laws of those Contracting Parties, present his case to the competent authority of either Contracting Party. 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 Party, 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 internal laws of the Contracting Parties.

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

Article 25

Exchange of Information

1. The competent authorities of the Contracting Parties shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the internal laws of the Contracting Parties concerning taxes covered by the Agreement, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1.

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

judicial decisions. Information shall not be disclosed to any third jurisdiction for any purpose.

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

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting Party;

(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 Party;

(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 Party in accordance with this Article, the other Contracting Party shall use its information gathering measures to obtain the requested information, even though that other Contracting Party 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 Party to decline to supply information solely because there is no tax interest in such information to that Contracting Party.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting Party 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 26

Members of Government Missions

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

Article 27

Entitlement to Benefits

1. (a) Where:

(i) an enterprise of a Contracting Party derives income from the other Contracting Party and the first-mentioned Contracting Party treats such income as attributable to a permanent establishment of the enterprise situated in a third jurisdiction; and

(ii) the profits attributable to that permanent establishment are exempt from tax in the first-mentioned Contracting Party,

the benefits of this Agreement shall not apply to any item of income on which the tax in the third jurisdiction is less than 60 per cent of the tax that would be imposed in the first-mentioned Contracting Party on that item of income if that permanent establishment were

situated in the first-mentioned Contracting Party. In such a case any income to which the provisions of this paragraph apply shall remain taxable according to the internal laws of the other Contracting Party, notwithstanding any other provisions of the Agreement.

(b) The preceding provisions of this paragraph shall not apply if the income derived from the other Contracting Party emanates from, or is incidental to, the active conduct of a business carried on through the permanent establishment (other than the business of making, managing or simply holding investments for the enterprise's own account, unless these activities are banking, insurance or securities activities carried on by a bank, insurance enterprise or registered securities dealer, respectively).

(c) If benefits under the Agreement are denied pursuant to the preceding provisions of this paragraph with respect to an item of income derived by a resident of a Contracting Party, the competent authority of the other Contracting Party may, nevertheless, grant these benefits with respect to that item of income if, in response to a request by such resident, such competent authority determines that granting such benefits is justified in light of the reasons such resident did not satisfy the requirements of this paragraph (such as the existence of losses). The competent authority of the Contracting Party to which a request has been made under the preceding sentence shall consult with the competent authority of the other Contracting Party before either granting or denying the request.

2. Notwithstanding the other provisions of the Agreement, a benefit under the Agreement shall not be granted in respect of an item of income 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.

3. Nothing in the Agreement shall prejudice the right of each Contracting Party to apply its internal laws and measures concerning tax evasion or avoidance, whether or not described as such.

Article 28

Entry into Force

1. The Contracting Parties shall notify each other in writing of the completion of the procedures required by its law for the bringing into force of this Agreement.

2. The Agreement shall enter into force thirty days after the date of the later of the notifications referred to in paragraph 1 and the provisions of the Agreement shall thereupon have effect:

(a) in the Hong Kong Special Administrative Region:

with regard to Hong Kong Special Administrative Region tax, for any year of assessment beginning on or after the first day of April of the year following that in which the Agreement enters into force;

(b) in Türkiye:

(i) with regard to taxes withheld at source, in respect to amounts paid or credited on or after the first day of January of the year following that in which the Agreement enters into force; and

(ii) with regard to other taxes, in respect of taxable years beginning on or after the first day of January of the year following that in which the Agreement enters into force.

Article 29

Termination

This Agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may terminate the Agreement, through official channels, by giving the other Contracting Party written notice of termination at least six months before the end of any calendar year beginning after the expiry of a period of five years from the date on which the Agreement enters into force. In such event, the Agreement shall cease to have effect:

(a) in the Hong Kong Special Administrative Region:

with regard to Hong Kong Special Administrative Region tax, for any year of assessment beginning on or after the first day of April of the year following that in which the notice is given;

(b) in Türkiye:

(i) with regard to taxes withheld at source, in respect to amounts paid or credited on or after the first day of January of the year following that in which the notice is given; and

(ii) with regard to other taxes, in respect of taxable years beginning on or after the first day of January of the year following that in which the notice is given.

IN WITNESS WHEREOF, the undersigned, duly authorized hereto, have signed the Agreement.

DONE in duplicate at Hong Kong this 24th day of September 2024, in the Chinese, Turkish and English languages, all three texts being equally authentic. In case of divergence between the texts, the English text shall prevail.

[SIGNED]

Part 2

Protocol to the Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of Türkiye for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance

At the time of signing the Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and

the Government of the Republic of Türkiye for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance (hereinafter referred to as "the Agreement"), the undersigned have agreed upon the following provisions which shall constitute an integral part of the Agreement.

1. With reference to Article 10, paragraph 2

It is understood that the dividends are not taxed in the Hong Kong Special Administrative Region. In case of taxation of such dividends in the Hong Kong Special Administrative Region, the rates mentioned in paragraph 2(a) shall be increased from 5 per cent to 10 per cent, and in paragraph 2(b) shall be increased from 10 per cent to 15 per cent and the competent authority of the Hong Kong Special Administrative Region will inform the competent authority of Türkiye according to paragraph 4 of Article 2.

2. With reference to Article 10, paragraph 3

(a) in the case of the Hong Kong Special Administrative Region, "investment fund" and "investment trust" refer to collective investment schemes which are authorized by the Hong Kong Securities and Futures Commission under the Securities and Futures Ordinance (Cap. 571);

(b) in the case of Türkiye, "investment fund" and "investment trust" are investment vehicles which are regulated and supervised by the law on capital market (Law No. 6362, Official Gazette on 30 December 2012).

3. With reference to Article 24, paragraph 2

It is understood that the taxpayer must, in the case of Türkiye, claim the refund resulting from such mutual agreement within a period of one year after the tax administration has notified the taxpayer of the result of the mutual agreement.

4. With reference to Article 25, paragraph 2

It is understood that the competent authority of Türkiye may disclose information to the Turkish Court of Accounts, the Turkish Tax Inspection Board, the Turkish Ombudsman Institution and their staff. The competent authority of Türkiye shall notify the competent authority of the Hong Kong Special Administrative Region of any subsequent changes to the aforesaid oversight bodies.

IN WITNESS WHEREOF, the undersigned, duly authorized hereto, have signed the Protocol.

DONE in duplicate at Hong Kong this 24th day of September 2024, in the Chinese, Turkish and English languages, all three texts being equally authentic. In case of divergence between the texts, the English text shall prevail.

[SIGNED]

Clerk to the Executive Council

COUNCIL CHAMBER

2024

Explanatory Note

The Hong Kong Special Administrative Region Government and the Government of the Republic of Türkiye signed an agreement for the elimination of double taxation with respect to taxes on income and the prevention of tax evasion and avoidance (***Agreement***) together with a protocol to the Agreement (***Protocol***) on 24 September 2024.

2. This Order specifies the arrangements in the Agreement and the Protocol (***arrangements***) as arrangements under section 49(1A) of the Inland Revenue Ordinance (Cap. 112), and declares that it is expedient that those arrangements should have effect. The Agreement and the Protocol were done in the Chinese, Turkish and English languages which are equally authentic, and the English text prevails if there is a divergence between the texts.

3. The effects of the declaration are—

(a) that the arrangements have effect in relation to tax under the Inland Revenue Ordinance (Cap. 112) despite anything in any enactment; and

(b) that the arrangements, for the purposes of any provision of the arrangements that requires disclosure of information concerning tax of Türkiye, have effect in relation to any tax of Türkiye that is the subject of that provision.

Annex F

Financial, Economic, Civil Service and Family Implications of the Proposals

Financial Implications

The Government would forgo a very small sum of revenue which is currently being collected in respect of profits of companies resident in Armenia, Bahrain, Bangladesh, Croatia and Türkiye (collectively as the "five jurisdictions") not attributable to a permanent establishment in Hong Kong, profits of operators from the five jurisdictions from shipping and profits of operators from Armenia, Bahrain and Türkiye from air services.

Economic Implications

2. The five CDTAs will facilitate business activities between Hong Kong and the relevant jurisdictions, and contribute to the economic development of Hong Kong. They will enhance the economic interaction between Hong Kong and the five jurisdictions by providing enhanced certainty to the tax liabilities of businessmen and investors.

Civil Service Implications

3. The closer economic relations between Hong Kong and the five jurisdictions may lead to additional requests for exchange of tax information from these jurisdictions. This will entail additional work for the Inland Revenue Department, which will be absorbed from the existing resources as far as possible. Where necessary, additional manpower resources will be sought with justifications in accordance with the established mechanism.

Family Implications

4. Given that the tax burden of some individuals may be relieved under the five CDTAs, the proposal may have positive implications for the financial situation of their families.

Annex G

List of jurisdictions with which Hong Kong has entered into Comprehensive Avoidance of Double Taxation Agreements/Arrangements
(as at 23 October 2024)

	Jurisdictions	Month of Signing
1	Belgium	December 2003
2	Thailand	September 2005
3	Mainland of China	August 2006
4	Luxembourg	November 2007
5	Vietnam	December 2008
6	Brunei	March 2010
7	The Netherlands	March 2010
8	Indonesia	March 2010
9	Hungary	May 2010
10	Kuwait	May 2010
11	Austria	May 2010
12	The United Kingdom	June 2010
13	Ireland	June 2010
14	Liechtenstein	August 2010
15	France	October 2010
16	Japan	November 2010
17	New Zealand	December 2010
18	Portugal	March 2011
19	Spain	April 2011
20	The Czech Republic	June 2011
21	Switzerland	October 2011
22	Malta	November 2011
23	Jersey	February 2012
24	Malaysia	April 2012
25	Mexico	June 2012
26	Canada	November 2012
27	Italy	January 2013
28	Guernsey	April 2013
29	Qatar	May 2013
30	Korea	July 2014

31	South Africa	October 2014
32	United Arab Emirates	December 2014
33	Romania	November 2015
34	Russia	January 2016
35	Latvia	April 2016
36	Belarus	January 2017
37	Pakistan	February 2017
38	Saudi Arabia	August 2017
39	India	March 2018
40	Finland	May 2018
41	Cambodia	June 2019
42	Estonia	September 2019
43	Macao Special Administrative Region	November 2019
44	Serbia	August 2020
45	Georgia	October 2020
46	Mauritius	November 2022
47	Bangladesh[#]	August 2023
48	Croatia[#]	January 2024
49	Bahrain[#]	March 2024
50	Armenia[#]	June 2024
51	Türkiye[#]	September 2024

[#] The Bangladesh CDTA, Croatia CDTA, Bahrain CDTA, Armenia CDTA and Türkiye CDTA have not yet entered into force pending completion of the ratification procedures.

Annex H

Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of Armenia for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance and the Corresponding Protocol ("Armenia CDTA")

Summary of Main Provisions

The Armenia CDTA covers the following types of taxes:

(a)	in respect of Hong Kong –	(i)	profits tax;
		(ii)	salaries tax; and
		(iii)	property tax;
(b)	in respect of Armenia –	(i)	the profit tax; and
		(ii)	the income tax.

2. The Armenia CDTA deals with the taxing of income of the resident of one Contracting Party ("resident jurisdiction") derived from another Contracting Party ("source jurisdiction").

Exclusive Taxing Rights

3. Where the right to tax income is allocated exclusively to one Contracting Party under the Armenia CDTA (the resident jurisdiction or the source jurisdiction), there is no double taxation. It is provided in the Armenia CDTA that the following types of income shall only be taxed in the resident jurisdiction:

(a) profits of an enterprise, unless the enterprise carries on business in the source jurisdiction through a permanent establishment situated therein (generally a fixed place of business through which the business of an enterprise is wholly or partly carried on);

(b) profits of an enterprise from the operation of ships or aircraft in international traffic, and gains derived by an enterprise that operates ships or aircraft in international traffic from the

alienation of such ships or aircraft or of movable property pertaining to the operation of such ships or aircraft;

(c) remuneration from non-government employment, including employment exercised in the source jurisdiction, provided that, amongst others, the employee is present in the source jurisdiction for a period or periods not exceeding in the aggregate 183 days in any relevant 12-month period;

(d) remuneration from non-government employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of the resident jurisdiction;

(e) income of entertainers and sportspersons from their personal activities as such exercised in the source jurisdiction if the visit to the source jurisdiction is wholly or mainly supported by public funds of one or both of the Contracting Parties or local authorities thereof or if the activities are exercised within the framework of a cultural or sports exchange programme approved by both Contracting Parties;

(f) pensions, annuities and other similar remuneration (including a lump sum payment) from non-government employment or self-employment, except those paid under a pension or retirement scheme which is a public scheme being a part of the social security system of the source jurisdiction, or under a pension or retirement scheme in which individuals may participate to secure retirement benefits and which is recognised for tax purposes in the source jurisdiction;

(g) gains from the alienation of any property not expressly dealt with in the Armenia CDTA; and

(h) other income not expressly dealt with in the Armenia CDTA.

4. Pensions, annuities and other similar remuneration (including a lump sum payment) from non-government employment or self-employment paid under a pension or retirement scheme which is a public scheme being a part of the social security system of the source jurisdiction, or under a pension or retirement scheme in which individuals may participate to secure retirement benefits and which is recognised for tax purposes in the source jurisdiction, are taxable only in the source jurisdiction. Salaries, wages and other similar remuneration paid by the Government of a Contracting Party

or a local authority thereof and any pensions (including a lump sum payment) paid by the Government of a Contracting Party in respect of services rendered to that Party or local authority are, in general, taxable only in that Party (source jurisdiction).

Shared Taxing Rights

5. Where both Contracting Parties are given the right to tax the same item of income, the resident jurisdiction is required under the Armenia CDTA to give double taxation relief to its resident for any income doubly assessed (i.e. the source jurisdiction has the primary right to tax and the resident jurisdiction is left with a secondary right). It is provided in the Armenia CDTA that the following types of income may be taxed in both jurisdictions:

(a) income from immovable property situated in the source jurisdiction, and gains from the alienation of such property;

(b) profits of an enterprise which carries on business in the source jurisdiction through a permanent establishment situated therein (to the extent that such profits are attributable to the permanent establishment), and gains from the alienation of movable property forming part of the business property of such permanent establishment;

(c) passive income of dividends, interest and royalties received from residents of the source jurisdiction. The source jurisdiction's right to tax is subject to specified caps on the withholding tax rates as follows:

- for dividends, 0% if the beneficial owner of the dividends is a company which holds directly at least 10% of the capital of the dividend-paying company throughout a 365-day period, or if the dividends are paid to the Government of Hong Kong, the Hong Kong Monetary Authority or the Exchange Fund (in respect of Hong Kong), the Government of Armenia or any local authority thereof, or the Central Bank of Armenia (in respect of Armenia), or any entity wholly or mainly owned by the Government of Hong Kong or the Government of Armenia or any local authority thereof as may be agreed from time to time between the competent

authorities of Hong Kong and Armenia; and 5% in all other cases;

- for interest, 0% if the interest is paid to the Government of Hong Kong, the Hong Kong Monetary Authority or the Exchange Fund (in respect of Hong Kong), the Government of Armenia or any local authority thereof, or the Central Bank of Armenia (in respect of Armenia), or any entity wholly or mainly owned by the Government of Hong Kong or the Government of Armenia or any local authority thereof as may be agreed from time to time between the competent authorities of Hong Kong and Armenia; and 5% in all other cases;

- for royalties, 5%;

(d) gains from the alienation of shares (except gains from quoted shares or gains arising from corporate reorganisation, merger, scission or similar operation) or comparable interests, such as interests in a partnership or trust, if at any time during the 365 days preceding the alienation, these shares or comparable interests derived more than 50% of their value directly or indirectly from immovable property situated in the source jurisdiction;

(e) remuneration from non-government employment exercised in the source jurisdiction where, amongst others, the employee is present in the source jurisdiction for a period or periods exceeding in the aggregate 183 days in any relevant 12-month period;

(f) directors' fees from a company resident in the source jurisdiction;

(g) income of entertainers and sportspersons from their personal activities as such exercised in the source jurisdiction, except where the visit to the source jurisdiction is wholly or mainly supported by public funds of one or both of the Contracting Parties or local authorities thereof or if the activities are exercised within the framework of a cultural or sports exchange programme approved by both Contracting Parties; and

(h) other income not expressly dealt with in the Armenia CDTA and arising in the source jurisdiction.

6. In general, in case of shared taxing rights, double taxation relief may be given to a taxpayer either through the exemption method, where income taxable in the source jurisdiction is exempt from taxation in the resident jurisdiction; or through the credit method, where income taxable in the source jurisdiction is subject to tax in the resident jurisdiction but the tax levied in the source jurisdiction is credited against the tax levied in the resident jurisdiction on such income. Both Hong Kong and Armenia will provide double taxation relief for their own residents by the credit method.

Annex I

Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Kingdom of Bahrain for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance ("Bahrain CDTA")

Summary of Main Provisions

The Bahrain CDTA covers the following types of taxes:

(a)	in respect of Hong Kong –	(i) profits tax; (ii) salaries tax; and (iii) property tax;
(b)	in respect of Bahrain –	income tax payable under Amiri Decree No. 22/1979.

2. The Bahrain CDTA deals with the taxing of income of the resident of one Contracting Party ("resident jurisdiction") derived from another Contracting Party ("source jurisdiction").

Exclusive Taxing Rights

3. Where the right to tax income is allocated exclusively to one Contracting Party under the Bahrain CDTA (the resident jurisdiction or the source jurisdiction), there is no double taxation. It is provided in the Bahrain CDTA that the following types of income shall only be taxed in the resident jurisdiction:

(a) profits of an enterprise, unless the enterprise carries on business in the source jurisdiction through a permanent establishment situated therein (generally a fixed place of business through which the business of an enterprise is wholly or partly carried on);

(b) profits of an enterprise from the operation of ships or aircraft in international traffic, and gains derived by an enterprise from the alienation of such ships or aircraft or movable property pertaining to the operation of such ships or aircraft;

(c) dividends income arising in the source jurisdiction;

(d) income from debt-claims arising in the source jurisdiction;

(e) remuneration from non-government employment, including employment exercised in the source jurisdiction, provided that, amongst others, the employee is present in the source jurisdiction for a period or periods not exceeding in the aggregate 183 days in any relevant 12-month period;

(f) remuneration from non-government employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of the resident jurisdiction;

(g) pensions and other similar remuneration (including a lump sum payment) from non-government employment or self-employment, except those paid under a pension or retirement scheme which is a public scheme being part of the social security system of the source jurisdiction, or under a pension or retirement scheme in which individuals may participate to secure retirement benefits and which is recognised for tax purposes in the source jurisdiction;

(h) gains from the alienation of any property not expressly dealt with in the Bahrain CDTA; and

(i) other income not expressly dealt with in the Bahrain CDTA.

4. Pensions and other similar remuneration (including a lump sum payment) from non-government employment or self-employment paid under a pension or retirement scheme which is a public scheme being part of the social security system of the source jurisdiction, or under a pension or retirement scheme in which individuals may participate to secure retirement benefits and which is recognised for tax purposes in the source jurisdiction, are taxable only in the source jurisdiction. Salaries, wages and other similar remuneration and any pensions (including a lump sum payment) paid by the Government of a Contracting Party in respect of services rendered to that Party are, in general, taxable only in that Party (source jurisdiction).

Shared Taxing Rights

5. Where both Contracting Parties are given the right to tax the same item of income, the resident jurisdiction is required under the Bahrain CDTA to give double taxation relief to its resident for any income doubly assessed (i.e. the source jurisdiction has the primary right to tax and the resident jurisdiction is left with a secondary right). It is provided in the Bahrain CDTA that the following types of income may be taxed in both jurisdictions:

(a) income from immovable property situated in the source jurisdiction, and gains from the alienation of such property;

(b) profits of an enterprise which carries on business in the source jurisdiction through a permanent establishment situated therein (to the extent that such profits are attributable to the permanent establishment), and gains from the alienation of movable property forming part of the business property of such permanent establishment;

(c) royalties income received from residents of the source jurisdiction, with the source jurisdiction's right to tax subject to a limit of 5% on the gross amount of the royalties[1].

(d) gains from the alienation of shares of a company (except gains from quoted shares or gains arising from corporate reorganisation, merger, scission or similar operation) deriving more than 50% of its asset value directly or indirectly from immovable property (other than one in which the company carries on its business) situated in the source jurisdiction;

(e) remuneration from non-government employment exercised in the source jurisdiction where, amongst others, the employee is present in the source jurisdiction for a period or periods exceeding in the aggregate 183 days in any relevant 12-month period;

(f) directors' fees from a company resident in the source jurisdiction; and

[1] Bahrain currently does not impose withholding taxes on royalties. The cap of 5% will be applicable if Bahrain imposes withholding tax on royalties in future.

(g) income of entertainers and sportspersons from their personal activities as such exercised in the source jurisdiction.

6. In general, in case of shared taxing rights, double taxation relief may be given to a taxpayer either through the exemption method, where income taxable in the source jurisdiction is exempt from taxation in the resident jurisdiction; or through the credit method, where income taxable in the source jurisdiction is subject to tax in the resident jurisdiction but the tax levied in the source jurisdiction is credited against the tax levied in the resident jurisdiction on such income. Both Hong Kong and Bahrain will provide double taxation relief for their own residents by the credit method.

Annex J

Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the People's Republic of Bangladesh for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance ("Bangladesh CDTA")

Summary of Main Provisions

The Bangladesh CDTA covers the following types of taxes:

(a) in respect of Hong Kong –
- (i) profits tax;
- (ii) salaries tax; and
- (iii) property tax;

(b) in respect of Bangladesh –the income tax.

2. The Bangladesh CDTA deals with the taxing of income of the resident of one Contracting Party ("resident jurisdiction") derived from another Contracting Party ("source jurisdiction").

Exclusive Taxing Rights

3. Where the right to tax income is allocated exclusively to one Contracting Party under the Bangladesh CDTA (the resident jurisdiction or the source jurisdiction), there is no double taxation. It is provided in the Bangladesh CDTA that the following types of income shall only be taxed in the resident jurisdiction:

(a) profits of an enterprise, unless the enterprise carries on business in the source jurisdiction through a permanent establishment situated therein (generally a fixed place of business through which the business of an enterprise is wholly or partly carried on);

(b) profits of an enterprise from the operation of aircraft in international traffic, and gains derived by an enterprise from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft;

(c) income from professional services or other activities of an independent character, including services performed in the source jurisdiction, except where the person has a fixed base regularly available to him in the source jurisdiction for the purpose of performing such services, or where the person stays in the source jurisdiction for a period or periods amounting to or exceeding in the aggregate 183 days in any relevant 12-month period;

(d) remuneration from non-government employment, including employment exercised in the source jurisdiction, provided that, amongst others, the employee is present in the source jurisdiction for a period or periods not exceeding in the aggregate 183 days in any relevant 12-month period;

(e) remuneration from non-government employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of the resident jurisdiction;

(f) income of entertainers and sportsmen from their personal activities as such exercised in the source jurisdiction if their visit to the source jurisdiction is substantially supported from the public funds of the resident jurisdiction;

(g) non-government pensions and other similar remuneration and annuities (whether in the form of periodic or lump sum payments), except those pensions and other similar remuneration paid under a pension or retirement scheme which is a public scheme being a part of the social security system of the source jurisdiction, or under a pension or retirement scheme in which individuals may participate to secure retirement benefits and which is recognized for tax purposes in the source jurisdiction;

(h) gains from the alienation of any property not expressly dealt with in the Bangladesh CDTA; and

(i) other income not expressly dealt with in the Bangladesh CDTA.

4. Non-government pensions and other similar remuneration paid under a pension or retirement scheme which is a public scheme being a part of the social security system of the source jurisdiction, or under a pension or retirement scheme in which individuals may participate to secure retirement benefits and which is recognized for tax purposes in the source jurisdiction, are taxable only in the source jurisdiction. Salaries, wages and other similar remuneration, and any pensions and other similar remuneration (whether in the form of periodic or lump sum payments) paid by the Government of a Contracting Party in respect of services rendered to that Party are, in general, taxable only in that Party (source jurisdiction).

Shared Taxing Rights

5. Where both Contracting Parties are given the right to tax the same item of income, the resident jurisdiction is required under the Bangladesh CDTA to give double taxation relief to its resident for any income doubly assessed (i.e. the source jurisdiction has the primary right to tax and the resident jurisdiction is left with a secondary right). It is provided in the Bangladesh CDTA that the following types of income may be taxed in both jurisdictions:

(a) income from immovable property situated in the source jurisdiction, and gains from the alienation of such property;

(b) profits of an enterprise which carries on business in the source jurisdiction through a permanent establishment situated therein (to the extent that such profits are attributable to the permanent establishment), and gains from the alienation of movable property forming part of the business property of such permanent establishment;

(c) profits of an enterprise derived in the source jurisdiction from the operation of ships in international traffic, but the tax charged in the source jurisdiction is reduced by 50%;

(d) passive income of dividends, interest and royalties received from residents of the source jurisdiction. The source jurisdiction's right to tax is subject to specified caps on the withholding tax rates as follows:

- for dividends, 10% if the beneficial owner of the dividends is a company which holds directly at least 10%

of the capital of the dividend-paying company; and 15% in all other cases;

- for interest, 0% if the interest is paid to the Government of Hong Kong, the Hong Kong Monetary Authority or the Exchange Fund (in respect of Hong Kong), the Government of Bangladesh, the Bangladesh Bank or the Investment Corporation of Bangladesh (in respect of Bangladesh), or any entity wholly owned by the Government of Hong Kong or Bangladesh as may be agreed from time to time between the competent authorities of Hong Kong and Bangladesh; and 10% in all other cases;

- for royalties, 10%;

(e) fees for technical services arising in the source jurisdiction whose right to tax is limited to 10% of the gross amount of the fees;

(f) gains from the alienation of shares of a company (except gains from quoted shares or gains arising from corporate reorganisation, merger, scission or similar operation) deriving more than 50% of its asset value directly or indirectly from immovable property (other than one in which the company carries on its business) situated in the source jurisdiction;

(g) income from professional services performed in the source jurisdiction where the person has a fixed base regularly available to him in the source jurisdiction for the purpose of performing such services (to the extent that such income is attributable to the fixed base) or where the person stays in the source jurisdiction for a period or periods amounting to or exceeding in the aggregate 183 days in any relevant 12-month period, and gains from the alienation of movable property pertaining to a fixed base available to the person in the source jurisdiction for the purpose of performing independent personal services;

(h) remuneration from non-government employment exercised in the source jurisdiction where, amongst others, the employee is present in the source jurisdiction for a period or periods

exceeding in the aggregate 183 days in any relevant 12-month period;

(i) directors' fees from a company resident in the source jurisdiction;

(j) income of entertainers and sportsmen from their personal activities as such exercised in the source jurisdiction, except where their visit to the source jurisdiction is substantially supported from the public funds of the resident jurisdiction; and

(k) other income not expressly dealt with in the Bangladesh CDTA and arising in the source jurisdiction.

6. In general, in case of shared taxing rights, double taxation relief may be given to a taxpayer either through the exemption method, where income taxable in the source jurisdiction is exempt from taxation in the resident jurisdiction; or through the credit method, where income taxable in the source jurisdiction is subject to tax in the resident jurisdiction but the tax levied in the source jurisdiction is credited against the tax levied in the resident jurisdiction on such income. Both Hong Kong and Bangladesh will provide double taxation relief for their own residents by the credit method.

Annex K

Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of Croatia for the Elimination of Double Taxation with respect to Taxes on Income and on Capital and the Prevention of Tax Evasion and Avoidance and the Corresponding Protocol
("Croatia CDTA")

Summary of Main Provisions

The Croatia CDTA covers the following types of taxes:

(a) in respect of Hong Kong –
- (i) profits tax;
- (ii) salaries tax; and
- (iii) property tax;

(b) in respect of Croatia –
- (i) the profit tax;
- (ii) the income tax;
- (iii) the surtax on the income tax;
- (iv) the tax on vacation houses; and
- (v) for EoI purpose, it also covers the value-added tax and the real estate transaction tax.

2. The Croatia CDTA deals with the taxing of income of the resident of one Contracting Party ("resident jurisdiction") derived from another Contracting Party ("source jurisdiction").

Exclusive Taxing Rights

3. Where the right to tax income is allocated exclusively to one Contracting Party under the Croatia CDTA (the resident jurisdiction or the source jurisdiction), there is no double taxation. It is provided in the Croatia CDTA that the following types of income shall only be taxed in the resident jurisdiction:

(a) profits of an enterprise, unless the enterprise carries on business in the source jurisdiction through a permanent establishment situated therein (generally a fixed place of

business through which the business of an enterprise is wholly or partly carried on);

(b) profits of an enterprise from the operation of ships or aircraft in international traffic, gains derived by an enterprise that operates ships or aircraft in international traffic from the alienation of such ships or aircraft or of movable property pertaining to the operation of such ships or aircraft, and capital of an enterprise that operates ships or aircraft in international traffic represented by such ships or aircraft and by movable property pertaining to the operation of such ships or aircraft;

(c) remuneration from non-government employment, including employment exercised in the source jurisdiction, provided that, amongst others, the employee is present in the source jurisdiction for a period or periods not exceeding in the aggregate 183 days in any relevant 12-month period;

(d) pensions and other similar remuneration (including a lump sum payment) from non-government employment or self-employment, except those paid under a pension or retirement scheme which is a public scheme being part of the social security system of the source jurisdiction, or under a recognised retirement scheme as defined under the IRO (in the case of Hong Kong) or a pension scheme established under the Act on Mandatory Pension Funds or the Act on Voluntary Pension Funds (in the case of Croatia);

(e) gains from the alienation of any property not expressly dealt with in the Croatia CDTA; and all other elements of capital not expressly dealt with in the Croatia CDTA; and

(f) other income not expressly dealt with in the Croatia CDTA.

4. Pensions and other similar remuneration (including a lump sum payment) from non-government employment or self-employment paid under a pension or retirement scheme which is a public scheme being part of the social security system of the source jurisdiction, or under a recognised retirement scheme as defined under the IRO (in the case of Hong Kong) or a pension scheme established under the Act on Mandatory Pension Funds or the Act on Voluntary Pension Funds (in the case of Croatia) are taxable only in the source jurisdiction. Salaries, wages and other similar

remuneration and any pensions (including a lump sum payment) paid by a Contracting Party or a political subdivision or a local authority thereof in respect of services rendered to that Contracting Party or political subdivision or local authority are, in general, taxable only in that Contracting Party (source jurisdiction).

Shared Taxing Rights

5. Where both Contracting Parties are given the right to tax the same item of income, the resident jurisdiction is required under the Croatia CDTA to give double taxation relief to its resident for any income doubly assessed (i.e. the source jurisdiction has the primary right to tax and the resident jurisdiction is left with a secondary right). It is provided in the Croatia CDTA that the following types of income may be taxed in both jurisdictions:

(a) income from immovable property situated in the source jurisdiction, and gains from the alienation of such property;

(b) profits of an enterprise which carries on business in the source jurisdiction through a permanent establishment situated therein (to the extent that such profits are attributable to the permanent establishment), and gains from the alienation of movable property forming part of the business property of such permanent establishment;

(c) passive income of dividends, interest and royalties received from residents of the source jurisdiction. The source jurisdiction's right to tax is subject to specified caps on the withholding tax rates as follows:

- for dividends, 0% if the dividends are paid to the Government of Hong Kong, the Hong Kong Monetary Authority or the Exchange Fund (in respect of Hong Kong), the Government of Croatia or any political subdivision or local authority thereof, the Croatian National Bank or the Croatian Bank for Reconstruction and Development (in respect of Croatia), or any entity wholly or mainly owned by the Government of Hong Kong or the Government of Croatia or any political subdivision or local authority thereof as may be agreed from time to time between the competent authorities of Hong Kong and Croatia; and 5% in all other cases;

- for interest, 0% if the interest is paid to the Government of Hong Kong, the Hong Kong Monetary Authority or the Exchange Fund (in respect of Hong Kong), the Government of Croatia or any political subdivision or local authority thereof, the Croatian National Bank or the Croatian Bank for Reconstruction and Development (in respect of Croatia), or any entity wholly or mainly owned by the Government of Hong Kong or the Government of Croatia or any political subdivision or local authority thereof as may be agreed from time to time between the competent authorities of Hong Kong and Croatia; and 5% in all other cases;

- for royalties, 5%;

(d) gains from the alienation of shares (except gains from quoted shares or gains arising from corporate reorganisation, merger, scission or similar operation) or comparable interests, such as interests in a partnership or trust, if at any time during the 365 days preceding the alienation, these shares or comparable interests derived more than 50% of their value directly or indirectly from immovable property situated in the source jurisdiction;

(e) remuneration from non-government employment exercised in the source jurisdiction where, amongst others, the employee is present in the source jurisdiction for a period or periods exceeding in the aggregate 183 days in any relevant 12-month period;

(f) remuneration from non-government employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of the resident jurisdiction.

(g) directors' fees from a company resident in the source jurisdiction;

(h) income of entertainers and sportspersons from their personal activities as such exercised in the source jurisdiction; and

(i) capital represented by immovable property situated in the source jurisdiction or capital represented by movable property

forming part of the business property of a permanent establishment in the source jurisdiction.

6. In general, in case of shared taxing rights, double taxation relief may be given to a taxpayer either through the exemption method, where income taxable in the source jurisdiction is exempt from taxation in the resident jurisdiction; or through the credit method, where income taxable in the source jurisdiction is subject to tax in the resident jurisdiction but the tax levied in the source jurisdiction is credited against the tax levied in the resident jurisdiction on such income. Both Hong Kong and Croatia will provide double taxation relief for their own residents by the credit method.

Annex L

Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of Türkiye for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance and the Corresponding Protocol ("Türkiye CDTA")

Summary of Main Provisions

The Türkiye CDTA covers the following types of taxes:

(a)	in respect of Hong Kong –	(i) profits tax; (ii) salaries tax; and (iii) property tax;
(b)	in respect of Türkiye –	(i) the income tax; and (ii) the corporation tax.

2. The Türkiye CDTA deals with the taxing of income of the resident of one Contracting Party ("resident jurisdiction") derived from another Contracting Party ("source jurisdiction").

Exclusive Taxing Rights

3. Where the right to tax income is allocated exclusively to one Contracting Party under the Türkiye CDTA (the resident jurisdiction or the source jurisdiction), there is no double taxation. It is provided in the Türkiye CDTA that the following types of income shall only be taxed in the resident jurisdiction:

(a) profits of an enterprise, unless the enterprise carries on business in the source jurisdiction through a permanent establishment situated therein (generally a fixed place of business through which the business of an enterprise is wholly or partly carried on);

(b) profits of an enterprise from the operation of ships or aircraft in international traffic, and gains derived by an enterprise

from the alienation of such ships or aircraft or movable property pertaining to the operation of such ships or aircraft;

(c) income from professional services or other activities of an independent character, including services performed in the source jurisdiction, except where the person has a fixed base regularly available to him in the source jurisdiction for the purpose of performing such services, or where the person stays in the source jurisdiction for a period or periods amounting to or exceeding in the aggregate 183 days in any relevant 12-month period;

(d) remuneration from non-government employment, including employment exercised in the source jurisdiction, provided that, amongst others, the employee is present in the source jurisdiction for a period or periods not exceeding in the aggregate 183 days in any relevant 12-month period;

(e) remuneration from non-government employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of the resident jurisdiction;

(f) income of entertainers and sportspersons from their personal activities as such exercised in the source jurisdiction if the visit to that jurisdiction is supported wholly or mainly by public funds of the resident jurisdiction or a political subdivision or a local authority thereof; and

(g) other income not expressly dealt with in the Türkiye CDTA.

4. Pensions and other similar remuneration (including a lump sum payment) from non-government employment or self-employment, annuities and social security pensions are taxable only in the source jurisdiction. Salaries, wages and other similar remuneration, and any pensions and other similar remuneration (including a lump sum payment) paid by the Government of a Contracting Party or a political subdivision or a local authority thereof in respect of services rendered to that Contracting Party or subdivision or authority are, in general, taxable only in that Contracting Party (source jurisdiction).

Shared Taxing Rights

5. Where both Contracting Parties are given the right to tax the same item of income, the resident jurisdiction is required under the Türkiye CDTA to give double taxation relief to its resident for any income doubly assessed (i.e. the source jurisdiction has the primary right to tax and the resident jurisdiction is left with a secondary right). It is provided in the Türkiye CDTA that the following types of income may be taxed in both jurisdictions:

(a) income from immovable property situated in the source jurisdiction, and gains from the alienation of such property;

(b) profits of an enterprise which carries on business in the source jurisdiction through a permanent establishment situated therein (to the extent that such profits are attributable to the permanent establishment), and gains from the alienation of movable property forming part of the business property of such permanent establishment;

(c) passive income of dividends, interest and royalties received from residents of the source jurisdiction. The source jurisdiction's right to tax is subject to specified caps on the withholding tax rates as follows:

- for dividends, 5% if the beneficial owner of the dividends is a company which holds directly at least 25% of the capital of the dividend-paying company throughout a 365-day period; and 10% in all other cases;

- for interest, 0% if the interest is paid to the Government of Hong Kong, the Hong Kong Monetary Authority or the Exchange Fund (in respect of Hong Kong), the Government of Türkiye or its political subdivisions or local authorities, the Central Bank of Türkiye (Türkiye Cumhuriyet Merkez Bankası) or Eximbank of Türkiye (Türkiye Ihracat Kredi Bankası A.S.) (in respect of Türkiye); 7.5% if the interest is received by a financial institution in respect of a loan or debt instrument with a maturity period exceeding 2 years; and 10% in all other cases;

- for royalties, 7.5% for the use of or the right to use industrial, commercial or scientific equipment; and 10% in all other cases;

(d) gains from the alienation of shares or comparable interests, such as interests in a partnership or trust, if at any time during the 365 days preceding the alienation, these shares or comparable interests derived more than 50% of their value directly or indirectly from immovable property situated in the source jurisdiction;

(e) income from professional services performed in the source jurisdiction where the person has a fixed base regularly available to him in the source jurisdiction for the purpose of performing such services (to the extent such income is attributable to the fixed base) or where the person stays in the source jurisdiction for a period or periods amounting to or exceeding in the aggregate 183 days in any relevant 12-month period, and gains from the alienation of movable property pertaining to a fixed base available to the person in the source jurisdiction for the purpose of performing independent personal services;

(f) remuneration from non-government employment exercised in the source jurisdiction where, amongst others, the employee is present in the source jurisdiction for a period or periods exceeding in the aggregate 183 days in any relevant 12-month period;

(g) directors' fees from a company resident in the source jurisdiction;

(h) income of entertainers and sportspersons from their personal activities as such exercised in the source jurisdiction, except where the visit to that jurisdiction is supported wholly or mainly by public funds of the resident jurisdiction or a political subdivision or a local authority thereof; and

(i) gains from the alienation of any property not expressly dealt with in the Türkiye CDTA.

6. In general, in case of shared taxing rights, double taxation relief may be given to a taxpayer either through the exemption method, where income taxable in the source jurisdiction is exempt from taxation in the resident jurisdiction; or through the credit method, where income taxable in the source jurisdiction is subject to tax in the resident jurisdiction but the tax levied in the source jurisdiction is credited against the tax levied in the resident jurisdiction on such income. Both Hong Kong and Türkiye will provide double taxation relief for their own residents by the credit method.