

SYNTHESISED TEXT OF THE MLI AND THE CONVENTION BETWEEN THE **UNITED ARAB REPUBLIC AND INDIA FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME**

General disclaimer on the Synthesised text document

This comprehensive document (the "Document") of the companioned text of the Multilateral Convention promulgated by Presidential Decree No. 446 of 2020 and the Convention on Avoidance of Double Taxation and Prevention of Tax Evasion with regard to Income Taxes between the Governments of The United Arab Republic and India and published in the Official Gazette 4 on 22/10/1970 ("Convention"), bearing in mind that that English version of the Convention is the most likely and the first to be applied on the part of the authentic in case of difference between the versions of different languages themselves, without any responsibility on the authority that issued those texts.

This document presents the synthesised text for the application of the Convention between **The United Arab Republic** and **India** with respect to Taxes on Income signed on **20 February 1969** (the "Convention"), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by **Egypt** on **7 June 2017** and by **India** on **7 June 2017** (the "MLI").

The document was prepared on the basis of the MLI position of **Egypt** submitted to the Depository upon ratification on **30 September 2020** and of the MLI position of **India** submitted to the Depository upon ratification on **25 June 2019**. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on the Convention.

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

The provisions of the MLI that are applicable with respect to the provisions of the Convention are included in boxes throughout the text of this document in the context of the relevant provisions of the Convention. The boxes containing the provisions of the MLI have generally been inserted in accordance with the ordering of the provisions of the 2017 OECD Model Tax Convention.

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

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

References

The authentic legal texts of the MLI and the Convention can be found [www.eta.gov.eg]

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

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

Dates of the deposit of instruments of ratification, acceptance or approval: **30 September 2020** for **Egypt** and **25 June 2019** for **India**.

Entry into force of the MLI: **1 January 2021** for **Egypt** and **1 October 2019** for **India** and has effect as follows:

- (a) The provisions of the MLI shall have effect in each Contracting State with respect to the Convention:
 - (i) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2021; and
 - (ii) with respect to all other taxes levied by that Contracting State, for taxes levied with respect to taxable periods beginning on or after 1 July 2021.
- (b) Notwithstanding (a), Article 16 (Mutual Agreement Procedure) of the MLI shall have effect with respect to this Convention for a case presented to the competent authority of a Contracting State on or after 1 January 2021, except for cases that were not eligible to be presented as of that date under this Convention prior to its modification by the MLI, without regard to the taxable period to which the case relates.

**CONVENTION
BETWEEN
THE GOVERNMENT OF THE UNITED ARAB REPUBLIC
AND
THE GOVERNMENT OF INDIA
FOR THE AVOIDANCE OF DOUBLE TAXATION
WITH RESPECT TO TAXES ON INCOME**

The Government of the United Arab Republic and the Government of India,
Desiring to conclude a convention for the avoidance of double taxation with respect to
taxes on income;

The following paragraph 1 of Article 6 of the MLI is included in the preamble of this Convention:

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

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

Have agreed as follows:

CHAPTER I

Scope of the Convention

ARTICLE 1

PERSONAL SCOPE

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

ARTICLE 2

TAXES COVERED

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, where they have the authority, 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 sale, exchange or transfer of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises.
3. The existing taxes to which the Convention shall apply are, in particular:
 - (a) In the case of India:**
 - (1) the income tax, including super tax and surcharge, imposed under the Income-tax Act, 1961 (7 of 1961); and
 - (2) the surtax imposed under the companies (Profits) Surtax Act, 1964 (7 of 1964)
(hereinafter referred to as "Indian tax")
 - (b) In the case United Arab Republic:**
 - (1) tax on income derived from immovable property (including the land tax, the building tax, and the ghaffir tax);
 - (2) tax on income from movable capital;
 - (3) tax on commercial and industrial profits;
 - (4) tax on wages salaries indemnities and pensions
(as mentioned in book of Law 14 of 1939)
 - (5) tax on profits from liberal professions and all other non-commercial professions;
 - (6) general income tax;
 - (7) defence tax (imposed on income);
 - (8) national security tax (imposed on income);
and;
 - (9) supplementary taxes imposed as percentage
of taxes mentioned above;

(hereinafter referred to as “United Arab Republic tax”).

4. The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in the place of, the existing taxes
5. At the end of each year, the competent authorities of the Contracting States shall notify to each other any significant changes which have been made in their respective taxation laws.

CHAPTER II

ARTICLE 3

GENERAL DEFINITIONS

1. In this Convention, unless the context otherwise requires:
 - (a) the term “**India**” shall have the meaning, assigned to it in Article 1 of the Constitution of India;
 - (b) the term “**United Arab Republic**” means Egypt;
 - (c) the terms “a Contracting State” and “the other Contracting State” mean India or the United Arab Republic, as the context requires;
 - (d) the term “tax” means Indian tax or United Arab Republic tax, as the context requires;
 - (e) the term “person” includes individuals, companies and all other entities which are treated as taxable units under the tax laws in force in either Contracting State;
 - (f) the term “company” for tax purposes means any entity which is treated as a company under the Indian tax law or any entity which is treated as a body corporate under the United Arab Republic tax law;
 - (g) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean, respectively, an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
 - (h) the term “competent authority” means in the case of India the Central Government in the Ministry of Finance (Department of Revenue and Insurance); and in the case of the United Arab Republic, the Minister of Treasury or his authorised representative.
2. In the application of the provisions of this Convention by one of the Contracting States any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that State relating to the taxes which are the subject of this Convention.

ARTICLE 4

Fiscal domicile

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the law of that State, is resident of that State for the purposes of taxation therein by reason of his domicile, residence, place of management or any other criterion applied under the tax laws of that State.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:
 - (a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closest (centre of vital interests);
 - (b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
 - (c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
 - (d) if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. ~~[REPLACED by paragraph 1 of Article 4 of the MLI][Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.]~~

The following paragraph 1 of Article 4 of the MLI replaces paragraph {3} of Article {4} of this Convention:

ARTICLE 4 OF THE MLI – DUAL RESIDENT ENTITIES

Where by reason of the provisions of [*the Convention*] a person other than an individual is a resident of both [*Contracting States*], the competent authorities of the [*Contracting States*] shall endeavour to determine by mutual agreement the [*Contracting State*] of which such person shall be deemed to be a resident for the purposes of [*the Convention*], 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 Convention*] except to the extent and in such manner as may be agreed upon by the competent authorities of the [*Contracting States*].

ARTICLE 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, 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 a_ warehouse;
 - (f) a mine, a quarry, an oilfield or other place of extraction of natural resources;
 - (g) a permanent sales exhibition;
 - (h) **[MODIFIED by paragraph 1 of Article 14 of the MLI]**[a building site or construction or assembly project which exists for more than ninety days.]

The following paragraph 1 of Article 14 of the MLI applies and supersedes the provisions of this Convention:

ARTICLE 14 OF THE MLI – SPLITTING-UP OF CONTRACTS

For the sole purpose of determining whether [the ninety days] referred to in [paragraph {2}{h} of Article {5} of the Convention] has been exceeded:

- a) where an enterprise of a [Contracting State] carries on activities in the other [Contracting State] at a place that constitutes a building site, construction or assembly project, and these activities are carried on during one or more periods of time that, in the aggregate, exceed 30 days without exceeding [the ninety days]; and
- b) where connected activities are carried on in that other [Contracting State] at the same building site, construction or assembly 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 aggregate period of time during which the first mentioned enterprise has carried on activities at that a building site, construction or assembly project.

3. **[MODIFIED by paragraph 2 of Article 13 of the MLI]**~~The term “permanent establishment” shall not be deemed 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 fixed place of business solely for the purpose of purchasing goods or merchandise or for collecting information, for the enterprise; and~~

~~(d) the maintenance of a fixed place of business solely for the purpose of advertising, or for scientific research, for the enterprise.]~~

The following paragraph 2 of Article 13 of the MLI replaces paragraph {3} of Article {5} of this Convention:

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

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

- (a) (1) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;
 - (2) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;
 - (3) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or for collecting information, for the enterprise; and
 - (4) the maintenance of a fixed place of business solely for the purpose of advertising, or for scientific research, for the enterprise.;
- b) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any activity not described in subparagraph a);
- c) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) and b),

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

The following paragraph 4 of Article 13 of the MLI applies to paragraph {3} of Article {5} of this Convention [as modified by paragraph {2} of Article 13 of the MLI]:

[paragraph 4 of Article {5} of this Convention, [as modified by paragraph {2} of Article 13 of the MLI]] shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same Contracting State and:

- a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of [*Article {5} of the Convention*]; 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 closely related enterprise.

4. ~~[REPLACED by paragraph 1 of Article 12 of the MLI][person acting in one of the Contracting States for or on behalf of an enterprise of the other Contracting State shall be deemed to be a permanent establishment of that enterprise in the first mentioned State if:~~
- ~~(i) he has and habitually exercises in that State a general authority to negotiate and enter into contracts for or on behalf of the enterprise, unless the activities of the person are limited to the purchase of goods or merchandise for the enterprise, or]~~

The following paragraph 1 of Article 12 of the MLI replaces paragraph {4}{i} of Article {5} of this Convention:

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

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

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

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

- (ii) he habitually maintains in the first-mentioned Contracting State a stock of goods or merchandise belonging to the enterprise from which the person regularly delivers goods or merchandise for or on behalf of the enterprise, or
 - (iii) he habitually secures orders in the first-mentioned Contracting State exclusively or almost exclusively, for the enterprise itself or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it.
5. ~~[REPLACED by paragraph 2 of Article 12 of the MLI][An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker of a genuinely independent status.]~~

The following paragraph 2 of Article 12 of the MLI replaces paragraph {5} of Article {5} of this Convention:

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

[*Paragraph 1 of Article 12 of the MLI*] shall not apply where the person acting in a [*Contracting State*] on behalf of an enterprise of the other [*Contracting State*] carries on business in the first-mentioned [*Contracting State*] as an independent agent and acts for the enterprise in the ordinary course of that business. Where, however, a person acts exclusively or almost exclusively on behalf of one or more enterprises to which it is closely related, that person shall not be considered to be an independent agent within the meaning of this paragraph with respect to any such enterprise.

6. The fact that a company, which is a resident of one of the Contracting States, has a subsidiary company which either is a resident of the other Contracting State or carries on a trade or business in that other Contracting State (whether through a permanent establishment or otherwise) shall not, of itself, constitute that subsidiary company a permanent establishment of its parent company.

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

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

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

CHAPTER III
Taxation of income

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

1. Income from immovable property shall be taxable only in the Contracting State in which such property is situated.
2. The term “immovable property” shall be defined in accordance with the law and usage of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall also apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

ARTICLE 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State, but only so much of them as is attributable to that permanent establishment.
2. where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In the determination 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 State in which the permanent establishment is situated or elsewhere.

4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary ; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that anent establishment of goods or merchandise for the purpose of export to the enterprise of which it is the permanent establishment.
6. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8

AIR TRANSPORT

1. Income derived from the operation of aircraft by an enterprise of one of the Contracting States shall not be taxed in the other Contracting State unless the aircraft is operated wholly or mainly between places within that other Contracting State.
2. Paragraph 1 shall likewise apply in respect of participations in pools of any kind by enterprises engaged in air transport.

ARTICLE 9

SHIPPING

Income derived from the operation of ships by an enterprise of one of the Contracting States shall not be taxed in the other Contracting State unless the ships are operated wholly or mainly between places within that other Contracting State.

ARTICLE 10

ASSOCIATED ENTERPRISES

1. Where
 - (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

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

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. If the information available to the taxation authority concerned is inadequate to determine, for the purposes of paragraph 1 of this Article, the profits which might be expected to accrue to an enterprise, nothing in that paragraph shall affect the application of the law of either Contracting State in relation to the liability of that enterprise to pay tax on an amount determined by the exercise of a discretion or the making of an estimate by the taxation authority of that State.

Provided that such discretion shall be exercised or such estimate shall be made, so far as the information available to the taxation authority permits, in accordance with the principle stated in that paragraph.

Provided further that the amount so determined or the estimate so made may be amended or revised when adequate information is furnished to the taxation authority concerned.

ARTICLE 11

DIVIDENDS

1. Dividends paid by a company which is a resident of India to a resident of the United Arab Republic may be taxed in India.
2. Dividends paid by a company which is a resident of the United Arab Republic to a resident of India may be taxed in the United Arab Republic. But such dividends shall only be subject to the tax on income derived from movable capital, the defence tax, the national security tax and the supplementary taxes (which taxes shall be 'deducted at the source). If paid to a natural person, the general income tax levied on the net total income may 'also be imposed. Dividends paid shall be deducted, from the 'amount of the distributing company's taxable income or profits subject to the tax chargeable in respect of its. Commercial and industrial profits if such dividends are distributed out of the taxable profits of the same. Taxable year but not distributed out of accumulated reserves or other assets.
3. Dividends paid by a company which is a resident of India whose activities lie solely or mainly in the. United Arab Republic 'shall, in the United Arab Republic, be treated as mentioned in paragraph 2 of this Article when such dividends are distributed in the United Arab Republic.
4. Dividends paid by a company which is a resident of the United Arab Republic whose activities lie solely or mainly in India shall, in India, be treated as

mentioned in paragraph 1 of this Article when such dividends are distributed in India.

5. Dividends, deemed under Article 11 of United Arab Republic Law 14 of 1939 to be paid out of the yearly, profits of a permanent establishment maintained in the United Arab Republic by an Indian company whose activities extend to countries other than the United Arab Republic shall, in the United Arab Republic, be treated as mentioned in paragraph 2 of this Article.

The permanent establishment shall be considered to have distributed as dividends in the United Arab Republic within 60 days from the closing of its financial year, an amount equivalent to 90 per cent of its total net profits liable to the tax on commercial and industrial profits without applying the provisions of Article 36 of Law 14 of 1939, provided that the remaining 10 percent of the net profits shall be set aside to form a special reserve which shall be entered in the local balance sheet submitted annually to the United Arab Republic tax authorities. Such amount only be subject to the tax on commercial and industrial profits.

All amounts deducted from the aforesaid 10 percent set aside to form the special reserve for purposes other than the redemption of losses incurred in the trade or business carried on by that permanent establishment situated in the United Arab Republic shall be deemed to have been distributed in the United Arab Republic and shall be taxed accordingly.

6. The provisions of paragraphs 1 and 4 of this Article, in the case of the United Arab Republic shall not affect the application of Article 4 of Law 14 of 1939, but the provisions of those paragraphs will be applied for the purpose of elimination of double taxation in accordance with provisions of paragraph 2 of Article 24 of this Convention.

ARTICLE 12

INTEREST

1. Interest paid by a resident of India to a resident of the United Arab Republic may be taxed in India.
2. Interest paid by a resident of the United Arab Republic to a resident of India may be taxed in the United Arab Republic. But such interest shall only be subject to the tax on income derived from movable capital, the defence tax, the national security tax and the supplementary taxes (which taxes shall be deducted at the source). If paid to a natural person, the general income tax levied on the net total income may also be imposed.
3. The term "interest" as used in this Article includes income from Government securities, bonds or debentures, (exclusive of interest on debts secured by mortgages on real estate, in which case Article 6 shall apply) and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.
4. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State.

Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

5. The provisions of paragraph 1 of this Article in the case of the United Arab Republic shall not affect the application of Article 4 of Law 14 of 1939, but the provisions of that paragraph will be applied for the purpose of elimination of double taxation in accordance with provision of paragraph 2 of Article 24 of this Convention.

ARTICLE 13

ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in the first mentioned State.
2. The term “royalties” as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, 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 but does not include any royalty or other like amount in respect of the operation of mines, quarries or any other place of extraction of natural resources.
3. Rents and royalties arising in a Contracting State in respect of cinematographic films and paid to a resident of the other Contracting State shall be taxable only in the first mentioned State according to the tax laws of that State.
4. The provisions of this Article shall not apply where founders’ shares are issued in the United Arab Republic as a consideration for the rights mentioned in paragraph 2 of this Article and taxed in accordance with the provisions of Article 1 of Law 14 of 1939. In such event Article 11 of this Convention shall be applicable.
5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State.

ARTICLE 14

CAPITAL GAINS

1. Subject to the provisions of paragraph 3, gains from the sale, exchange or transfer of a capital asset being immovable property, as defined in paragraph 2 of Article 6, or movable property shall be taxable only in the Contracting State in which such property is situated.

2. For the purpose of this Article the situs of the shares of a company shall be deemed to be in the Contracting State where the company is incorporated.
3. Capital gains derived from the sale, exchange or transfer of a capital asset being a ship or aircraft shall be taxable only in the Contracting State in which such ship or aircraft is registered.

[APPLIED by paragraph 4 of Article 9 of the MLI]

The following paragraph 4 of Article 9 of the MLI applies and supersedes the provisions of this Convention:

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

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

ARTICLE 15

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of the United Arab Republic in respect of professional services rendered or other independent activities of similar character performed in India may be taxed in India only if he is present in India for a period or periods exceeding in the aggregate 183 days during the relevant “previous year”, and only to the extent the income is attributable to such service or activities in India.
2. Income derived by a resident of India in respect of professional services rendered or other independent activities of a similar character performed in the United Arab Republic may be taxed in the United Arab Republic only if he is present in the United Arab Republic for a period or periods exceeding in the aggregate 183 days during the relevant “fiscal year”, and only to the extent the income is attributable to such services or activities in the United Arab Republic.
3. The term “professional services” includes 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 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an

employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of the United Arab Republic in respect of an employment exercised in India shall not be taxed in India if:
 - (a) he is present in India for a period or periods not exceeding in the aggregate 183 days during the relevant "previous year", and
 - (b) the remuneration is paid by, or on behalf of an employer who is not resident of India, and
 - (c) the remuneration is subject to United Arab Republic tax, and
 - (d) the remuneration is not deducted in computing profits of an enterprise chargeable to Indian tax.
3. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of India in respect of an employment exercised in the United Arab Republic shall not be taxed in the United Arab Republic if:
 - (a) he is present in the United Arab Republic for a period or periods not exceeding in the aggregate 183 days during the relevant "fiscal year", and
 - (b) the remuneration is paid by, or on behalf of an employer who is not resident of the United Arab Republic, and
 - (c) the remuneration is subject to Indian tax, and
 - (d) the remuneration is not deducted in computing profits of an enterprise chargeable to United Arab Republic tax.
4. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

ARTICLE 17

DIRECTORS' FEES

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

ARTICLE 18

ARTISTES AND ATHLETES

1. Notwithstanding anything contained in Articles 15 and 16, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians; and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.
2. The provisions of paragraph 1 shall apply only if the personal activities are exercised in the Contracting State for a period or periods in the aggregate

exceeding 15 days during the relevant “previous year” or, as the case may be, “fiscal year”, and only in respect of the income attributable to the personal activities exercised in that State.

ARTICLE 19

PENSIONS

Subject to the provisions of paragraph 1 of Article 20, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

ARTICLE 20

GOVERNMENTAL FUNCTIONS

1. Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof, to any individual in respect of services rendered to that State or subdivision or local authority thereof in the discharge of functions of a governmental nature may be taxed in that State.
2. The provisions of paragraph 1 of this Article shall also apply to remuneration including pensions, paid by the Central Bank, the Post, Railways, Telephone and Telegraph, Radio and Television Organisations of the United Arab Republic and by the Reserve Bank of India, Postal Administration, the Public Railway Authorities and the All India Radio Organisation of India.
3. The provisions of Articles 16, 17 and 19 shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business other than those mentioned in paragraph 2 carried on by any of the legal entities mentioned in this Article.

ARTICLE 21

STUDENTS

An individual of one of the Contracting States, who is temporarily present in the other Contracting State solely:

- (a) as a student at a university, college or school in the other Contracting State,
- (b) as a business or technical apprentice, or
- (c) as the recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific or educational organization

shall not be taxed in the other Contracting State in respect of remittances from abroad for the purposes of his maintenance, education or training or in respect of a scholarship grant. The same shall apply to any amount representing remuneration for services rendered in that other State, provided that such services are in connection with his studies or practical training or are necessary for the purpose of his maintenance.

ARTICLE 22

PROFESSORS, TEACHERS AND RESEARCHERS

A professor or a teacher from one of the Contracting States who receives remuneration for teaching or scientific research, during a period of temporary residence not exceeding two years, at a university, college, technical school or other institution for higher education in the other Contracting State, shall not be taxed in that other Contracting State in respect of that remuneration.

ARTICLE 23

INCOME NOT EXPRESSLY MENTIONED

The laws in force in either of the Contracting States will continue to govern assessment and taxation of income in the respective Contracting States except where express provision to the contrary is made in this Convention.

CHAPTER IV

Method for elimination of double taxation

ARTICLE 24

EXEMPTIONS AND CREDIT METHODS

[REPLACED by paragraph 6 of Article 5 of the MLI]

1. [Where a person being a resident of a Contracting State derives income from the other Contracting State and that income, in accordance with the provisions of this Convention, shall be taxable only in that other Contracting State, or may be taxed in that other Contracting State, the first-mentioned State shall, subject to the provisions of paragraph 2, exempt such income from tax but may, in calculating tax on the remaining income of that person, apply the rate of tax which would have been applicable if the exempted income had not been so exempted.]
2. Where a person being a resident of a Contracting State derives income from the other Contracting State and that income, in accordance with the provisions of Articles 11 and 12 may be taxed in that other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that person an amount equal to the tax paid in that other Contracting State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income derived from that other Contracting State.]

The following paragraph 6 of Article 5 of the MLI replaces to paragraphs (1),(2) of Article {24} of this Convention with respect to the residents of {India}:

**ARTICLE 5 OF THE MLI – APPLICATION OF METHODS FOR
ELIMINATION
OF DOUBLE TAXATION (*Option C*)**

Where a resident of a [*Contracting State*] derives income which may be taxed in the other [*Contracting State*] in accordance with the provisions of [*this Convention*] (except to the extent that these provisions allow taxation by that other [*Contracting State*] solely because the income is also income derived by a resident of that other [*Contracting State*]), the first-mentioned [*Contracting State*] shall allow

– as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other [*Contracting State*];

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 that other [*Contracting State*].

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

**CHAPTER V
Special Provisions**

ARTICLE 25

NON-DISCRIMINATION

- 1 The Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.
- 2 The term “nationals” means:
 - (a) all individuals possessing the nationality of a Contracting State;
 - (b) all legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State.
- 3 The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

- 4 Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first mentioned State are or may be subjected in the same circumstances and under the same conditions.
- 5 The provisions of this Article shall not be construed as affecting the application in the United Arab Republic of the exemptions conferred in the United Arab Republic by Articles 5 and 6 of Law 14 of 1939.
- 6 In this Article the term “taxation” means taxes of every kind as specified in this Convention.

ARTICLE 26

MUTUAL AGREEMENT PROCEDURE

- 1 Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

The following second sentence of paragraph 1 of Article 16 of the MLI applies and supersedes the provisions of this Convention:

ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

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 Convention*].

- 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 an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention.

The following second sentence of paragraph 2 of Article 16 of the MLI applies to this Convention:

ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the [*Contracting States*].

- 3 The competent authorities of the Contracting States shall endeavour to resolve by mutual Agreement any difficulties or doubts arising as to the interpretation or

application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

- 4 The competent authorities of the Contracting State may communicate with each other directly for the purpose of reaching an Agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach Agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting State.

ARTICLE 27

EXCHANGE OF INFORMATION

- 1 The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention in so far as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment, including judicial or collection of the taxes which are the subject of this Convention.
- 2 In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:
 - (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
 - (b) to supply information or documents which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
 - (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

ARTICLE 28

DIPLOMATIC AGENTS AND CONSULAR OFFICERS

Nothing in this Convention shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special Agreements.

ARTICLE
PREVENTION OF TREATY ABUSE

The following paragraph 1 of Article 7 of the MLI applies and supersedes the provisions of this Convention.¹

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

Notwithstanding any provisions of [*the Convention*], a benefit under [*the Convention*] 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 Convention*].

CHAPTER VI
Final provisions

ARTICLE 29

ENTRY INTO FORCE

- 1 This Convention shall be ratified and the instruments of ratification shall be exchanged at New Delhi as soon as possible.
- 2 This Convention shall enter into force on the date of the exchange of the instruments of ratification and its provisions shall have effect:
 - (a) **In India:**
 - (i) in the case of income derived from operation of aircraft (referred to in Article 8), as respects such income derived during any “previous year” beginning on or after the first day of January, 1961;
 - (ii) in the case of any other income, as respects income derived during any “previous year” beginning on or after the first day of January of the calendar year in which the exchange of the instruments of ratification takes place.
 - (b) **In the United Arab Republic:**
 - (i) in the case of income from operation of aircraft (referred to in Article 8), as respects such income derived during any accounting period ending on or after the first day of January, 1961;
 - (ii) in the case of any other income:

¹India has made a statement pursuant to Article 7(17) (a) MLI whereby it accepts the application of Article 7(1) MLI (the PPT) alone as an interim measure.

- (1) as respects tax on income from movable capital and tax on wages, salaries, indemnities and pensions, which taxes are due on or after the date on which the exchange of the instruments of ratification takes place;
- (2) as respects tax on commercial and industrial profits for any accounting period ending on or after the date on which the exchange of the instruments of ratification takes place;
- (3) as respects tax on income derived from immovable property (including the land tax, the buildings tax and the ghaffir tax), tax on profits from liberal professions and all other non-commercial professions and the general income tax for the calendar year in which the exchange of the instruments of ratification takes place.

The rules in subparagraph (b) of this paragraph shall be correspondingly applicable respectively to the defence tax, national security tax and to the supplementary taxes.

ARTICLE 30

TERMINATION

Either of the Contracting States may terminate this Convention after a period of five years from the date on which this Convention enters into force, by giving to the other Contracting State, through the diplomatic channels, written notice of termination, provided that such notice shall be given only on or before the thirtieth day of June in any calendar year, and in such event, this Convention shall cease to be effective:

(a) In India:

as respects income derived during any “previous year” beginning on or after the first day of January of the calendar year next following that in which the notice is given.

(b) In the United Arab Republic:

- (1) as respects tax on income from movable capital and tax on wages, salaries, indemnities and pensions, which taxes are due on or after the first day of July in the calendar year next following that in which the notice is given;
- (2) as respects tax on commercial and industrial profits for any accounting period ending on or after the first day of July in the calendar year next following that in which the notice is given;
- (3) as respects tax on income derived from immovable property (including the land tax, the buildings tax and the ghaffir tax), tax on profits from liberal
- (4) professions and all other non-commercial professions and the general income tax for the calendar year next following that in which the notice is given.

The rules in subparagraph (b) of this paragraph shall be correspondingly applicable respectively to the defence tax, national security tax and to the supplementary taxes.

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

Done in duplicate at Cairo this 20th February 1969 in the English language.

FOR
THE GOVERNMENT OF INDIA

FOR
THE GOVERNMENT OF THE
UNITED ARAB REPUBLIC

Exchange of Notes

Cairo, the 20th February, 1969

I

Dear Sir,

The Convention between the Government of India and the Government of the United Arab Republic for the avoidance of double taxation with respect to taxes on income being signed today, I have the honour, on behalf of the Government of India, to inform you that the two Contracting States have agreed as follows:

The provisions of Article 8 (Air transport) of the said Convention being operative under the terms of Article 29 (Entry into force) of the Convention, in the case of India, as respects income derived from operation of aircraft during any "previous year" beginning on or after the first day of January, 1961, and in the case of the United Arab Republic, as respects such income derived during any accounting period ending on or after the first day of January, 1961:

Where any taxes covered by this Convention have been paid or are payable in one of the Contracting States by a designated airline of the other Contracting State as respects such income derived by it during any "previous year" or accounting period aforesaid, the first mentioned Contracting State shall refund such taxes to or, as the case may be, refrain from charging such taxes from the designated airline.

The designated airline aforesaid shall, in the case of India, be the Air India, and in the case of the United Arab Republic, be the United Arab Airlines.

2. I should be grateful if you confirm your agreement to the above understanding of the provisions of Article 8 read with Article 29 of the said Convention, and that in such case, this note and your reply thereto, shall be deemed to be part of the Convention.

3. Please accept, Your Excellency, the assurances of my highest consideration.

Apa B. Pant

His Excellency

Mr. Ahmed El Sayed Shaban,

Under-Secretary for the Taxation Department,

Ministry of Treasury,

Government of the United Arab Republic,

Cairo.

II

Cairo, the 20th February, 1969

Dear Sir,

With reference to the Convention signed today between the Government of the United Arab Republic and the Government of India for the avoidance of double taxation with respect to taxes on income, you, on behalf of the Government of India, informed me of the following:

[See I]

2. I have the honour to confirm that the above-mentioned proposal meets with the approval of the Government of the United Arab Republic.

Your Note of today's date and my reply thereto shall, therefore, be part of the Convention.

3. Please accept, your Excellency, the assurances of my highest consideration.

Ahmed El Sayed Shaban

His Excellency

Mr. Apa B. Pant,

Ambassador of India,

Cairo