

PROTOCOL

AMENDING THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF AUSTRIA AND THE GOVERNMENT OF THE STATE OF QATAR FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL SIGNED AT VIENNA ON 30 DECEMBER 2010

The Government of the Republic of Austria and the Government of the State of Qatar, desiring to conclude a Protocol amending the Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital, signed at Vienna on 30 December 2010 (hereinafter referred to as “the Agreement”),

Have agreed as follows:

Article 1

The preamble of the Agreement shall be deleted and replaced by the following:

“The Government of the Republic of Austria and the Government of the State of Qatar,

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

Intending to eliminate 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 States),

Have agreed as follows:”

Article 2

Article 8 (Shipping and Air Transport) of the Agreement shall be deleted and replaced by the following:

“Article 8

INTERNATIONAL SHIPPING AND AIR TRANSPORT

(1) Profits derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

(2) For the purposes of this Article, profits from the operation of ships or aircraft in international traffic shall include:

a) profits from the rental on a bare boat basis of ships or aircraft; and

b) profits from the use or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise,

where such rental or such use, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

(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.”

Article 3

Paragraph 1 of Article 10 (Dividends) of the Agreement shall be deleted and replaced by the following:

“(1)

- a) Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

- b) However, dividends paid by a company which is a resident of a Contracting State may also be taxed in that State according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

- c) Notwithstanding the provisions of sub-paragraph b), dividends paid by a company which is a resident of a Contracting State shall be taxable only in the other Contracting State if the beneficial owner is:
 - (i) that other State itself, a political subdivision or local authority thereof or a Qualified Government Entity, or
 - (ii) a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.”

Article 4

Paragraph 2 of Article 27 (Exchange of Information) of the Agreement shall be deleted and replaced by the following:

“2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, 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 State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.”

Article 5

1. Article 29 (Entry into Force) and Article 30 (Termination) of the Agreement shall be renumbered as Article 30 (Entry into Force) and Article 31 (Termination).
2. The following new Article 29 (Entitlement to Benefits) shall be added to the Agreement:

“Article 29

Entitlement to Benefits

Notwithstanding the other provisions of this Agreement, a benefit under this 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 this Agreement.”

Article 6

The Protocol signed in Vienna on 30 December 2010 shall be amended as follows:

1. Paragraph 1 of the Protocol headed “With reference to Article 10” shall be deleted and replaced by the following:

“1. With reference to Article 4

For the purposes of sub-paragraph b) of paragraph 1 of Article 4 the term "resident" in the case of the State of Qatar shall include the qualified government entities mentioned in sub-paragraph b) of the new paragraph 2 of the Protocol headed "With reference to Article 10".

2. Paragraph 2 of the Protocol headed "With reference to Article 27" shall be renumbered as paragraph 3 and paragraph 3 of the Protocol headed "Interpretation of the Agreement" shall be renumbered as paragraph 4, and the following new paragraph 2 shall be added to the Protocol:

"2. With reference to Article 10

With respect to sub-paragraph c) of paragraph 1 of Article 10 the term "Qualified Government Entity" shall mean any entity or institution which is wholly owned directly or indirectly, by the state, a federal or local government, a political subdivision, or a local authority thereof and shall include the following entities:

a) in the case of the Republic of Austria:

- (i) Oesterreichische Nationalbank (OeNB);
- (ii) any entity the capital of which is wholly owned directly or indirectly, by the Republic of Austria, as shall be exchanged from time to time between the Contracting States through notifications by the competent authorities.

b) in the case of the State of Qatar:

- (i)
 - Qatar Central Bank;
 - Qatar Investment Authority;
 - Qatar Holding LLC;
 - Qatar Civil Retirement Fund;
 - Qatar Military Retirement Fund;
 - Qatar Development Bank;
 - Qatar Ports Management Company (Mwani Qatar);
 - Qatar Energy;

- Qatar Petroleum International Limited; and
- (ii) any entity the capital of which is wholly owned directly or indirectly, by the State of Qatar, a political subdivision or a local authority thereof, as shall be exchanged from time to time between the Contracting States through notifications by the competent authorities.”

3. Sub-paragraph (l) e) of renumbered paragraph 3 of the Protocol headed “With reference to Article 27” shall be deleted and replaced by the following:

“(e) to the extent known, the name and address of any person believed to be in possession of the requested information;”

Article 7

The Contracting States shall notify each other in writing, through diplomatic channels, of the completion of the procedures required by their laws for the bringing into force of this Protocol. The Protocol shall enter into force on the date of the later of these notifications. The provisions of this Protocol shall have effect:

a) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January of the calendar year immediately following the year in which the Protocol enters into force; and

b) with regard to other taxes, in respect of taxable years beginning on or after the first day of January of the calendar year immediately following the year in which the Protocol enters into force.

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

Done in duplicate at, on, in the German, Arabic and English languages, all texts being equally authentic. In case of any divergence, the English text shall prevail.

For the Government of the
Republic of Austria:

For the Government of the
State of Qatar: