

CONVENTION

BETWEEN

THE COUNCIL OF MINISTERS OF THE REPUBLIC OF ALBANIA

AND

THE GOVERNMENT OF THE STATE OF KUWAIT

FOR THE AVOIDANCE OF DOUBLE TAXATION

AND THE PREVENTION OF FISCAL EVASION

WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Council of Ministers of the Republic of Albania and the Government of State of Kuwait desiring to promote their mutual economic relations through the conclusion between them of an Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital;

Have agreed as follows:

Article 1
Persons Covered

This Convention 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 and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

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

3. The existing taxes to which this Convention shall apply are, in particular:

a) in the case of Albania:

- (1) the income tax (including corporate profit tax and personal income tax);
 - (2) the tax on small business activities;
 - (3) the property tax;
- (hereinafter referred to as "Albanian tax").

b) in the case of Kuwait:

- (1) the corporate income tax;
- (2) the contribution from the net profits of the Kuwaiti shareholding companies payable to the Kuwait Foundation for Advancement of Science (KFAS);
- (3) the Zakat;
- (4) the tax subjected according to the supporting of national employee law; (hereinafter referred to as "Kuwaiti tax").

4. The Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States 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 Convention, unless the context otherwise requires:

- a) the term "person" includes an individual, a company or any other body of persons;
- b) the term "company" means a juridical person or any entity that is treated as a juridical person for tax purposes;
- c) 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;
- d) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- e) the term "Albania" means the Republic of Albania and when used in a geographical sense means the territory of Albania, including territorial waters and air space over them, as well as any area beyond the territorial waters of the Republic of Albania which, under its laws and in accordance with international law, is an area within which the Republic of Albania may exercise its respect to the seabed and subsoil and their natural resources.
- f) the term "Kuwait" means the territory of the State of Kuwait including any area beyond the territorial sea which in accordance with international law has been or may hereafter be designated, under the laws of Kuwait, as an area over which Kuwait may exercise sovereign rights or jurisdiction.
- g) the term "national", in relation to a Contracting State, means:
 - (1) any individual possessing the nationality or citizenship of that Contracting State; and
 - (2) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State;
- h) the term "tax" means Albanian or tax Kuwaiti tax, as the context requires;
- i) the term "competent authority" means:
 - (2)
 - (1) in case of Albania : General Tax Department, authorized by the Ministry of Finance.
 - (2) in case of Kuwait: the Minister of Finance or an authorized representative of the Minister of Finance;

2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4

Resident

1. For the purposes of this Convention, the term "resident of a Contracting State" means:

- a) In the case of Albania:
 - 1) An individual who has:
 - a) a permanent abode available in the territory of Republic of Albania, pursuant to the Civil Code;
 - b) an Albanian citizen and a consular, diplomat, or similar officer, of the Republic of Albania, outside Albania.
 - 2) An individual who resides in Albania more than 183 days of a taxable period, whether consecutively or not.
 - 3) A juridical person who:
 - a) has a permanent establishment in the Republic of Albania;
 - b) has a place of effective management of business in the Republic of Albania.
- b) in the case of Kuwait: an individual who has his domicile in Kuwait and is a Kuwaiti national, and a company which is incorporated in Kuwait;
- 4) A physical person pursuant to specific legislation on taxpayers registration.

2. For the purposes of paragraph 1, a resident of a Contracting State shall include all of the following:

- a) the Government of that Contracting State and any political subdivision or local authority thereof;
- b) any governmental institution created in that Contracting State under public law such as a corporation, Central Bank, fund, authority, foundation, agency or other similar entity;
- c) any entity established in that State, all the capital of which has been provided by that State or any political subdivision or local authority thereof or any governmental institution as defined in subparagraph b) , together with other states.

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

- a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);
- b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;

c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;

d) if his status cannot be determined under the provision of subparagraph a) to c), the competent authorities of the Contracting States shall settle the question by mutual convention.

4. Where by reason of the provisions of paragraphs 1 and 2 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

Article 5

Permanent Establishment

1. For the purposes of this 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, and

f) a mine, oil or gas well, a quarry or any other place relating to the exploration for or exploitation of natural resources.

3. A building site, a construction, assembly, erection or installation project or supervisory activities in connection therewith carried out in a Contracting State, constitutes a permanent establishment only if such site, project or activities continue for a period of more than six months.

4. The furnishing of services, including consultancy or managerial services, by an enterprise of a Contracting State through employees or other personnel engaged by the enterprise for such purpose, in the other State constitutes a permanent establishment only if activities of that nature continue for a period or periods aggregating more than six months within any twelve-month period.

5. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other State if substantial technical, mechanical or scientific equipment or machinery is used for more than six months within any twelve-month period, or installed, in that other State by, for or under contract with the enterprise.

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

- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

7. Notwithstanding the provisions of paragraphs 1 and 2, where a person other than an agent of an independent status to whom paragraph 8 applies is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 6 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.

8. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise and other enterprises, which are controlled by it or have a controlling interest in it, he shall not be considered an agent of an independent status within the meaning of this paragraph.

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

Article 6

Income from Immovable Property

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

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

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

4. 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 State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be

expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere, taking into consideration any applicable law or regulations.

4. Insofar 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 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 Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

Shipping And Air Transport

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic include profits from the rental on a bareboat basis of ships or aircraft, where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

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

Article 9

ASSOCIATED ENTERPRISES

1. Where:

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

b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State — and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have

accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10

Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State who is the beneficial owner of such dividends shall be taxable only in that other State.

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

- a) 0 % of the gross amount of the dividends if the beneficial owner is the other Contracting State or any governmental institution or any entity being a resident of the other Contracting State under the provisions of subparagraphs a)-c) of paragraph 2 of Article 4;
- b) 5% of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10% of the capital of the company paying the dividends;
- c) 10% of the gross amount of the dividends in all other cases.

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

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

3. The provisions of paragraph 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein 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 shall apply.

Article 11
INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State who is the beneficial owner of such interest shall be taxable in that other Contracting State.
2. However, such interest may also be taxed in the other Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is the resident of the other Contracting State, the tax shall not exceed 10% of the gross amount of the interest.
3. Notwithstanding the provisions of paragraphs 1 and 2, interest arising in a Contracting State shall exempt from Tax if derived by a resident of the other Contracting State as defined in paragraph 2 of Article 4.
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 income which is subjected to the same taxation treatment as income from money lent by the taxation laws of the Contracting State in which the income arises. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
5. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14 shall apply.
6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment 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 State 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 State, due regard being had to the other provisions of this Convention.

Article 12
ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State.
2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that Contracting State, but if the beneficial owner of the royalties is a resident of the other Contracting State the tax shall not exceed 10% of the gross amount of such 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 State, carries on business in the other Contracting State 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 or fixed base. In such case the provisions of Article 7 or Article 14 shall apply.
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 royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13
Capital Gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other

Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.

3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships, aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

Article 14

Independent Personal Services

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

a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or

b) if his stay in the other Contracting State 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 fiscal year concerned; in that case only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities, as well as the independent activities of physicians, dentists, lawyers, engineers, architects, auditors and accountants.

Article 15

Dependent Personal Services

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21, 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 Contracting State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived there from may be taxed in that other Contracting State.

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

- a) the resident is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned;

- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Contracting State;
- c) the remuneration is not borne by a permanent establishment or a fixed base, which the employer has in the other Contracting State.

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 State shall be taxable only in that Contracting State.

4. Ground staff appointed from head office of national air carrier of a Contracting State to the other Contracting State shall be exempted from taxes levied on their remunerations in that other Contracting State.

Article 16 Directors' Fees

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or other similar organ of a company which is a resident of the other Contracting State shall be taxable only in the first-mentioned Contracting State.

Article 17 Artistes and Sportsmen

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

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

3. The provisions of paragraphs 1 and 2 shall not apply to income derived by entertainers or sportsmen who are residents of a Contracting State from personal activities as such exercised in the other Contracting State if their visit to that other Contracting State is substantially supported from the public funds of the first-mentioned Contracting State, including those of any political subdivision, a local authority or statutory body thereof, nor to income derived by a non-profit making organization in respect of such activities provided

no part of its income is payable to, or is otherwise available for the personal benefit of its proprietors, founders or members.

Article 18

Pensions and Annuities

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

Article 19

Government Service

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

Article 20

Teachers and Researchers

An individual who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who, at the invitation of the Government of the first-mentioned Contracting State or of a university, college, school, museum or other cultural institution in

that first-mentioned Contracting State or under an official programme of cultural exchange, is present in that Contracting State for a period not exceeding two consecutive years solely for the purpose of teaching, giving lectures or carrying out research at such institution shall be exempt from tax in that Contracting State on his remuneration for such activity.

Article 21

Students and Trainees

1. Payments which a student or business trainee who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that Contracting State.

2. Notwithstanding the provisions of paragraph 1, remuneration which a student or business trainee who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting State solely for the purpose of his education or training derives from temporary services rendered in the first-mentioned Contracting State shall not be taxed in that Contracting State, provided that such services are in connection with his education or training and that the remuneration for such services is necessary to supplement the resources available to him for the purpose of his maintenance.

Article 22

Other Income

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

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein or performs in that other State independent personal services from a fixed base situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 or Article 15, as the case may be shall apply.

Article 23
Capital

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other Contracting State.
2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other Contracting State.
3. Capital represented by ships and aircraft operated in international traffic by an enterprise of a Contracting State and by movable property pertaining to the operation of such ships, aircraft, boats and, shall be taxable only in that Contracting State.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that Contracting State.

Article 24
Elimination of Double Taxation

1. The laws in force in either of the Contracting States shall continue to govern the taxation in the respective Contracting State except where provisions to the contrary are made in this Convention.
2. It is agreed that double taxation shall be avoided in accordance with the following paragraphs of this Article:

a) in the case of Albania:

Where a resident of Kuwait derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in both Albania and Kuwait, Albania shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Kuwait and as a deduction from the tax on the capital of that resident an amount equal to the capital tax paid in Kuwait ;

Such deduction in either case shall not, however, exceed that part of the tax on income or on capital, 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 Kuwait;

b) in the case of Kuwait:

Where a resident of Kuwait derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in both Kuwait and Albania, Kuwait shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Albania and as a deduction from the tax on the capital of that resident an amount equal to the capital tax paid in Albania.

Such deduction in either case shall not, however, exceed that part of the tax on income or on capital, 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 Albania ;

3. For the purposes of allowance as a credit in a Contracting State, the tax paid in the other Contracting State shall include the tax which is otherwise payable in that other Contracting State, but has been waived or reduced in accordance with the special investment incentive law or measures designed to promote economic development in that other Contracting State.

Article 25

Non-Discrimination

1. Individuals possessing the nationality of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is more burdensome than the taxation and connected requirements to which individuals possessing the nationality of that other Contracting State in the same circumstances are or may be subjected.

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

3. 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 the capital of which is wholly or partly owned or controlled directly or indirectly by one or more residents of any third states are or may be subjected.

4. Except where the provisions of paragraph 1 of Article 9, paragraph 4 of Article 11, or paragraph 4 of Article 12, or paragraph 2 of Article 13 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned Contracting State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned Contracting State.

5. Nothing in this Article shall be interpreted as imposing a legal obligation on a Contracting State to extend to the residents of the other Contracting State, the benefit of any treatment, preference or privilege which may be accorded to any third state or its residents by virtue of the formation of a customs union, economic union, a free trade area or any regional or sub-regional arrangement relating wholly or mainly to taxation or movement of capital to which such the first-mentioned Contracting State may be a party.

6. In this Article, the term "taxation" means taxes, which are the subject of this Convention.

Article 26

Mutual Convention Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those Contracting States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Convention.

2. The competent authority shall endeavor, 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 convention with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Convention. Any convention 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 endeavor to resolve by mutual convention any difficulties or doubts arising as to the interpretation or application of this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention.

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

Article 27

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation there under is not contrary to this Convention. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that Contracting State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by this Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

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

Article 28

Miscellaneous Rules

1. The provisions of this Convention shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit or other allowance now or hereafter accorded either:
 - a) by the laws of a Contracting State in the determination of the tax imposed by that Contracting State;
 - b) by any other special arrangement on taxation in connection with the economic or technical cooperation between the Contracting States.
2. The competent authorities of each Contracting State may prescribe regulations in order to carry out the provisions of this Convention.

Article 29

Members of Diplomatic Missions and Consular Posts

Nothing in this Convention shall affect the fiscal privileges of members of a diplomatic mission, a consular post or an international organization under the general rules of international law or under the provisions of special conventions.

Article 30

Entry into Force

Each of the Contracting States shall notify to the other the completion of its constitutional procedures for the entry into force of this Convention. This Convention shall enter into force on the date of the later of these notifications and its provisions shall thereupon have effect in both Contracting States:

- a) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January of the year in which this Convention enters into force;
- b) in respect of other taxes, for taxable periods beginning on or after the first day of January of the year in which this Convention enters into force.

Article 31

Duration and Termination

This Convention shall remain in force for a period of five years and shall continue in force thereafter for a similar period or periods unless either Contracting State notifies the other in writing, six months before the expiry of the initial or any subsequent period, of its intention

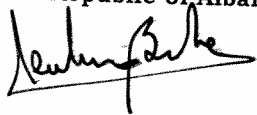
to terminate this Convention. In such event, this Convention shall cease to have effect in both Contracting States:

- a) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January of the year next following that in which the notice of termination is given;
- b) in respect of other taxes, for taxable periods beginning on or after the first day of January of the year next following that in which the notice of termination is given.

In WITNESS WHEREOF the respective plenipotentiaries of both Contracting States have signed this Convention.

Done at Kuwait City this 4th day of 1 142 H corresponding to the 4th day of April 2010, in two originals, in the Albanian, Arabic and English languages, all texts being equally authentic. In case of divergence, the English text shall prevail.

**For the Council of Ministers
of the Republic of Albania**



**For the Government of
the State of Kuwait**

