

SUPPLEMENTARY PROTOCOL

AMENDING THE AGREEMENT

BETWEEN

THE GOVERNMENT OF THE SULTANATE OF OMAN

AND

THE GOVERNMENT OF THE REPUBLIC

OF SOUTH AFRICA

FOR THE AVOIDANCE OF DOUBLE TAXATION

AND

THE PREVENTION OF FISCAL EVASION

WITH RESPECT TO TAXES ON INCOME,

WITH PROTOCOL

The Government of the Sultanate of Oman and the Government of the Republic of South Africa, desiring to amend the Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, with Protocol, signed at Muscat, Oman on 9 October 2002 (in this Protocol referred to as “the Agreement”),

HAVE AGREED as follows:

Article 1

Sub-paragraph (b) of paragraph (3) of Article 2 of the Agreement shall be replaced by the following:

“(b) in the case of the Sultanate of Oman:
the income tax;
(hereinafter referred to as "Omani tax");”

Article 2

Paragraph 6 of Article 8 of the Agreement shall cease to be effective in respect of the income derived by Gulf Air on or after 6 November 2007.

Article 3

Article 10 of the Agreement shall be deleted and replaced by the following:

“Article 10

Dividends

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

- a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds at least 10 per cent of the capital of the company paying the dividends; or
- b) 10 per cent of the gross amount of the dividends in all other cases.

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.

3. Notwithstanding the provisions of paragraph 2, dividends paid by a company which is a resident of a Contracting State to the Government of the other Contracting State shall be exempt from tax in the first-mentioned State.
4. For the purposes of paragraph 3, the term "Government" shall include:
 - (a) in the case of the Sultanate of Oman:
 - (i) the Central Bank of Oman;
 - (ii) the State General Reserve Fund;
 - (iii) the Omani Investment Fund; and
 - (v) any other statutory body or institution wholly owned by the Government of the Sultanate of Oman, as may be agreed from time to time between the competent authorities of the Contracting States.
 - (b) in the case of South Africa:
 - (i) the South African Reserve Bank; and
 - (ii) any other statutory body or institution wholly owned by the Government of the Republic of South Africa, as may be agreed from time to time between the competent authorities of the Contracting States.
5. The term "dividends" as used in this Article means income from shares or other rights participating in profits (not being debt-claims), as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the Contracting State of which the company making the distribution is a resident.

6. The provisions of paragraphs 1 and 2 of this Article 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. In such case the provisions of Article 7 shall apply.
7. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other Contracting State may not impose any tax on the dividends paid by the company, except in so far as such dividends are paid to a resident of that other Contracting State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other Contracting State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other Contracting State.
8. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the shares or other rights in respect of which the dividend is paid to take advantage of this Article by means of that creation or assignment.”

Article 4

Subparagraph (ii) of paragraph 3 of the Protocol to the Agreement shall be deleted

Article 5

1. Each of the Contracting States shall notify to the other in writing, through the diplomatic channel, of the completion of the procedures required by its law for the bringing into force of this Supplementary Protocol, which shall form an integral part of the Agreement. The Supplementary Protocol shall enter into force on the date of receipt of the later of these notifications.
2. (a) Subject to subparagraph (b), the provisions of the Supplementary Protocol shall thereupon have effect beginning on the first day of January next following the year in which the Supplementary Protocol enters into force.

(b) Articles 2 and 3 of the Supplementary Protocol shall thereupon have effect beginning on the date on which a system of taxation at shareholder level of dividends declared enters into force in South Africa.

Article 6

This Supplementary Protocol shall remain in force for as long as the Agreement remains in force.

IN WITNESS WHEREOF, the undersigned, duly authorised thereto by their respective Governments, have signed this Supplementary Protocol.

DONE at Muscat on this 19 day of Dhul-Hijja 1432 H corresponding to the 15 day of November 2011 in two identical originals in the Arabic and English languages, both texts being equally authoritative. In case of divergence of interpretation between the texts, the English text shall prevail.

**FOR THE GOVERNMENT OF THE
SULTANATE OF OMAN**

**FOR THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA**