**Synthesised text of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) and the Convention between the Republic of Kazakhstan and the Republic of Latvia for the Avoidance of Double Taxation and the prevention of**   
**fiscal evasion with respect to Taxes on Income and on Capital**

This document presents the synthesised text for the application, in respect of relations between the Republic of Kazakhstan and the Republic of Latvia, of the Convention between the Republic of Kazakhstan and the Republic of Latvia for the Avoidance of Double Taxation and the prevention of fiscal evasion with respect to Taxes on Income and on Capital signed on September 6, 2001 (the “Convention”), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by the Republic of Kazakhstan on June 25, 2018 and the Republic of Latvia on June 7, 2017 (the “MLI”).

The document was prepared on the basis of the MLI position of the Republic of Kazakhstan submitted to the Depositary upon ratification on June 24, 2020 and of the MLI position of the Republic of Latvia submitted to the Depositary upon ratification on October 29, 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 sole purpose of this document is to facilitate the understanding of the application of the MLI to the Convention and the document does not constitute a source of law. 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.

In this document, 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 changes from “Covered Tax Agreement” to “Convention” and changes from “Contracting Jurisdiction” to “Contracting State”). Similarly, changes have been made to parts of provisions of the MLI that describe existing provisions of the Convention by replacing such descriptive language with the article and paragraph numbers or language of the existing provisions. These changes are intended to increase the readability of the document and are not intended to change the substance of the provisions of the MLI

The provisions of the MLI applicable to the 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 Republic of Kazakhstan and the Republic of Latvia in their MLI positions.

Entry into force and entry into effect of the MLI

The MLI enters into force for the Republic of Latvia on February 1, 2020 and for the Republic of Kazakhstan on October 1, 2020 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 January 1, 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 April 1, 2021.

(b) Notwithstanding (a), Article 16 (Mutual Agreement Procedure) of the MLI shall have effect with respect to the Convention for a case presented to the competent authority of a Contracting State on or after October 1, 2020, except for cases that were not eligible to be presented as of that date under the Convention prior to its modification by the MLI, without regard to the taxable period to which the case relates.

**CONVENTION BETWEEN**

**THE REPUBLIC OF KAZAKHSTAN AND  
THE REPUBLIC OF LATVIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION  
WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

The Government of the Republic of Kazakhstan and the Government of the Republic of Latvia,

**[MODIFIED by paragraph 1 of Article 6 of the MLI]** desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,

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| *The following preamble text described in paragraph 1 of Article 6 of the MLI is included in the preamble of the Convention:*  ARTICLE 6 – PURPOSE OF A COVERED TAX AGREEMENT  Intending to eliminate double taxation with respect to the taxes covered by the 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:

**Article 1**

**Personal scope**

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

**Article 2**

**Taxes covered**

1.http://online.ibfd.org/images/spacer.gifThis Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its local authorities, irrespective of the manner in which they are levied.

2.http://online.ibfd.org/images/spacer.gifThere 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, as well as taxes on capital appreciation.

3.http://online.ibfd.org/images/spacer.gifThe existing taxes to which the Convention shall apply are in particular:

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| (a) | in Kazakhstan:   |  |  | | --- | --- | | http://online.ibfd.org/images/spacer.gif |  | | (i) | the tax on income of legal persons and individuals; | | (ii) | the tax on the property of legal persons and individuals |   (hereinafter referred to as "Kazakhstan tax"); |
| (b) | in Latvia:   |  |  | | --- | --- | | http://online.ibfd.org/images/spacer.gif |  | | (i) | the enterprise income tax (uznemumu ienakuma nodoklis); | | (ii) | the personal income tax (iedzivotaju ienakuma nodoklis) | | (iii) | the property tax (ipasuma nodoklis) |   (hereinafter referred to as "Latvian tax"). |

4.http://online.ibfd.org/images/spacer.gifThe Convention shall apply also to any identical or substantially similar taxes which 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 which have been made in their respective taxation laws.

**Article 3**

**General definitions**

1.http://online.ibfd.org/images/spacer.gifFor the purposes of this Convention, unless the context otherwise requires:

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| (a) | the terms "a Contracting State" and "the other Contracting State" mean Kazakhstan or Latvia, as the context requires; |
| (b) | the term:   |  |  | | --- | --- | | http://online.ibfd.org/images/spacer.gif |  | | (i) | "Kazakhstan" means the Republic of Kazakhstan. When used in a geographical sense, the term "Kazakhstan" includes the territorial waters, and also the exclusive economic zone and continental shelf in which Kazakhstan, for certain purposes, may exercise sovereign rights and jurisdiction in accordance with international law and in which the laws relating to Kazakhstan tax are applicable; | | (ii) | "Latvia" means the Republic of Latvia and, when used in the geographical sense, means the territory of the Republic of Latvia and any other area adjacent to the territorial waters of the Republic of Latvia within which, under the laws of Latvia and in accordance with international law, the rights of Latvia may be exercised with respect to the sea bed and its sub-soil and their natural resources; | |
| (c) | the term "person" includes an individual, a company and any other body of persons; |
| (d) | the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes; |
| (e) | 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; |
| (f) | the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State; |
| (g) | the term "competent authority" means:   |  |  | | --- | --- | | http://online.ibfd.org/images/spacer.gif |  | | (i) | in Kazakhstan, the Ministry of Finance or its authorised representative; | | (ii) | in Latvia, the Minister of Finance or his authorised representative; | |
| (h) | the term "national" means:   |  |  | | --- | --- | | http://online.ibfd.org/images/spacer.gif |  | | (i) | any individual possessing the nationality of a Contracting State; | | (ii) | any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State. | |

2.http://online.ibfd.org/images/spacer.gifAs 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 which it has at that time under the law of that State concerning the taxes to which the Convention applies.

**Article 4**

**Resident**

1.http://online.ibfd.org/images/spacer.gifFor the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature. The term shall also include the Government of that Contracting State or a local authority thereof. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

2.http://online.ibfd.org/images/spacer.gifWhere 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:

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| (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 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 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 of the State of which he is a national; |
| (d) | if the status of a resident cannot be determined according to subparagraphs (a)--(e), the competent authorities of the Contracting States shall settle the question by mutual agreement. |

3.http://online.ibfd.org/images/spacer.gifWhere by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement and determine the mode of application of the Convention to such person. In the absence of such agreement, for the purposes of the Convention, the person shall in each Contracting State be deemed not to be a resident of the other Contracting State.

**Article 5**

**Permanent establishment**

1.http://online.ibfd.org/images/spacer.gifFor 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.http://online.ibfd.org/images/spacer.gifThe term "permanent establishment" includes especially:

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| (a) | a place of management; |
| (b) | a branch; |
| (c) | an office; |
| (d) | a factory; |
| (e) | a workshop, and |
| (f) | a mine, an oil or gas well, a quarry or any other place of extraction of natural resources. |

3.http://online.ibfd.org/images/spacer.gifThe term "permanent establishment" also includes:

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| (a) | a building site, a construction, assembly or installation project, or supervisory or consultancy activity connected therewith, only if such site, project or activity lasts for a period of more than six months; |
| (b) | an installation or structure, including a drilling rig, used for the exploration of natural resources, or supervisory activity connected therewith, only if such use or activity lasts for a period of more than six months. |

4.http://online.ibfd.org/images/spacer.gifNotwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

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| (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. |

5.http://online.ibfd.org/images/spacer.gifNotwithstanding the provisions of paragraphs 1 and 2, where a person -- other than an agent of an independent status to whom paragraph 6 applies -- is acting 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 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6.http://online.ibfd.org/images/spacer.gifAn 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.

7.http://online.ibfd.org/images/spacer.gifThe 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.http://online.ibfd.org/images/spacer.gifIncome 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.http://online.ibfd.org/images/spacer.gifThe 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, any option or similar right to acquire immovable property, 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.http://online.ibfd.org/images/spacer.gifThe provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property, as well as income from the alienation of immovable property.

4.http://online.ibfd.org/images/spacer.gifWhere the ownership of shares or other corporate rights in a company entitles the owner of such shares or corporate rights to the enjoyment of immovable property held by the company, the income from direct use, letting, or use in any other form of such right to enjoyment may be taxed in the Contracting State in which the immovable property is situated.

5.http://online.ibfd.org/images/spacer.gifThe provisions of paragraphs 1, 3 and 4 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.http://online.ibfd.org/images/spacer.gifThe profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on or has carried on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on or has carried 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.http://online.ibfd.org/images/spacer.gifSubject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on or has carried 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.http://online.ibfd.org/images/spacer.gifIn 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. The expenses to be allowed as deductions by a Contracting State shall include only expenses that are deductible under the domestic laws of that State. However, no such deduction shall be allowed in respect of amounts, if any, paid by the permanent establishment to the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in [the] case of a banking enterprise, by way of interest on moneys lent to the permanent establishment.

4.http://online.ibfd.org/images/spacer.gifInsofar as it has been customary in 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.http://online.ibfd.org/images/spacer.gifNo 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.http://online.ibfd.org/images/spacer.gifFor 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.http://online.ibfd.org/images/spacer.gifWhere 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.http://online.ibfd.org/images/spacer.gifProfits 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.http://online.ibfd.org/images/spacer.gifThe provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

**Article 9**

**Associated enterprises**

1.http://online.ibfd.org/images/spacer.gifWhere

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| (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.http://online.ibfd.org/images/spacer.gifWhere 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.http://online.ibfd.org/images/spacer.gifDividends 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.

2.http://online.ibfd.org/images/spacer.gifHowever, 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 State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

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| (a) | 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends; |
| (b) | 15 per cent of the gross amount of the dividends in all other cases. |

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

3.http://online.ibfd.org/images/spacer.gifThe term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4.http://online.ibfd.org/images/spacer.gifThe provisions of paragraphs 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, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 (Business profits) or Article 14 (Independent personal services), as the case may be, shall apply.

5.http://online.ibfd.org/images/spacer.gifWhere a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State.

6.http://online.ibfd.org/images/spacer.gifA company which is a resident of a Contracting State and which has a permanent establishment in the other Contracting State may be subject in that other State to tax in addition to the tax on profits attributable to that permanent establishment. Such tax, however, may not exceed 5 per cent of the portion of the profits of the company subject to tax in the other Contracting State.

**Article 11**

**Interest**

1.http://online.ibfd.org/images/spacer.gifInterest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2.http://online.ibfd.org/images/spacer.gifHowever, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3.http://online.ibfd.org/images/spacer.gifNotwithstanding the provisions of paragraph 2, interest arising in a Contracting State, derived and beneficially owned by the Government of the other Contracting State, including local authorities thereof, the Central Bank or any financial institution wholly owned by that Government, or interest derived on loans guaranteed by that Government shall be exempt from tax in the first-mentioned State.

4.http://online.ibfd.org/images/spacer.gifThe term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5.http://online.ibfd.org/images/spacer.gifThe provisions of paragraphs 1, 2 and 3 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, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 (Business profits) or Article 14 (Independent personal services), as the case may be, shall apply.

6.http://online.ibfd.org/images/spacer.gifInterest 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 or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7.http://online.ibfd.org/images/spacer.gifWhere, 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.http://online.ibfd.org/images/spacer.gifRoyalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2.http://online.ibfd.org/images/spacer.gifHowever, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3.http://online.ibfd.org/images/spacer.gifThe 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 and films or tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4.http://online.ibfd.org/images/spacer.gifThe 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, 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 royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 (Business profits) or Article 14 (Independent personal services), as the case may be, shall apply.

5.http://online.ibfd.org/images/spacer.gifRoyalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6.http://online.ibfd.org/images/spacer.gifWhere, 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.http://online.ibfd.org/images/spacer.gifGains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 (Income from immovable property) and situated in the other Contracting State or shares in a company the assets of which consist mainly of such property or an interest in a partnership or trust, the value of which is derived principally from immovable property situated in the other Contracting State, may be taxed in that other State.

2.http://online.ibfd.org/images/spacer.gifGains 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 or of 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, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3.http://online.ibfd.org/images/spacer.gifGains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic by that enterprise or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.

4.http://online.ibfd.org/images/spacer.gifGains 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.http://online.ibfd.org/images/spacer.gifIncome derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting State but only so much of it as is attributable to that fixed base. Where an individual who is a resident of a Contracting State stays in the other Contracting State for a period or periods exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned, he shall be deemed to have a fixed base regularly available to him in that other State and the income that is derived from his activities referred to above that are performed in that other State shall be attributable to that fixed base.

2.http://online.ibfd.org/images/spacer.gifThe term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

**Article 15**

**Dependent personal services**

1.http://online.ibfd.org/images/spacer.gifSubject to the provisions of Articles 16 (Directors' fees), 18 (Pensions), 19 (Government service) and 20 (Students, professors and researchers), 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.http://online.ibfd.org/images/spacer.gifNotwithstanding 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 State if:

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| (a) | the recipient is present in the other 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, and |
| (b) | the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and |
| (c) | the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State. |

3.http://online.ibfd.org/images/spacer.gifNotwithstanding 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 may be taxed in that 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 any other similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

**Article 17**

**Artistes and sportsmen**

1.http://online.ibfd.org/images/spacer.gifNotwithstanding the provisions of Articles 14 (Independent personal services) and 15 (Dependent personal services), income derived by a resident of a Contracting State as an entertainer, such as 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 State.

2.http://online.ibfd.org/images/spacer.gifWhere income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 (Business profits), 14 (Independent personal services) and 15 (Dependent personal services), be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3.http://online.ibfd.org/images/spacer.gifThe provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Contracting State by an entertainer or a sportsman if the visit to that State is wholly or mainly supported by public funds of one or both of the Contracting States or a local authority thereof. In such case, the income derived from these activities shall be taxable only in the Contracting State of which the entertainer or sportsman is a resident.

**Article 18**

**Pensions**

1.http://online.ibfd.org/images/spacer.gifSubject to the provisions of paragraph 2 of Article 19 (Government service), 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.

2.http://online.ibfd.org/images/spacer.gifAlimony and other similar amounts (including child support payments) arising in a Contracting State and paid to a resident of the other Contracting State

shall be taxable only in that other State.

**Article 19**

**Government service**

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| 1.(a) | Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a local authority thereof to an individual in respect of services rendered to that State or authority shall be taxable only in that 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 State and the individual is a resident of that State who:   |  |  | | --- | --- | | http://online.ibfd.org/images/spacer.gif |  | | (i) | is a national of that State; or | | (ii) | did not become a resident of that State solely for the purpose of rendering the services. | |

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| 2.(a) | Any pension paid by, or out of funds created by, a Contracting State or a local authority thereof to an individual in respect of services rendered to that State or authority shall be taxable only in that State. |
| (b) | However, such pension shall be taxable only in the other Contracting State if the individual is a resident of that State. |

3.http://online.ibfd.org/images/spacer.gifThe provisions of Articles 15 (Dependent personal services), 16 (Directors' fees) and 18 (Pensions) 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 local authority thereof.

**Article 20**

**Students, professors and researchers**

1.http://online.ibfd.org/images/spacer.gifPayments which a student, an apprentice or a 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 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 State, provided that such payments arise from sources outside that State.

2.http://online.ibfd.org/images/spacer.gifAn individual who visits a Contracting State for the purpose of teaching or carrying out research at a university, college or other recognised educational or scientific institution in that Contracting State and who is or was immediately before that visit a resident of the other Contracting State, shall be exempted from taxation in the first-mentioned Contracting State on remuneration for such teaching or research for a period not exceeding two years from the date of his first visit for that purpose.

3.http://online.ibfd.org/images/spacer.gifThe provisions of paragraph 2 shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

**Article 21**

**Offshore activities**

1.http://online.ibfd.org/images/spacer.gifThe provisions of this Article shall apply notwithstanding the provisions of Articles 4 to 20 of this Convention.

2.http://online.ibfd.org/images/spacer.gifA person who is a resident of a Contracting State and carries on activities offshore in the other Contracting State in connection with the exploration or exploitation of the sea bed and sub-soil and their natural resources situated in that other State shall, subject to paragraphs 3 and 4, be deemed in relation to those activities to be carrying on business in that other State through a permanent establishment or fixed base situated therein.

3.http://online.ibfd.org/images/spacer.gifThe provisions of paragraph 2 shall not apply where the activities are carried on for a period or periods not exceeding 30 days in the aggregate in any twelve-month period. However, for the purposes of this paragraph:

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| (a) | activities carried on by a person associated with another person shall be regarded as carried on by the other person if the activities in question are substantially the same as those carried on by the first-mentioned person, except to the extent that those activities are carried on at the same time as its own activities; |
| (b) | a person shall be deemed to be associated with another person if one is controlled directly or indirectly by the other, or both are controlled directly or indirectly by a third person or third persons. |

4.http://online.ibfd.org/images/spacer.gifProfits derived by a resident of a Contracting State from the transportation of supplies or personnel to a location, or between locations, where activities in connection with the exploration or exploitation of the sea bed and sub-soil and their natural resources are being carried on in a Contracting State, or from the operation of tugboats and other vessels auxiliary to such activities, shall be taxable only in the first-mentioned State.

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| 5.(a) | Subject to subparagraph (b) of this paragraph, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment connected with the exploration or exploitation of the sea bed and sub-soil and their natural resources situated in the other Contracting State may, to the extent that the duties are performed offshore in that other State, be taxed in that other State. However, such remuneration shall be taxable only in the first-mentioned State if the employment is carried on offshore for an employer who is not a resident of the other State and for a period or periods not exceeding in the aggregate 30 days in any twelve-month period. |
| (b) | Salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft engaged in the transportation of supplies or personnel to a location, or between locations, where activities connected with the exploration or exploitation of the sea bed and sub-soil and their natural resources are being carried on in the other Contracting State, or in respect of an employment exercised aboard tugboats or other vessels operated auxiliary to such activities, may be taxed in the Contracting State of which the employer is a resident. |

6.http://online.ibfd.org/images/spacer.gifGains derived by a resident of a Contracting State from the alienation of:

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| (a) | exploration or exploitation rights; or |
| (b) | property situated in the other Contracting State and used in connection with the exploration or exploitation of the sea bed and sub-soil and their natural resources situated in that other State; or |
| (c) | shares deriving their value or the greater part of their value directly or indirectly from such rights or such property or from such rights and such property taken together |

may be taxed in that other State.

In this paragraph "exploration or exploitation rights" means rights to assets to be produced by the exploration or exploitation of the sea bed and sub-soil and their natural resources in the other Contracting State, including rights to interests in or to the benefit of such assets.

**Article 22**

**Other income**

1.http://online.ibfd.org/images/spacer.gifItems 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.http://online.ibfd.org/images/spacer.gifThe provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6 (Income from immovable property), 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 or fixed base. In such case the provisions of Article 7 (Business profits) or Article 14 (Independent personal services), as the case may be, shall apply.

**Article 23**

**Capital**

1.http://online.ibfd.org/images/spacer.gifCapital represented by immovable property referred to in Article 6 (Income from immovable property), owned by a resident of a Contracting State and situated in the other Contracting State may be taxed in that other State.

2.http://online.ibfd.org/images/spacer.gifCapital 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 State.

3.http://online.ibfd.org/images/spacer.gifCapital 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 and aircraft, shall be taxable only in that Contracting State.

4.http://online.ibfd.org/images/spacer.gifAll other elements of capital of a resident of a Contracting State shall be taxable only in that State.

**Article 24**

**Elimination of double taxation**

1.http://online.ibfd.org/images/spacer.gifIn the case of Kazakhstan, double taxation shall be avoided as follows:

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| (a) | Where a resident of Kazakhstan derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Latvia, Kazakhstan shall allow:   |  |  | | --- | --- | | http://online.ibfd.org/images/spacer.gif |  | | (i) | as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Latvia; | | (ii) | as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in Latvia. |     Such deduction shall not, however, exceed that amount which would be calculated in accordance with the provisions and rates applicable in Kazakhstan, if the above-mentioned income was derived, or capital owned, in Kazakhstan. |
| (b) | Where a resident of Kazakhstan derives income or owns capital which, in accordance with the provisions of this Convention, shall be taxable only in Latvia, Kazakhstan may include this income or capital in the tax base but only for purposes of determining the rate of tax on such other income or capital as is taxable in Kazakhstan. |

2.http://online.ibfd.org/images/spacer.gifIn the case of Latvia, double taxation shall be avoided as follows:

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| (a) | Where a resident of Latvia derives income or owns capital which, in accordance with this Convention, may be taxed in Kazakhstan, unless a more favourable treatment is provided in its domestic law, Latvia shall allow:   |  |  | | --- | --- | | http://online.ibfd.org/images/spacer.gif |  | | (i) | as a deduction from the tax on the income of that resident, an amount equal to the income tax paid thereon in Kazakhstan; | | (ii) | as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid thereon in Kazakhstan. |     Such deduction in either case shall not, however, exceed that part of the income tax or capital tax in Latvia, 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 Kazakhstan. |
| (b) | For the purposes of subparagraph (a) of this paragraph, where a company that is a resident of Latvia receives a dividend from a company that is a resident of Kazakhstan in which it owns at least 10 per cent of its shares having full voting rights, the tax paid in Kazakhstan shall include not only the tax paid on [the] dividend, but also the tax paid on the underlying profits of the company out of which the dividend was paid. |

**Article 25**

**Non-discrimination**

1.http://online.ibfd.org/images/spacer.gifNationals 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, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1 (Personal scope), also apply to persons who are not residents of one or both of the Contracting States.

2.http://online.ibfd.org/images/spacer.gifStateless persons who are residents of a Contracting State shall not be subjected in either 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 the State concerned in the same circumstances, are or may be subjected.

3.http://online.ibfd.org/images/spacer.gifThe 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.http://online.ibfd.org/images/spacer.gifExcept where the provisions of paragraph 1 of Article 9 (Associated enterprises), paragraph 7 of Article 11 (Interest), or paragraph 6 of Article 12 (Royalties), 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 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 State.

5.http://online.ibfd.org/images/spacer.gifEnterprises 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 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 the first-mentioned State are or may be subjected.

6.http://online.ibfd.org/images/spacer.gifThe provisions of this Article shall, notwithstanding the provisions of Article 2 (Taxes covered), apply to taxes of every kind and description.

**Article 26**

**Mutual agreement procedure**

1.http://online.ibfd.org/images/spacer.gifWhere 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 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 (Non-discrimination), 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 the Convention.

2.http://online.ibfd.org/images/spacer.gifThe competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3.http://online.ibfd.org/images/spacer.gifThe 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.http://online.ibfd.org/images/spacer.gifThe competent authorities of the Contracting States 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 States.

**Article 27**

**Exchange of information**

1.http://online.ibfd.org/images/spacer.gifThe 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 the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1 (Personal scope). 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 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 the 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.http://online.ibfd.org/images/spacer.gifIn no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

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| (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 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). |

3.http://online.ibfd.org/images/spacer.gifThe competent authorities of the Contracting States may conclude an additional agreement in order to establish [the] necessary procedure for the implementation of the provisions of this Article.

**Article 28**

**Limitation of benefits**

Notwithstanding any other provision of this Convention, a resident of a Contracting State shall not receive the benefit of any reduction in or exemption from taxes provided for in this Convention by the other Contracting State if the main purpose or one of the main purposes of the creation or existence of such resident or any person connected with such resident was to obtain the benefits under this Convention that would not otherwise be available.

*The following paragraph 1 of Article 7 of the MLI applies and supersede the provisions of this Convention:*

ARTICLE 7 – PREVENTION OF TREATY ABUSE

(*Principal purpose test provision*)

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

**Article 29**

**Members of diplomatic missions and consular posts**

Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

**Article 30**

**Entry into force**

1.http://online.ibfd.org/images/spacer.gifThe Governments of the Contracting States shall notify each other when the constitutional requirements for the entry into force of this Convention have been complied with.

2.http://online.ibfd.org/images/spacer.gifThe Convention shall enter into force on the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect in both Contracting States:

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| (a) | in respect of taxes withheld at source, on income derived on or after the first day of January in the calendar year next following the year in which the Convention enters into force; |
| (b) | in respect of other taxes on income, and taxes on capital, for taxes chargeable for any fiscal year beginning on or after the first day of January in the calendar year next following the year in which the Convention enters into force. |

**Article 31**

**Termination**

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through [the] diplomatic channel, by giving written notice of termination at least six months before the end of any calendar year. In such event, the Convention shall cease to have effect in both Contracting States:

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| http://online.ibfd.org/images/spacer.gif |  |
| (a) | in respect of taxes withheld at source, on income derived on or after the first day of January in the calendar year next following the year in which the notice is given; |
| (b) | in respect of other taxes on income, and taxes on capital, for taxes chargeable for any fiscal year beginning on or after the first day of January in the calendar year next following the year in which the notice is given. |

Identifying, below signed, having the power, signed present Convention.[sic]

Done in duplicate at ... this 6th day of September 2001 in the Kazakh, Latvian, Russian and English languages, all texts being equally authentic. In the case of divergence of interpretation the English text shall prevail.

**Protocol**

At the signing of the Convention between the Republic of Kazakhstan and the Republic of Latvia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (hereinafter referred to as "the Convention") the undersigned have agreed upon the following provision which forms an integral part of the Convention.

**With reference to paragraph 6 of Article 10 (Dividends):**

As long as the additional tax on profits referred to in paragraph 6 is not levied in accordance with the domestic legislation of both Contracting States, the provisions of paragraph 6 of Article 10 (Dividends) are not applicable. In the case of implementation of such tax in both Contracting States the competent authorities shall by mutual agreement determine the date from which the provisions of paragraph 6 shall be applicable in both Contracting States.

Identifying, below signed, having the power, signed present Protocol.[sic]

Done in duplicate at ... this 6th day of September 2001, in the Kazakh, Latvian, Russian and English languages, all texts being equally authentic. In the case of divergence of interpretation the English text shall prevail.