

Agreement

between

the State of Israel

and

the Federal Republic of Germany

for the Avoidance of Double Taxation and of Tax Evasion with

respect to Taxes on Income and on Capital

The State of Israel

and

the Federal Republic of Germany,

Desiring to promote their mutual economic relations by removing fiscal obstacles and to strengthen their cooperation in tax matters,

Have agreed as follows:

#### Article 1

##### Persons Covered

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

#### Article 2

##### Taxes Covered

(1) This Agreement shall apply to taxes on income and on capital imposed on behalf of a Contracting State, of a Land or a political subdivision or local authority thereof, 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 Agreement shall apply are in particular:

a) in Germany:

the income tax (Einkommensteuer),

the corporation tax (Körperschaftsteuer),  
the trade tax (Gewerbesteuer) and  
the capital tax (Vermögensteuer)  
including the supplements levied thereon

(hereinafter referred to as "German tax");

b) in Israel:

the income tax and company tax (including tax on capital gains),  
the profit tax on financial institutions and  
the tax imposed on gains from the alienation of property according to the Real Estate  
Taxation Law;

(hereinafter referred to as "Israeli tax").

(4) The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement 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 respective taxation laws.

### Article 3

#### General Definitions

(1) For the purposes of this Agreement, unless the context otherwise requires:

a) The term "Israel" means the State of Israel and when used in a geographical sense includes its territorial sea, as well as those maritime areas adjacent to the outer limit of the territorial sea, including seabed and subsoil thereof over which the State of Israel, in accordance with international law and the laws of the State of Israel, exercises its sovereign rights or jurisdiction;

b) the term "Germany" means the Federal Republic of Germany and when used in a geographical sense, includes the territory of the Federal Republic of Germany, as well as the area of the sea-bed, its subsoil and the superjacent water column adjacent to the

territorial sea, wherein the Federal Republic of Germany exercises sovereign rights or jurisdiction in conformity with international law and its national legislation for the purpose of exploring, exploiting, conserving and managing the living and non-living natural resources or for the production of energy from renewable sources;

- c) the terms "a Contracting State" and "the other Contracting State" mean Israel or Germany as the context requires;
- d) the term "person" includes an individual, a company, a trust and any other body of persons;
- e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- f) the term "enterprise" applies to the carrying on of any business;
- g) the term "business" includes the performance of professional services and of other activities of an independent character;
- h) 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 or an enterprise carried on by a resident of the other Contracting State;
- i) 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;
- j) the term "national" means:
  - aa) in respect of Germany

any German within the meaning of the Basic Law for the Federal Republic of Germany and any legal person, partnership and association deriving its status as such from the laws in force in the Federal Republic of Germany;

bb) in respect of Israel

any individual possessing the nationality of Israel and any legal person, partnership and association deriving its status as such from the laws in force in Israel;

k) the term "competent authority" means

aa) in the case of Germany the Federal Ministry of Finance or the agency to which it has delegated its powers;

bb) in the case of Israel the Minister of Finance or his authorised representative.

(2) As regards the application of the Agreement 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 Agreement 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 Agreement, 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, and also includes that State, a Land and any political subdivision or local authority thereof. This term, however, 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) 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 he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

#### Article 5

##### Permanent Establishment

(1) For the purposes of this Agreement, 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, an oil or gas well, a quarry or any other place of extraction of natural resources.

(3) A building site or construction or installation project, or an installation or drilling rig or ship used for the exploration of natural resources, constitutes a permanent establishment only if it lasts more than twelve months.

(4) 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 sub-paragraphs 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) Notwithstanding 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) 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.

(7) 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 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.

(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 Agreement, 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 the terms "profits from the operation of ships or aircraft in international traffic" shall include profits from

- a) the occasional rental of ships or aircraft on a bare-boat basis and
- b) the use or rental of containers (including trailers and ancillary equipment used for transporting the containers).

if these activities pertain to the operation of ships or aircraft in international traffic.

(3) If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

(4) The 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) 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 Agreement and the competent authorities of the Contracting States shall, if necessary, consult each other.

#### Article 10

##### Dividends and Distributions by a real estate investment company

(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 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 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 (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends;
- b) 10 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) Distributions made by a real estate investment company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State. However, such distributions may also be taxed in the Contracting State of which the real estate investment company making the distributions is a resident and according to the laws of that State, but if the beneficial owner of these distributions is a resident of the other Contracting State and holds directly less than 10% of the capital of that company the tax so charged shall not exceed 15% of the gross amount of the distributions.

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

(4) The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares, or other rights, not being debt-claims, participating in profits, or other income 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.

(5) The term "distributions by a real estate investment company" means distributions

- a) in the case of Germany by a real estate investment company, according to subsection 1 of section 1 of the German Act on German Real Estate Stock Corporations with Listed Shares (REIT Act),
- b) in the case of Israel by a real estate investment company according to Article 64A2 of the Israeli Income Tax Ordinance.

(6) The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the dividends or of the distributions by a real estate investment company, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends or making the distributions is a resident, through a permanent establishment situated therein and the holding in respect of which the dividends or distributions 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 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 situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

This paragraph shall apply also to distributions made by a real estate investment company.

## Article 11

### Interest

(1) Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

(2) However, 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 beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the interest.

(3) Notwithstanding the provisions of paragraph 2.

- a) interest arising in Germany in respect of a loan, debt-claim or credit guaranteed or insured by an institution for insurance or financing of international trade transactions

which is wholly owned by Israel or paid to the Government of Israel or the "Bank of Israel" shall be exempt from German tax;

- b) interest arising in Israel and paid in consideration of a loan guaranteed by Germany in respect of export or foreign direct investment or paid to the Government of Germany, the Deutsche Bundesbank, the Kreditanstalt für Wiederaufbau or the DEG - Deutsche Investitions- und Entwicklungsgesellschaft mbH shall be exempt from Israeli tax;
- c) interest arising in a Contracting State and paid to a resident of the other Contracting State on corporate bonds traded on a Stock Exchange in the first-mentioned State and which were issued by a company which is a resident of that first-mentioned State shall be exempt from tax in the first-mentioned State;
- d) interest arising in a Contracting State and paid to a pension fund which is a resident of the other Contracting State shall be exempt from tax in the first-mentioned State.

(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. This term shall not include elements of payments additional to the sales price arising from the sale on credit of any merchandise or industrial, commercial or scientific equipment and penalty charges for late payment. Furthermore, the term "interest" does not include income dealt with in Article 10.

(5) The provisions of paragraphs 1 to 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 and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 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 Agreement.

## Article 12

### Royalties

(1) Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State

(2) The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

(3) The provisions of paragraph 1 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. In such case the provisions of Article 7 shall apply.

(4) 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 Agreement.

### 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 derived by a resident of a Contracting State from the alienation of shares and similar rights deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

(3) 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.

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

(5) Gains from the alienation of any property other than that referred to in paragraphs 1 to 4, shall be taxable only in the Contracting State of which the alienator is a resident if that resident is the beneficial owner of such capital gains.

(6) Where a person was a resident of a Contracting State and has become a resident of the other Contracting State, paragraph 5 shall not prevent the first-mentioned State from taxing under its domestic law the accrued capital gains attributable to the property of that person at



the time of change of residence. In the case of subsequent alienation of such property the accrued capital gains attributable to such property up to the time of change of residence shall not be taxed in the other State.

#### Article 14 Income from Employment

(1) Subject to the provisions of Articles 15 to 18, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

- 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 which the employer has in the other 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 may be taxed in the Contracting State in which the place of effective management of the enterprise which operates the ship or aircraft is situated.

#### Article 15 Directors' Fees

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

## Article 16

### Artistes and Sportsmen

(1) Notwithstanding the provisions of Articles 7 and 14, 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 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 sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

(3) Paragraphs 1 and 2 shall not apply to income accruing from the exercise of activities by artistes or sportsmen in a Contracting State where the visit to that State is financed entirely or mainly from public funds of the other State, a Land, a political subdivision or a local authority thereof or by an organisation which is recognised in the other State as a charitable organisation or as a not-for-profit institution and which is not a resident of the first mentioned State. In such a case the income may be taxed only in the Contracting State of which the individual is a resident.

## Article 17

### Pensions, Annuities and Similar Payments

(1) Subject to the provisions of paragraph 2 of Article 18, pensions and similar payments or annuities paid to a resident of a Contracting State by a resident of the other Contracting State shall only be taxable in the first-mentioned State.

(2) Notwithstanding the provisions of paragraph 1, payments received by an individual being a resident of a Contracting State from the statutory social insurance of the other Contracting State shall be taxable only in that other State.

(3) Notwithstanding the provisions of paragraph 1, recurrent or non-recurrent payments made by one of the Contracting States or a political subdivision thereof to a person resident in the other Contracting State as compensation for political persecution or for an injury or damage sustained as a result of war (including restitution payments) or of military or civil alternative service or of a crime, vaccination or a similar event shall not be taxed in both Contracting States.

(4) The term "annuities" means certain amounts payable periodically at stated times, for life or for a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

#### Article 18

##### Government Service

(1) a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State, a Land, a political subdivision or a local authority thereof to an individual in respect of services rendered to that State, Land, political subdivision or local authority shall be taxable only in that State.

b) However, such salaries, wages and other remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and if the individual is a resident of that State who

aa) is a national of that State or

bb) did not become a resident of that State solely for the purpose of rendering the services.

(2) a) Any pension paid by, or out of funds created by, a Contracting State, a Land, a political subdivision or a local authority thereof to an individual in respect of

services rendered to that State, Land, political subdivision or local 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, and a national of, that State.

(3) The provisions of Articles 14, 15, 16, and 17 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, a Land, a political subdivision or a local authority thereof.

(4) The provisions of paragraphs 1 and 2 shall also apply in respect of salaries, wages and other similar remuneration and pensions paid to individuals in respect of services rendered to the Goethe Institute, the German Academic Exchange Service ("Deutscher Akademischer Austauschdienst") or to other comparable institutions mutually agreed by the Contracting States. If such remuneration is not taxed in the State where the institution was founded, the provisions of Article 14 shall apply.

(5) The provisions of paragraphs 1 and 2 shall also apply to salaries, wages and other similar remuneration and pensions paid to individuals by the „Association of Chambers of Industry and Commerce for the promotion of Foreign Economic Relations through the Network of Foreign Chambers of Commerce“ (IHK-Verband zur Förderung der Außenwirtschaft durch das AHK-Netz), in respect of services rendered to the "Chamber of Commerce and Industry Israel Germany", if the above mentioned remuneration is funded wholly from public funds.

#### Article 19

##### Visiting Professors, Teachers and Students

(1) An individual who visits a Contracting State at the invitation of that State or of a university, college, school, museum or other cultural institution of that State or under an official programme of cultural exchange for a period not exceeding two years solely for the purpose of teaching, giving lectures or carrying out research at such institution and who is, or was immediately before that visit, a resident of the other Contracting State shall be exempt from tax in the first-mentioned State on his remuneration for such activity, provided that such remuneration is derived by him from outside that State.

(2) Payments which a student or business apprentice 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.

Article 20  
Other Income

(1) Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement 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 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 shall apply.

Article 21  
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 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 may be taxed in that other State.

(3) Capital represented by ships and aircraft operated in international traffic and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(4) All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

## Article 22

### Elimination of Double Taxation in the State of Residence

(1) Tax shall be determined in the case of a resident of Germany as follows:

- a) Unless foreign tax credit is to be allowed under sub-paragraph b), there shall be exempted from the assessment basis of the German tax any item of income arising in Israel and any item of capital situated within Israel which, according to this Agreement, may be taxed in Israel.

In the case of items of income from dividends the preceding provision shall apply only to such dividends as are paid to a company (not including partnerships) being a resident of Germany by a company being a resident of Israel at least 10 per cent of the capital of which is owned directly by the German company and which were not deducted when determining the profits of the company distributing these dividends.

There shall be exempted from the assessment basis of the taxes on capital any shareholding the dividends of which, if paid, would be exempted according to the foregoing sentences.

- b) Subject to the provisions of German tax law regarding credit for foreign tax, there shall be allowed as a credit against German tax on income payable in respect of the following items of income the Israeli tax paid under the laws of Israel and in accordance with this Agreement:
- aa) dividends not dealt with in sub-paragraph a) and distributions made by a real estate investment company;
  - bb) interest;
  - cc) royalties;
  - dd) items of income that may be taxed in Israel according to paragraph 2 of Article 13;
  - ee) directors' fees;

- ff) items of income that may be taxed according to Article 16.
  
- c) The provisions of sub-paragraph b) shall apply instead of the provisions of sub-paragraph a) to items of income as defined in Articles 7 and 10 and to the assets from which such income is derived if the resident of Germany does not prove that the gross income of the permanent establishment in the business year in which the profit has been realised or of the company resident in Israel in the business year for which the dividends were paid was derived exclusively or almost exclusively from activities within the meaning of nos. 1 to 6 of paragraph 1 of section 8 of the German Law on External Tax Relations (Aussensteuergesetz); the same shall apply to immovable property used by a permanent establishment and to income from this immovable property of the permanent establishment (paragraph 4 of Article 6) and to profits from the alienation of such immovable property (paragraph 1 of Article 13) and of the movable property forming part of the business property of the permanent establishment (paragraph 3 of Article 13).
  
- d) Germany, however, retains the right to take into account in the determination of its rate of tax the items of income and capital, which are under the provisions of this Agreement exempted from German tax.
  
- e) Notwithstanding the provisions of sub-paragraph a) double taxation shall be avoided by allowing a tax credit as laid down in sub-paragraph b)
  - aa) if in the Contracting States items of income or capital are placed under differing provisions of this Agreement or attributed to different persons (except pursuant to Article 9) and this conflict cannot be settled by a procedure in accordance with paragraph 3 of Article 24 and if as a result of this difference in placement or attribution the relevant income or capital would remain untaxed or be taxed lower than without this conflict or
  
  - bb) if after due consultation with the competent authority of Israel Germany notifies Israel through diplomatic channels of other items of income to which it intends to apply the provisions of sub-paragraph b). Double Taxation is then avoided for the notified income by allowing a tax credit from the first day of the calendar year, next following that in which the notification was made.

(2) Tax shall be determined in the case of a resident of Israel as follows:

- a) Where a resident of Israel derives income which, in accordance with the provisions of this Agreement, may be taxed in Germany, Israel shall (subject to the laws of Israel regarding the allowance of a credit of foreign taxes, which shall not affect the general principle contained in this paragraph) allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Germany.
- b) Such deductions shall not, however, exceed that part of the income tax as computed before the deduction is given, which is attributable to the income which may be taxed in Germany.

### Article 23

#### Non-discrimination

(1) Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

(2) The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

(3) Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 4 of Article 12, 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.



(4) Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned 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.

(5) Nothing contained in this Article shall be construed as obliging a Contracting State to grant to individuals who are 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 only to its own residents.

(6) The provisions of this Article shall apply to taxes referred to in Article 2 of this Agreement.

#### Article 24

##### Mutual Agreement 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 Agreement, 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 23, 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 Agreement.

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at 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 Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

(3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

(4) The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

## Article 25

### Exchange of Information

(1) The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes covered by this Agreement imposed on behalf of the Contracting States, of a Land or a political subdivision or local authority thereof, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1.

(2) Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to taxes of every kind and description, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

(3) In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

- a) to carry out administrative measures for the supply of information 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).

(4) If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information because it has no domestic interest in such information.

(5) In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

#### Article 26

##### Limitation on Benefits

(1) This Agreement shall not be interpreted to mean that a Contracting State is prevented from applying its domestic legal provisions on the prevention of tax evasion or tax avoidance.

If the foregoing provision results in double taxation, the competent authorities shall consult each other pursuant to paragraph 3 of Article 24 on how to avoid double taxation.

(2) The benefits of this Agreement should not be available where a main purpose for entering into certain transactions or arrangements was to secure a more favorable tax position and obtaining that more favorable treatment in these circumstances would be contrary to the object and purpose of the relevant provisions.

#### Article 27

##### Members of Diplomatic Missions and Consular Posts

Nothing in this Agreement 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 28  
Protocol

The attached Protocol shall be an integral part of this Agreement.

Article 29  
Entry into Force

(1) This Agreement shall be ratified; the instruments of ratification shall be exchanged as soon as possible.

(2) The Agreement shall enter into force on the day of the exchange of the instruments of ratification and shall have effect in both Contracting States:

a) in the case of taxes withheld at source, in respect of amounts paid on or after the first day of January of the calendar year following that in which the Agreement entered into force;

b) in the case of other taxes, in respect of taxes levied for periods beginning on or after the first day of January of the calendar year following that in which the Agreement entered into force;

c) in respect of the exchange of information under Article 25 from the first day of January of the calendar year following the year in which the Agreement enters into force.

(3) Upon the entry into force of this Agreement, the Convention between the Government of the State of Israel and the Government of the Federal Republic of Germany for the avoidance of double taxation with respect to taxes on income and to the Gewerbesteuer (trade tax) signed on 9 July 1962 shall expire and cease to have effect for any taxes for which this Agreement according to paragraph 2 has effect.

Article 30  
Termination

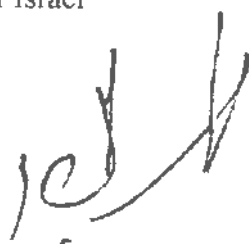
This Agreement shall continue in effect for an unlimited period but either of the Contracting States may, on or before the thirtieth day of June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give the other Contracting State, through diplomatic channels, written notice of termination and, in such event, this Agreement shall cease to have effect:

- a) in the case of taxes withheld at source, in respect of amounts paid on or after the first day of January of the calendar year following that in which notice of termination is given;
- b) in the case of other taxes, in respect of taxes levied for periods beginning on or after the first day of January of the calendar year following that in which notice of termination is given;
- c) in respect of the exchange of information under Article 25 from the first day of January of the calendar year following that in which notice of termination is given.



The date of receipt of such notice by the other Contracting State shall be definitive for the determination of the deadline.

Done at *Berlin* on *21 August* 201*4* in two originals, each in the Hebrew, German and English languages, all three texts being authentic. In the case of any divergence or divergent interpretation of the Hebrew and the German texts, the English text shall prevail.

For the  
State of Israel

X 

For the  
Federal Republic of Germany

X   
X 

Protocol  
to the Agreement  
between  
the State of Israel  
and  
the Federal Republic of Germany  
for the Avoidance of Double Taxation and of Tax Evasion with  
respect to Taxes on Income and on Capital

signed on *21 August* 2014

The State of Israel and the Federal Republic of Germany have in addition to the Agreement of *21 August* 2014 for the Avoidance of Double Taxation and of Tax Evasion with respect to Taxes on Income and on Capital agreed on the following provisions, which shall form an integral part of the said Agreement:

1. With reference to subparagraphs a) and b) of paragraph 1 of Article 3 (General Definitions):

For the application of subparagraphs a) and b) of paragraph 1 of Article 3, the Contracting States agree to exercise sovereign rights and jurisdiction in the territorial sea and contiguous zone, the exclusive economic zone and the continental shelf in conformity with the provisions in Parts II, V and VI of the United Nations Convention on the Law of the Sea of 10 December 1982 irrespective of whether they are a State Party to this Convention or not.

2. With reference to the term "Land":

The term "Land" means a German State in accordance with the Basic Law for the Federal Republic of Germany.

3. With reference to Article 7 (Business Profits):

- a) Where an enterprise of a Contracting State sells goods or merchandise or carries on business in the other Contracting State through a permanent establishment situated therein, the profits of that permanent establishment shall not be determined on the basis of the total amount received therefore by the enterprise but only on the basis of the amount which is attributable to the actual activity of the permanent establishment for such sales or business.
- b) In the case of contracts, in particular for the survey, supply, installation or construction of industrial, commercial or scientific equipment or premises, or of public works, where the enterprise has a permanent establishment in the other Contracting State, the profits of such permanent establishment shall not be determined on the basis of the total amount of the contract, but only on the basis of that part of the contract which is effectively carried out by the permanent establishment in the Contracting State in which it is situated. Profits derived from the supply of goods to that permanent establishment or profits related to the part of the contract which is carried out in the Contracting State in which the head office of the enterprise is situated shall be taxable only in that State.

4. With reference to Article 10 (Dividends):

It is understood that the term "dividends" includes also distributions on certificates of an investment fund.

5. With reference to Articles 10 (Dividends) and 11 (Interest):

Notwithstanding the provisions of Articles 10 and 11 of this Agreement, dividends and interest may be taxed in the Contracting States in which they arise, and according to the law of that State,

- a) if they are derived from rights or debt claims carrying a right to participate in profits, including income derived by a silent partner ("stiller Gesellschafter") from his participation as such, or from a loan with an interest rate linked to borrower's profit ("partiarisches Darlehen") or from profit sharing bonds ("Gewinnobligationen") within the meaning of the tax law of Germany and
- b) under the condition that they are deductible in the determination of profits of the debtor of such income.

6. With reference to Article 13 paragraph 6 (Capital Gains):

In the case of diverging taxation according to the domestic law of the Contracting States the competent authorities shall in a mutual agreement procedure regard the fair market value of the property at the time of change of residence as decisive.

7. With reference to Article 16 paragraph 3 (Artistes and Sportsmen):

It is understood that a charitable organisation is an organisation according to section 51 et seqq. of the German Fiscal Code and a not-for-profit institution is an institution according to Article 9(2) of the Israeli Income Tax Ordinance.

8. With reference to Article 23 (Non-discrimination):

If an agreement for the avoidance of double taxation or a protocol amending such an agreement is signed after the signature of this Agreement between Israel and a third State and the agreement contains a paragraph identical to paragraph 6 of Article 24 of the 2008 OECD Model Tax Convention on Income and Capital, such paragraph shall automatically apply as if it had been laid down in this Agreement, with effect from the date on which the provisions of the other agreement enter into force or from the date on which this Agreement enters into force, whichever is later.



9. With reference to Article 25 (Exchange of Information):
- a) If an agreement for the avoidance of double taxation or a protocol amending such an agreement is signed after the signature of this Agreement between Israel and a third State and the agreement contains a paragraph identical to paragraph 1 of Article 26 of the 2008 OECD Model Tax Convention on Income and Capital, such paragraph shall automatically apply as if it had been laid down in this Agreement, with effect from the date on which the provisions of the other agreement enter into force or from the date on which this Agreement enters into force, whichever is later.
  - b) Insofar as personal data are supplied under Article 25, the following additional provisions shall apply:
    - aa) Notwithstanding the provisions of paragraph 2 of Article 25, the information may be used for other purposes, if under the law of both States it may be used for these other purposes and the competent authority of the supplying State has agreed to this use.
    - bb) The supplying agency shall be obliged to ensure that the data to be supplied are accurate and their foreseeable relevance within the meaning of the first sentence of paragraph 1 of Article 25 and that they are proportionate to the purpose for which they are supplied. Data are foreseeably relevant if in the concrete case at hand there is the serious possibility that the other Contracting State has a right to tax and there is nothing to indicate that the data are already known to the competent authority of the other Contracting State or that the competent authority of the other Contracting State would learn of the taxable object without the information. If it emerges that inaccurate data or data which should not have been supplied have been supplied, the receiving agency shall be informed of this without delay. That agency shall be obliged to correct or erase such data without delay. If data have been supplied spontaneously, the receiving agency shall check without delay whether the data are needed for the purpose for which they were supplied; that agency shall immediately erase any data which is not needed.

- cc) The receiving agency shall on request inform the supplying agency on a case-by-case basis for the purpose of informing the person concerned about the use of the supplied data and the results achieved thereby.
- dd) The receiving agency shall inform the person concerned of the data collection by the supplying agency, unless the data were supplied spontaneously. The person concerned need not be informed if and as long as on balance it is considered that the public interest in not informing him outweighs his right to be informed.
- ee) Upon application the person concerned shall be informed of the supplied data relating to him and of the use to which such data are to be put. The second sentence of sub-paragraph dd) shall apply accordingly.
- ff) The receiving agency shall bear liability under its domestic laws in relation to any person suffering unlawful damage in connection with the supply of data under the exchange of data pursuant to this Agreement. In relation to the damaged person, the receiving agency may not plead to its discharge that the damage had been caused by the supplying agency.
- gg) The supplying and the receiving agencies shall be obliged to keep official records of the supply and receipt of personal data according to their domestic laws.
- hh) Where the domestic law of the supplying agency contains special provisions for the deletion of the personal data supplied, that agency shall inform the receiving agency accordingly. In any case, supplied personal data shall be erased once they are no longer required for the purpose for which they were supplied.
- ii) The supplying and the receiving agencies shall be obliged to take effective measures to protect the personal data supplied against unauthorised access, unauthorised alteration and unauthorised disclosure according to their domestic laws.

10. With reference to taxation at source

A relief provided under this Agreement to a resident of a Contracting State by the other Contracting State may be conditioned upon the presentation of a certificate of residence issued by the tax authorities of the first mentioned State.