

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 95 OF 2015

The Income Tax Act
(Laws, Volume 19, Cap. 323)

**The Income Tax (Double Taxation Relief)
(Taxes on Income) (Netherlands) Order, 2015**

IN EXERCISE of the powers contained in section *seventy-four* of the Income Tax Act, the following Order is made:

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| 1. This Order may be cited as the Income Tax (Double Taxation Relief) (Taxes on Income) (Netherlands) Order, 2015. | Title |
| 2. It is declared that the Agreement, the text of which is set out in the Schedule, being an Agreement relating to the relief from double taxation on the income made between the Government of the Republic of Zambia and the Government of the Kingdom of the Netherlands shall have effect in Zambia in accordance with section <i>seventy-four</i> of the Act. | Double
taxation
government |

SCHEDULE
(Paragraph 2)

CONVENTION BETWEEN THE REPUBLIC OF ZAMBIA AND THE
KINGDOM OF THE NETHERLANDS FOR THE AVOIDANCE OF DOUBLE
TAXATION AND THE PREVENTION OF FISCAL EVASION WITH
RESPECT TO TAXES ON INCOME

The Government of the Republic of Zambia and the Government of the Kingdom of the Netherlands, desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

CHAPTER I
SCOPE OF THE CONVENTION

ARTICLE 1
PERSONS COVERED

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

ARTICLE 2
TAXES COVERED

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

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

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

(a) in Zambia, the Income Tax (hereinafter referred to as “Zambian tax”);
and

(b) in the European part of the Netherlands—

(i) the income tax (inkomstenbelasting);

(ii) the wages tax (loonbelasting);

(iii) the company tax (vennootschapsbelasting) including the Government share in the net profits of the exploitation of natural resources levied pursuant to the Mining Act (Mijnbouwwet);

(iv) the dividend tax (dividendbelasting); and

in the Caribbean part of the Netherlands,

(i) the income tax (inkomstenbelasting);

(ii) the wages tax (loonbelasting);

(iii) the property tax (vastgoedbelasting);

(iv) the revenue tax (opbrengstbelasting);

- (v) the Government share in the net profits of the exploitation of natural resources levied pursuant to the Mining Act BES (Mijnwet BES), the Mining Decree BES (Mijnbesluit BES) or the Petroleum Act Saba Bank BES (Petroleumwet Saba Bank BES); (hereinafter referred to as “Netherlands tax”).

4. This Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws.

CHAPTER II

DEFINITIONS

ARTICLE 3

GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:
 - (a) the term “Zambia” means the Republic of Zambia;
 - (b) the term “the Netherlands” means:
 - (i) the European part of the Netherlands, including its territorial sea and any area beyond and adjacent to its territorial sea within which the Kingdom of the Netherlands, in accordance with international law, exercises jurisdiction or sovereign rights; and
 - (ii) the Caribbean part of the Netherlands which is situated in the Caribbean Sea and consists of the island territories of Bonaire, Sint Eustatius and Saba, including its territorial sea and any area beyond and adjacent to its territorial sea within which the Kingdom of the Netherlands in accordance with international law, exercises jurisdiction or sovereign rights, but excluding the part thereof relating to Aruba, Curaçao and Sint Maarten;
 - (c) the terms “a Contracting State” and “the other Contracting State” mean the Republic of Zambia (Zambia) or the Kingdom of the Netherlands (the Netherlands), as the context requires;
 - (d) the term “business” includes the performance of professional services and of other activities of an independent character;
 - (e) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - (f) the term “competent authority” means:
 - (i) in Zambia, the Commissioner General of the Zambia Revenue Authority or his authorised representative; and
 - (ii) in the Netherlands, the Minister of Finance or his authorised representative;
 - (g) the term “enterprise” applies to the carrying on of any business;
 - (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 and 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 of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (j) the term “national” means:
 - (i) any individual possessing the nationality of a Contracting State; and
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;
- (k) the term “person” includes an individual, a company and any other body of persons;
- (l) the term “a pension fund” means any scheme, fund or other arrangement established in a Contracting State which is:
 - (i) generally exempt from taxes on income in that State; and
 - (ii) operated principally to administer or provide pension or retirement benefits or to earn income for the benefit of one or more such arrangements.

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

ARTICLE 4

RESIDENT

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of that person’s domicile, residence, place of incorporation, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof.

2. A person, other than an individual, shall be regarded to be liable to tax:
- (a) in the Netherlands, if the person is a resident of the Netherlands for the purposes of the company tax or the revenue tax;
 - (b) in Zambia, if the person is a resident of Zambia for the purposes of the Income Tax;

provided that the income derived by that person is treated under the tax laws of that State as income of that person and not as the income of the person’s beneficiaries, members or participants.

3. Notwithstanding the provisions of paragraphs 1 and 2, the term “resident of a Contracting State” does not include any person who is liable to tax in that State in respect only of income from sources in that State.

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

- (a) the individual shall be deemed to be a resident only of the State in which a permanent home is available to the individual; if a permanent home is available to the individual in both States, the individual shall be deemed to be a resident only of the State with which the individual’s personal and economic relations are closer (centre of vital interests);

- (b) if sole residence cannot be determined, under the provisions of subparagraph a), the individual shall be deemed to be a resident only of the State in which the individual has an habitual abode;
- (c) if the individual has an habitual abode in both States or in neither of them, the individual shall be deemed to be a resident only of the State of which the individual is a national;
- (d) if the individual 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.

5. 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 Convention, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term “permanent establishment” includes especially:

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

3. The term “permanent establishment” shall be deemed to include:

- (a) a building site, a construction, assembly or installation project or any supervisory activity in connection with such site, project or activity, but only where such site, project or activity continues for a period of more than 183 days;
- (b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by an enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the Contracting State for a period or periods exceeding in the aggregate 183 days in any twelvemonth period commencing or ending in the fiscal year concerned;
- (c) for an individual, the performing of services in a Contracting State by that individual, but only if the individual’s stay in that State, for the purpose of performing those services, is for a period or periods aggregating more than 183 days within any twelve month period commencing or ending in the fiscal year concerned; and
- (d) an installation or structure used for the exploration for natural resources other than in the area referred to in paragraph 4, provided that the installation or structure continues for a period of not less than 183 days.

4. Notwithstanding the provisions of paragraphs 1, 2 and 3, an enterprise of a Contracting State which carries on activities in the territorial sea of the other Contracting State or in any area beyond and adjacent to its territorial sea as meant in subparagraph b) of paragraph 1 of Article 3, within which that other Contracting State, in accordance with international law, exercises jurisdiction or sovereign rights (offshore activities), shall be deemed to carry on, in respect of those activities, business in that other State through a permanent establishment situated therein, unless the activities in question are carried on in the other State for a period or periods of less than in the aggregate 30 days in any twelve month period.

5. For the purposes of paragraph 4 of this Article, the term “offshore activities” shall be deemed not to include:

- (a) one or any combination of the activities mentioned in paragraph 7;
- (b) towing or anchor handling by ships primarily designed for that purpose and any other activities performed by such ships;
- (c) the transport of supplies or personnel by ships or aircraft in international traffic.

6. For the purposes of determining the duration of the offshore activities under paragraph 4 in connection with paragraph 5, where an enterprise carrying on offshore activities in the other Contracting State is associated with another enterprise and that other enterprise continues, as part of the same project, the same offshore activities that are or were being carried on by the firstmentioned enterprise, and the aforementioned activities are in the aggregate carried on by both enterprises for a period of at least 30 days, each enterprise shall be deemed to carry on its activities for a period of at least 30 days in any twelve month period. For the purposes of this paragraph, an enterprise shall be regarded as associated with another enterprise if one enterprise holds directly or indirectly at least one third of the capital of the other enterprise or if a person holds directly or indirectly at least one third of the capital of both enterprises.

7. 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; and
- (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.

8. Notwithstanding the provisions of paragraphs 1, 2 and 4, where a person other than an agent of an independent status to whom paragraph 9 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 7 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.

9. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, and conditions are made or imposed between that enterprise and the agent in their commercial and financial relations which differ from those which should have been made between independent enterprises, the agent will not be considered an agent of an independent status within the meaning of this paragraph.

10. 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.

CHAPTER III TAXATION OF INCOME

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 business of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of 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.

Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of 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 head office of the enterprise or any of its other offices.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8
SHIPPING AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft operated in international traffic by an enterprise of a Contracting State shall be taxable only in that State.
2. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic shall include:
 - (a) profits derived from the rental on a bare boat basis of ships or aircraft used in international traffic, and
 - (b) profits derived from the use, rental or lease of containers, if such profits are incidental to the profits to which the provisions of paragraph 1 apply.
3. 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 firstmentioned 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 where that other State considers the adjustment justified. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

ARTICLE 10
DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State 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 percent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 10 percent of the capital of the company paying the dividends, or if the beneficial owner is a pension fund; or
- (b) 15 percent of the gross amount of the dividends in all other cases.

The competent authorities of the Contracting States may settle the mode of application of these limitations by mutual agreement.

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

3. 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 debtclaims, 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 Contracting State of which the company making the distribution is a resident.

4. The 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 and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case, the provisions of Article 7 shall apply.

5. 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.

6. No relief shall be available under this Article if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the shares or other rights in respect of which the dividend is paid to take advantage of this Article by means of that creation or assignment.

The competent authority of the Contracting State which has to grant the benefits, shall consult with the competent authority of the other Contracting State before denying the benefits under this paragraph.

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 10 per cent of the gross amount of the interest. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be exempt from tax in that State, provided that it is derived and beneficially owned by:

- (a) The government, a political subdivision or a local authority of the other Contracting State; or
- (b) The Central Bank of the other Contracting State; or
- (c) Any agency wholly owned by the government, a political subdivision or a local authority of the other Contracting State.

The Competent Authorities of the Contracting State may determine by mutual agreement any other government institution to which this paragraph shall apply.

4. The term “interest” as used in this Article means income from debtclaims 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. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The 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, and the debtclaim 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 that person 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 debtclaim 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 lastmentioned 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.

8. No relief shall be available under this Article if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debtclaim in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment. The competent authority of the Contracting State which has to grant the benefits, shall consult with the competent authority of the other Contracting State before denying the benefits under this paragraph.

ARTICLE 12

ROYALTIES

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

2. However, 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 beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 7½ per cent of the gross amount of the royalties. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this limitation.

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

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case, the provisions of Article 7 shall apply.

5. Royalties 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 that person is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.

6. 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 lastmentioned 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.

7. No relief shall be available under this Article if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the rights in respect of which the royalties are paid to take advantage of this Article by means of that creation or assignment. The competent authority of the Contracting State which has to grant the benefits, shall consult with the competent authority of the other Contracting State before denying the benefits under this paragraph.

ARTICLE 13

CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.

3. Gains from the alienation of ships or aircraft operated in international traffic by an enterprise of a Contracting State, or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that Contracting State.

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

ARTICLE 14

INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 15, 17 and 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 firstmentioned 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 by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft operated in international traffic, shall be taxable only in that State.

ARTICLE 15

DIRECTORS' FEES

1. Directors' fees and other remuneration derived by a resident of a Contracting State in that person's 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.

2. For the purpose of the provisions of paragraph 1, the term "member of the board of directors" includes any person who is charged with the general management of the company and any person who is charged with the supervision thereof.

ARTICLE 16

ENTERTAINERS AND SPORTSPERSONS

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 sportsperson, from that person's 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 sportsperson in that person's capacity as such accrues not to the entertainer or sportsperson 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 sportsperson are exercised.

3. Income derived by a resident of a Contracting State from activities exercised in the other Contracting State as envisaged in paragraphs 1 and 2, shall be taxable only in the firstmentioned State if the visit to that other State is supported wholly or mainly by public funds of the firstmentioned Contracting State, a political subdivision or a local authority thereof, or takes place under a cultural agreement or arrangement between the Governments of the Contracting States.

ARTICLE 17

PENSIONS, ANNUITIES AND SOCIAL SECURITY PAYMENTS

1. Subject to the provisions of subparagraph (b) of paragraph 1 of Article 18, pensions and other similar remuneration and annuities, arising in a Contracting State and paid to a resident of the other Contracting State, may be taxed in the firstmentioned State.

2. Notwithstanding the provisions of paragraph 1, social security pensions paid and other social security payments made under the laws of a Contracting State shall be taxable only in that State.

3. A pension or other similar remuneration or an annuity shall be deemed to arise in a Contracting State insofar as the contributions or payments associated with that pension or other similar remuneration or annuity, or the entitlements received from that pension or other similar remuneration or annuity qualified for relief from tax in that State. The transfer of a pension, other similar remuneration or annuity from a pension fund or an insurance company in a Contracting State to a pension fund or insurance company in another State shall not restrict in any way the taxing rights of the firstmentioned State under this Article.

4. The provisions of this Article shall also apply in case a lump sum payment is made in lieu of a pension or other similar remuneration or an annuity before the date on which the pension or other similar remuneration or the annuity commences.

ARTICLE 18

GOVERNMENT SERVICE

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

(b) However, such salaries, wages and other similar remuneration, as well as pensions in respect of the services meant in subparagraph (a), shall be taxable only in the other Contracting State if the services are, or have been, rendered in that State and the individual is a resident of that State who:

- (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.

2. The provisions of Articles 14, 15 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 or a political subdivision or a local authority thereof.

ARTICLE 19

STUDENTS AND BUSINESS APPRENTICES

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 firstmentioned State solely for the purpose of that person's education or training receives for the purpose of that person's maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

ARTICLE 20

PROFESSORS AND TEACHERS

1. Notwithstanding the provisions of Article 14, payments and other remuneration which a professor or a teacher who is a resident of a Contracting State and who is present in the other Contracting State for the purpose of teaching or carrying out scientific research for a maximum period of two years, starting from the date of the actual commencement of the teaching or scientific activities, in a university, college or other institution for teaching or scientific research in that other State, receives for such teaching or research, shall not be taxed in the other Contracting State, provided that such remuneration is derived by the professor or teacher from outside that State.

2. The provisions of this Article shall not apply to income from research if such research is undertaken not in the public interest but wholly or mainly for the private benefit of a specific person or persons.

ARTICLE 21

OTHER INCOME

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

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein 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.

3. Notwithstanding the provisions of paragraph 1 and 2, if a resident of a Contracting State derives income from sources in the other Contracting State in the form of games of chance, such income may be taxed in that other State.

CHAPTER IV
ELIMINATION OF DOUBLE TAXATION

ARTICLE 22
ELIMINATION OF DOUBLE TAXATION

1. Zambia shall eliminate double taxation as follows:

where a resident of Zambia derives income from the Netherlands which may be taxed in the Netherlands in accordance with the provisions of this Convention, the amount of the Netherlands tax payable in respect of that income shall be allowed as a credit against Zambian tax imposed on that resident. The amount of credit, however, shall not exceed that part of Zambian tax which is appropriate to that income.

2. The Netherlands may include in the basis upon which taxes are imposed on its residents, the items of income which according to the provisions of this Convention, may be taxed or shall be taxable only in Zambia.

3. However, where a resident of the Netherlands derives items of income which according to paragraphs 1, 3 and 4 of Article 6, paragraph 1 of Article 7, paragraph 4 of Article 10, paragraph 5 of Article 11, paragraph 4 of Article 12, paragraphs 1 and 2 of Article 13, paragraph 1 of Article 14, paragraphs 1 and 2 of Article 17, paragraph 1 (subparagraph a) of Article 18 and paragraph 2 of Article 21 of this Convention may be taxed or shall be taxable only in Zambia and are included in the basis referred to in paragraph 2, the Netherlands shall exempt such items of income by allowing a reduction of its tax. This reduction shall be computed in conformity with the provisions of the Netherlands law for the avoidance of double taxation. For that purpose the said items of income shall be deemed to be included in the amount of the items of income which are exempt from Netherlands tax under those provisions.

4. Further, the Netherlands shall allow a reduction from the Netherlands tax so computed for the items of income which according to paragraph 2 of Article 10, paragraph 2 of Article 11, paragraph 2 of Article 12, paragraph 1 of Article 15, paragraphs 1 and 2 of Article 16, paragraph 4 of Article 17, paragraph 3 of Article 21 of this Convention and paragraphs 2 and 3 of Article VI of the Protocol to this Convention may be taxed in Zambia to the extent that these items are included in the basis referred to in paragraph 2. The amount of this reduction shall be equal to the tax paid in Zambia on these items of income, but shall, in case the provisions of the Netherlands law for the avoidance of double taxation provide so, not exceed the amount of the reduction which would be allowed if the items of income so included were the sole items for which the Netherlands gives a reduction under the provisions of the Netherlands law for the avoidance of double taxation.

This paragraph shall not restrict allowance now or hereafter accorded by the provisions of the Netherlands law for the avoidance of double taxation, but only as far as the calculation of the amount of the reduction of Netherlands tax is concerned with respect to the aggregation of income from more than one country and the carry forward of the tax paid in Zambia on the said items of income to subsequent years.

5. Notwithstanding the provisions of paragraph 2, the Netherlands shall allow a reduction from the Netherlands tax for the tax paid in Zambia on items of income which according to paragraph 1 of Article 7, paragraph 4 of Article 10, paragraph 5 of Article 11, paragraph 4 of Article 12 and paragraph 2 of Article 21

of this Convention may be taxed in Zambia to the extent that these items are included in the basis referred to in paragraph 1, insofar as the Netherlands under the provisions of the Netherlands law for the avoidance of double taxation allows a reduction from the Netherlands tax of the tax levied in another country on such items of income. For the computation of this reduction the provisions of paragraph 4 of this Article shall apply accordingly.

CHAPTER V SPECIAL PROVISIONS

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. Residents of a Contracting State who are not nationals of any 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 the firstmentioned Contracting State in the same circumstances, in particular with respect to residence, are or may be subjected.

3. 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. 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. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 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 firstmentioned State.

5. 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 firstmentioned 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 firstmentioned State are or may be subjected.

6. Contributions paid by, or on behalf of, an individual who exercises employment or selfemployment in a Contracting State to a pension fund that is recognised for tax purposes in the other Contracting State shall be treated in the same way for tax purposes in the firstmentioned State as a contribution paid to a pension fund that is recognised for tax purposes in that firstmentioned State, provided that—

- (a) such individual was contributing to such pension fund before he became a resident of the firstmentioned State; and
- (b) the competent authority of the firstmentioned State considers that such pension fund generally corresponds to a pension fund recognised for tax purposes by that State.

For the purpose of this paragraph, “pension fund” includes a pension plan created under the social security legislation of a Contracting State.

7. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

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 that person in taxation not in accordance with the provisions of this Convention, that person may, irrespective of the remedies provided by the domestic law of those States, present a case to the competent authority of the Contracting State of which the person is a resident or, if the case comes under paragraph 1 of Article 23, to that of the Contracting State of which the person is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Convention.

2. The competent authority shall 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 this Convention. 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 this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. The competent authorities, through consultations, may develop appropriate bilateral procedures, conditions, methods and techniques for the mutual agreement procedures provided for in this Article.

5. Where—

- (a) under paragraph 1, a person has presented a case to the competent authority of a Contracting State on the basis that the actions of one or both of the Contracting States have resulted for that person in taxation not in accordance with the provisions of this Convention; and
- (b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 within two years from the presentation of the case to the competent authority of the other Contracting State;

any unresolved issue arising from the case shall be submitted to arbitration at the request of either competent authority. These unresolved issues shall not, however, be submitted to arbitration if:

- (i) a matter has been commenced in a court or administrative tribunal of competent jurisdiction and has not been withdrawn; or
- (ii) a decision on the unresolved issues has already been rendered by such court or administrative tribunal of either State.

Unless a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision, that decision shall be binding on both Contracting States and shall be implemented notwithstanding any time limits in the domestic laws of these States. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this paragraph.

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 Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Convention. The exchange of information is not restricted by Articles 1 and 2.

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

3. The Contracting States may release to the arbitrator or arbitrators, appointed under the provisions of paragraph 5 of Article 24, such information as is necessary for carrying out the arbitration procedure. Such arbitrator or arbitrators shall be subject to the limitations on disclosure described in paragraph 2 of this Article with respect to any information so released.

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

- (a) to carry out administrative measures at variance with the laws and administrative 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.

5. 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 4 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

6. In no case shall the provisions of paragraph 4 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

ASSISTANCE IN THE COLLECTION OF TAXES

1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.

2. The term “revenue claim” as used in this Article means an amount owed in respect of taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Convention or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.

3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State.

4. When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not enforceable in the firstmentioned State or is owed by a person who has a right to prevent its collection.

5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State.

6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State.

7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first mentioned State, the relevant revenue claim ceases to be—

(a) in the case of a request under paragraph 3, a revenue claim of the firstmentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection; or

(b) in the case of a request under paragraph 4, a revenue claim of the firstmentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection;

the competent authority of the firstmentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the firstmentioned State shall either suspend or withdraw its request.

8. In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation:

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(b) to carry out measures which would be contrary to public policy;

(c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice;

(d) to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State.

ARTICLE 27

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

1. 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.

2. For the purposes of the Convention, an individual who is a member of a diplomatic mission or consular post of a Contracting State in the other Contracting State or in a third State and who is a national of the sending State shall be deemed to be a resident of the sending State if that individual is subjected therein to the same obligations in respect of taxes on income as are residents of that State.

3. The Convention shall not apply to international organisations, organs and officials thereof and members of a diplomatic mission or consular post of a third State, being present in a Contracting State, if they are not subjected therein to the same obligations in respect of taxes on income as are residents of that State.

CHAPTER VI
FINAL PROVISIONS

ARTICLE 28
ENTRY INTO FORCE

1. Each of the Contracting States shall notify the other in writing, through diplomatic channels, of the completion of its constitutional procedures for the entry into force of this Convention. This Convention shall enter into force on the last day of the month following the month in which the later of these notifications has been received and its provisions shall thereupon have effect in both Contracting States:

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

2. The Convention between the Republic of Zambia and the Kingdom of the Netherlands for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at Lusaka on 19 December 1977, shall cease to have effect in respect of any tax with effect from the date upon which this Convention has effect in respect of that tax in accordance with the provisions of paragraph 1 and shall terminate on the last such date.

ARTICLE 29
DURATION AND TERMINATION

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate this Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year beginning after the expiry of five years from the date of entry into force of this Convention.

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

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

Notice of termination shall be regarded as having been given by a Contracting State on the date of receipt of such notice by the other Contracting State.

IN WITNESS WHEREOF the undersigned, being duly authorised hereto, have signed this Convention.

Done at Addis Ababa, this 15th day of July, 2015 in two originals, in the English language.

ALEXANDER B. CHIKWANDA
*Minister of Finance
For the Government of
the Republic of Zambia*

LILIANNE PLOUMEN
*Minister of Foreign Trade and
Development Cooperation
For the Government of the
Kingdom of the Netherlands*

PROTOCOL

At the moment of signing the Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, this day concluded between the Kingdom of the Netherlands and the Republic of Zambia, both sides have agreed that the following provisions shall form an integral part of the Convention.

I. GENERAL

Where entities are considered to be transparent by one of the Contracting States and are considered to be nontransparent by the other Contracting State, and this leads to double taxation or double nontaxation not in accordance with the provisions of this Convention, the competent authorities of the Contracting States shall find solutions pursuant to Article 24.

II. AD ARTICLE 1 and 4

Notwithstanding the provisions of Articles 1 and 4, the competent authorities of the Contracting States shall, by mutual agreement, decide whether or not a resident of a Contracting State is subject to a special regime and, if so, to which extent it shall not be entitled to the benefits of this Convention. A company which is treated as a tax exempt investment institution (“vrijgestelde beleggingsinstelling”) as meant in the Netherlands Corporate Income Tax Act 1969 shall not be entitled to the benefits of Articles 10, 11, 12, 13 and 21 and the corresponding Articles of this Protocol.

III. AD ARTICLES 5, 6, 7 and 13

It is understood that rights to the exploration and exploitation of natural resources shall be regarded as immovable property located in the Contracting State to whose territorial sea and any area beyond and adjacent to its territorial sea as meant in subparagraph b) of paragraph 1 of Article 3, within which that State, in accordance with international law, exercises jurisdiction or sovereign rights, including the seabed and subsoil thereof, these rights apply, and that these rights are regarded as assets of a permanent establishment in that State. Furthermore, it is understood that the aforementioned rights include rights to interests in, or benefits from assets that arise from, that exploration or exploitation.

IV. AD ARTICLE 9

1. It is understood that the fact that associated enterprises have concluded arrangements, such as cost sharing arrangements or general services agreements, for or based on the allocation of executive, general administrative, technical and commercial expenses, research and development expenses and other similar expenses, is not in itself a condition as meant in paragraph 1 of Article 9. However, this does not prevent a Contracting State from checking the abovementioned arrangements or agreements for conditions as meant in paragraph 1 of Article 9.

2. Where paragraph 2 of Article 9 requires a Contracting State to make an appropriate adjustment to reflect a change made by the other Contracting State falling within paragraph 1 of Article 9, the State making the appropriate adjustment shall not be required to take into account any penalty, whether tax or nontax, imposed by the other Contracting State.

V. AD ARTICLE 7

It is understood that, in respect of paragraphs 1 and 2 of Article 7, 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 by the enterprise, but shall be determined only on the basis of that portion of the income of the enterprise that is attributable to the actual activity of the permanent establishment in respect of such sales or business.

VI. AD ARTICLES 10, 11 and 12

Where tax has been levied at source in excess of the amount of tax chargeable under the provisions of Articles 10, 11 or 12, applications for the refund of the excess amount of tax have to be lodged with the competent authority of the State having levied the tax, in the case of Zambia, within a period of six years, and in the case of the Netherlands, within a period of five years, after the expiration of the calendar year in which the tax has been levied.

VII. AD ARTICLES 10 and 13

1. It is understood that income received in connection with the (partial) liquidation of a company or a purchase of own shares by a company is treated as dividends.

2. Notwithstanding the provisions of paragraphs 1, 2, and 5 of Article 10, dividends paid by a company which under the laws of a Contracting State is a resident of that State, to an individual who is a resident of the other Contracting State and who upon ceasing to be a resident of the firstmentioned State is taxed on the appreciation of capital as meant in paragraph 3 hereunder, may also be taxed in that State in accordance with the laws of that State, but only insofar as the assessment on the appreciation of capital is still outstanding.

3. Where an individual has been a resident of a Contracting State and has become a resident of the other Contracting State, the provisions of paragraph 4 of Article 13 shall not prevent the firstmentioned State from taxing under its domestic law the capital appreciation of shares, profit sharing certificates, call options and usufruct on shares and profit sharing certificates, in and debtclaims on a company for the period of residency of that individual in the firstmentioned State. In such case, the appreciation of capital taxed in the firstmentioned State shall not be included in the tax base when determining the appreciation of capital by the other State.

VIII. AD ARTICLE 25 and 26

1. The provisions of Article 25 and 26 shall apply accordingly to information that is relevant for carrying out the incomerelated regulations and assistance in the collection of the contributions and payments made under the incomerelated regulations under the laws of the Contracting States by the tax authorities of the Contracting States concerned with the implementation, administration or enforcement of these incomerelated regulations.

2. Any information received under paragraph 1 of this Article in connection with Article 25 shall be used only for the purpose of the determination and levying of the contributions and the determination and granting of the benefits under the income related regulations as meant in paragraph 1 of this Article.

IN WITNESS WHEREOF the undersigned, being duly authorised hereto, have signed this Protocol.

Done at Addis Ababa, this 15th day of July, 2015 in two originals, in the English language.

ALEXANDER B. CHIKWANDA
Minister of Finance
For the Government of
the Republic of Zambia

LILIANNE PLOUMEN
Minister of Foreign Trade and
Development Cooperation
For the Government of the
Kingdom of the Netherlands

LUSAKA
24th November, 2015
[MFB.6/8/29]

EDGAR C. LUNGU,
President

