AND THE PREVENTION OF TAX AVOIDANCE AND EVASION
WITH RESPECT TO TAXES ON INCOME
FOR THE ELIMINATION OF DOUBLE TAXATION

THE GOVERNMENT OF THE REPUBLIC OF KENYA

AND

THE GOVERNMENT OF BARBADOS

BETWEEN

AGREEMENT

APPENDIX II

FINAL DRAFT

Desiring to further develop their economic relationship and to enhance their co-operation in tax matters, intending to eliminate double taxation with respect to taxes covered by this Agreement without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining relief provided in this Agreement for the indirect benefit of residents of third States)

Have agreed as follows:
Article 2

2.4. 25, 26 and 29.

except with respect to the portions granted under paragraph 2 of Article 9 and Articles 19, 20.

This Agreement shall not affect the taxation by a Contracting State of its residents

income of a resident of that State.

only to the extent that the income is derived from or is connected with a permanent establishment of a resident of a Contracting State but otherwise it is not subject to tax under the law of either Contracting States.

For the purposes of this Agreement, income derived by or through an entity of an Article 1

Persons Covered

Article 1

The existing taxes in which this Agreement shall apply are:

The property and taxes on the local annuity or wages or salaries paid by enterprises,

determined of income, including taxes on profits from the alienation of movable or immovable

taxes or by a Contracting State.

Taxes Covered
as the context requires;

unauthorized representative;

in Kenya, the Cabinet Secretary responsible for Finance or his

representative; and

in Barbados, the Minister responsible for Finance or his

unauthorized representative.

"corporate authority" means:

corporate for tax purposes;

"company" means any body corporate or any entity which is treated as a body

umpire or liquidation for purposes of exploration and exploitation of natural resources;

in accordance with international law, as an area over which Kenya has sovereignty

area which has been or may hereafter be designated under her national law in

economic zone and the continental shelf and the seabed and subsoil within such

waters and the seabed and subsoil of the territorial waters, the exclusive

waters of Kenya including internal waters, territorial

"seabed, subsoil and the natural resources" means all the economic territory of Kenya including internal waters, territorial

exercise its sovereign rights and jurisdiction to explore, exploit and preserve the

in accordance with international law as an area within which Barbados may

area or maritime area situated outside the continental area of Barbados in

and any maritime area situated outside the territorial sea of Barbados, which has

"Barbados" means the economic territory of Barbados including the territorial sea.

For the purposes of this Agreement, unless the context otherwise requires, the term:

General Definitions

Article 3

Significant changes which have been made in their respective taxation laws.

The competent authorities of the Contracting States shall notify each other of any

imposed after the date of signature of the Agreement in addition to or in place of the

Agreement shall apply also to any identical or substantially similar cases which are
As regards the application of the Agreement at any time by a Contracting State or an individual, or a body of persons which is treated as an entity for tax purposes, and any other person which is subject to tax for such purposes in such State, the term "person" includes an individual, a partnership, a limited liability partnership, and any other body of persons which is treated as an entity for tax purposes and is necessary for the conduct of the business thereon, and any entity, business, body of persons or any combination thereof, and "place of effective management" includes the place where substantial management and commercial decisions that are necessary for the conduct of the enterprise are made.

International traffic means any transport by a ship or aircraft operated by an enterprise of the Contracting States.

"enterprise of the Contracting State" or "enterprise of the other Contracting State" and in relation to an enterprise carried on by a resident of the Contracting State, and in any other case.

"business" includes the performance of professional services and of other activities of an independent character.

"enterprise" applies to the carrying on of any business.

"State" means a State as such from the laws in force in that Contracting State, or any legal person, partnership, limited liability partnership or association, and any individual possessing the nationality or citizenship of that State in relation to a Contracting State. Any individual possessing the nationality or citizenship of that State, or any entity, business, body of persons or any combination thereof, and any enterprise of the Contracting State or an enterprise of the other Contracting State, means any transport by a ship or aircraft operated by an enterprise of the Contracting State.

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may be affected upon by the competent authorities of the Contracting State of such person shall not be entitled to any relief effective management. The place defined to be a resident for the purposes of the Agreement shall mean the Contracting State in which such person shall reside in both Contracting States. The competent authorities of the Contracting States shall determine in which State an individual is a resident by reason of the provisions of paragraph 1 a person other than an individual is a resident of a Contracting State, the place of which such person shall be deemed to be a resident of only the State in which he has a habitual abode.

1. Where by reason of the provisions of paragraphs 1 and 2 a person other than an individual is a resident of a Contracting State, the place of which such person shall be deemed to be a resident of only the State in which he has a habitual abode:

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, the place of which such person shall be deemed to be a resident of only the State in which he has a habitual abode.
assembler or installation projects or supervisory activities that are carried on at the same building site or construction of structure, activity continues for a period of more than 183 days. 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 or project, but only where such site, project or activity continues for a period of more than 183 days;

(b) a place of management;

(c) a branch;

(d) an office;

(e) a factory;

(f) a workshop, and

(g) a mine, an oil or gas well, a quarry, or any other place of extraction or exploitation

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.
periods of time, each exceeding 30 days, by one or more enterprises closely related to the first-mentioned enterprise,

these different periods of time shall be added to the period of time during which the first mentioned enterprise has carried on activities at that building site or construction or assembly or installation project or supervisory activities therewith.

(b) the furnishing of services, including consultancy services, by an enterprise through its employees or other personnel engaged by an enterprise for such purpose, but only where activities of that nature constitute (for the same or a connected project) within the Contracting State for a period or periods exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned,

(c) an installation or structure used in the exploration of natural resources provided that the installation or structure continues for a period of not less than 91 days.

For purposes of this sub-paragraph, substantial equipment or machinery means drilling or earth-moving equipment, heavy agricultural equipment, aircraft used for crop-dusting or surveying, fishing vessels, or other vessels used for dredging, surveying or exploration.

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 or display 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 processing by another enterprise;

(c) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, e.g., of collecting information, for the enterprise;
for the purposes of paragraphs (a) or
the matters referred to paragraphs (d) and (e) of
the matters referred to paragraphs (d) and (e) of
the matters referred to paragraphs (d) and (e) of

6. Norwithstanding the provisions of paragraphs 1 and 2, where a person other than an
employee of one of the enterprises, or a person acting on behalf of an employee of one of the enterprises,
acts on behalf of the other enterprise, such acts shall be deemed to
be acts of an independent entity to which paragraph 7 applies in so far as the
wartime provisions apply.

5. No person other than an employee of one of the enterprises
or a person acting on behalf of an employee of one of the enterprises,
acts on behalf of the other enterprise, such acts shall be deemed to
be acts of an independent entity to which paragraph 7 applies in so far as the
wartime provisions apply.

4. Where a person other than an employee of one of the enterprises
acts on behalf of the other enterprise, such acts shall be deemed to
be acts of a notification of a fixed place of business solely for the purpose of carrying
on the enterprise's business activities.

3. Where a person other than an employee of one of the enterprises
acts on behalf of the other enterprise, such acts shall be deemed to
be acts of a notification of a fixed place of business solely for the purpose of carrying
on the enterprise's business activities.

2. Where a person other than an employee of one of the enterprises
acts on behalf of the other enterprise, such acts shall be deemed to
be acts of a notification of a fixed place of business solely for the purpose of carrying
on the enterprise's business activities.

1. Where a person other than an employee of one of the enterprises
acts on behalf of the other enterprise, such acts shall be deemed to
be acts of a notification of a fixed place of business solely for the purpose of carrying
on the enterprise's business activities.
For the purposes of this Article, a person is closely related to an enterprise if the enterprise is a resident of a Contracting State and is—

9. 

a. A company of which a person is a shareholder, director, or other principal of the enterprise.

b. A company of which a person is closely related to an enterprise, is a resident of a Contracting State, and is controlled by a person who is a resident of the same State or of the same country as the enterprise.

c. A person who is a director, other principal, or shareholder of the enterprise or of an enterprise closely related to the enterprise and who is a resident of a Contracting State.

8. 

The fact that a company which is a resident of a Contracting State controls another company which is closely related to an enterprise does not by itself constitute a person closely related to an enterprise within the meaning of this paragraph.

7. 

Paragraphs 5 and 6 shall not apply where the person acting in a Contracting State on behalf of an enterprise is an individual whose services are regularly provided to the enterprise in the ordinary course of business.

6. 

Notwithstanding the provisions of paragraph 5, a person shall not be deemed to be a shareholder, director, or other principal of an enterprise if the enterprise is not a resident of a Contracting State.

5. 

Paragraphs 1(b), (c), and (d) shall apply to the extent that they are not inconsistent with the provisions of paragraphs 2 and 3 of Article IV.

4. 

Paragraphs 1(c) and (d) shall not apply to a person who is a director, other principal, or shareholder of an enterprise which is not a resident of a Contracting State, provided that the enterprise is not a permanent establishment of a person who is a resident of a Contracting State.

3. 

Paragraphs 1(a) and (b) shall not apply to a person who is a director, other principal, or shareholder of an enterprise which is not a permanent establishment of a person who is a resident of a Contracting State, provided that the enterprise is not a permanent establishment of a person who is a resident of a Contracting State.

2. 

Paragraph 1(a) shall not apply to a person who is a director, other principal, or shareholder of an enterprise which is not a permanent establishment of a person who is a resident of a Contracting State, provided that the enterprise is not a permanent establishment of a person who is a resident of a Contracting State.

1. 

A person shall not be deemed to be a shareholder, director, or other principal of an enterprise if the enterprise is not a resident of a Contracting State, provided that the enterprise is not a permanent establishment of a person who is a resident of a Contracting State.

(c) 

Paragraphs 1(b), (c), and (d) shall apply to the extent that they are not inconsistent with the provisions of paragraphs 2 and 3 of Article IV.

(b) 

Paragraphs 1(c) and (d) shall not apply to a person who is a director, other principal, or shareholder of an enterprise which is not a resident of a Contracting State, provided that the enterprise is not a permanent establishment of a person who is a resident of a Contracting State.

(a) 

Paragraphs 1(a) and (b) shall not apply to a person who is a director, other principal, or shareholder of an enterprise which is not a permanent establishment of a person who is a resident of a Contracting State, provided that the enterprise is not a permanent establishment of a person who is a resident of a Contracting State.

7. 

Paragraphs 5 and 6 shall not apply where the person acting in a Contracting State on behalf of an enterprise is an individual whose services are regularly provided to the enterprise in the ordinary course of business.

6. 

Notwithstanding the provisions of paragraph 5, a person shall not be deemed to be a shareholder, director, or other principal of an enterprise if the enterprise is not a resident of a Contracting State.

5. 

Paragraphs 1(b), (c), and (d) shall apply to the extent that they are not inconsistent with the provisions of paragraphs 2 and 3 of Article IV.

4. 

Paragraphs 1(c) and (d) shall not apply to a person who is a director, other principal, or shareholder of an enterprise which is not a resident of a Contracting State, provided that the enterprise is not a permanent establishment of a person who is a resident of a Contracting State.

3. 

Paragraphs 1(a) and (b) shall not apply to a person who is a director, other principal, or shareholder of an enterprise which is not a permanent establishment of a person who is a resident of a Contracting State, provided that the enterprise is not a permanent establishment of a person who is a resident of a Contracting State.

2. 

Paragraph 1(a) shall not apply to a person who is a director, other principal, or shareholder of an enterprise which is not a permanent establishment of a person who is a resident of a Contracting State, provided that the enterprise is not a permanent establishment of a person who is a resident of a Contracting State.

1. 

A person shall not be deemed to be a shareholder, director, or other principal of an enterprise if the enterprise is not a resident of a Contracting State, provided that the enterprise is not a permanent establishment of a person who is a resident of a Contracting State.
Business Provisions

Article 7

Property of an enterprise

4. The provisions of paragraph 2 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

Ships, bonds, and similar shall not be regarded as immovable property.

5. The provisions of paragraph 2 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

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 mean a lease of land, including income from the letting of land, situated in the Contracting State the lessor of which is not a resident of a Contracting State.

Income from Immovable Property

Article 6

Person and the enterprise

and value of the company's shares or the beneficial equity interest in the company in the beneficial interest of (or in the case of a company, more than 50 per cent of the beneficial interest in the company) is another person possessing directly or indirectly more than 50 per cent of the aggregate vote and value of the company's equity shares or the beneficial equity interest in the
With the principles contained in this Article.

5. In the head office of the enterprise of any of its other offices.

6. In determining the profits of a permanent establishment, those shall be allowed as

permanent establishment.

3. Subject to the provisions of Paragraph 4, when an enterprise of a Contracting State

Norwegian, the provisions of Paragraph 1, where an enterprise of a Contracting State
a pool, a joint business or an international operating agency. The provisions of Paragraph 1 and 2 shall also apply to profits from the participation in and 2 apply to such profits are incidental to the profits to which the provisions of Paragraphs 1 and 2 apply. Paragraphs derived from the use or rental of containers or other related equipment, if international nature, (a) profits derived from the rental or bare boat basis of ships or aircraft used in international nature, shall include:

For the purposes of this Article, profits from the operation of ships or aircraft in which the place of effective management of the enterprises is situated, are profits from operations of a Contracting State in which the place of effective management of the enterprise is situated. Shipping and Air Transport

Article 8

that other State, of each State may be taxed in the other Contracting State in accordance with the Tax Law of Contracting States arising in the other Contracting State from earning a business or earning a business or establishment, in accordance with the Tax Law of the State of the Permanent Establishment shall be determined by the same method year by year unless otherwise indicated in other Articles of this Treaty. Where profits included items of income which are dealt with separately in other Articles of the Treaty, these shall be attributed to the profits of the proceeding paragraphs, the profits to be attributed to the
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.

3. The provisions of paragraph 2 shall not apply where judicial, administrative or other legal proceedings have resulted in a final ruling that by actions giving rise to an adjustment of profits under paragraph 1, one of the enterprises concerned is liable to penalty with respect to fraud, gross negligence or wilful default.
company which is a resident of the Contracting State may, notwithstanding any

6. Where a company, which is a resident of a Contracting State having a permanent

undertaking, carries on part of its activities or has part of its income arising in such other State,

and undertaking, has part of its income arising in such other State, the provisions of this Article shall apply with such modifications as the competent authorities of the Contracting States concerned may consider appropriate.

Article 10 Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the Contracting State may be taxed in that other State.
establishment. In such case the provisions of Article 7 shall apply.

deponies, namely, charges for the preparation shall not be regarded as interest for the purpose
deponies and other securities, including promissory notes and promissory notes on such securities, bonds of
deponies, and in particular, incomes from government securities and income from
kind whatever not secured by mortgates and whether or not constituting a right to participate in

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the

3. The term "interest", as used in this Article means income from debentures of every

Article 11

III State, but the rate of息 imposed on such remunera will not exceed 5 per cent.

other provisions of the Agreement be exercised in accordance with the law of the other Contracting

of the Contracting States shall by mutual agreement settle

of the Contracting States shall be in the form of that State's laws. If the resident is a resident of the

State may be fixed in that other State.

interest

According to the laws of that State, but if the beneficial owner of the interest is a resident of the

State in which it arises and

Article
Article 12

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

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. Royalties paid in respect of literary, artistic, scientific work, including cinematograph film, films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or other like property or right.

(a) the use of, or the right to use, any copyright of literary, artistic, scientific work,
Articles 8, 16 and 17, fees for technical services arising in a Contracting State may also be charged. However, notwithstanding the provisions of Article 7 and subject to the provisions of the Articles 15 and 17, fees for technical services arising in a Contracting State shall be paid in a currency of the Contracting State.

Technical Fees

Article 13

Where a decision of the competent authority has been reached in one of the other provisions of the Agreement, within the meaning of Article 12, the provisions of this Article shall apply only to the case in which the decision of the competent authority is made in the absence of such decision or in the absence of such decision the amount which would have been agreed upon by the parties and the competent authority in the case of Article 12, shall be deemed to be zero.

Parliament establishes a fund.

5. Parliament establishes a fund.

In such case the provisions of Article 7 shall apply.

6. The provisions of Articles 1 and 2 shall not apply if the decision of the competent authority is made in the absence of the decision of the competent authority in the case of Articles 12, 15 and 17.
Relationships. The provisions of this Article shall apply only to the last-mentioned amount in which the provisions of this Article have been agreed upon by the parties and the beneficial owner. The absence of such agreement or the express which of the fees, having regard to the services for which they are paid, exceeds the amount which of the fees for technical services or between both of them and some other person the amount of the fees for technical services or expenses of the benefit of the beneficial owner in the Concluding Date or the beneficial owner of the professional services rendered by the beneficial owner in the Concluding Date or the beneficial owner of the professional services rendered by the beneficial owner in the Concluding Date or the beneficial owner of the professional services rendered by the beneficial owner in the Concluding Date.

5. For the purposes of this Article, fees for technical services shall be deemed not to exceed the fees for technical services which are agreed upon by the parties and the beneficiary or the professional services rendered by the beneficial owner in the Concluding Date or the beneficial owner of the professional services rendered by the beneficial owner in the Concluding Date or the beneficial owner of the professional services rendered by the beneficial owner in the Concluding Date.

6. For the purposes of this Article, fees for technical services shall be deemed not to exceed the fees for technical services which are agreed upon by the parties and the beneficiary or the professional services rendered by the beneficial owner in the Concluding Date or the beneficial owner of the professional services rendered by the beneficial owner in the Concluding Date.

7. Whereby by reason of a special relationship between the parties and the beneficial owner as described in paragraph 6, the fees for technical services shall be deemed not to exceed the fees for technical services which are agreed upon by the parties and the beneficiary or the professional services rendered by the beneficial owner in the Concluding Date or the beneficial owner of the professional services rendered by the beneficial owner in the Concluding Date.

8. For the purposes of this Article, fees for technical services shall be deemed not to exceed the fees for technical services which are agreed upon by the parties and the beneficiary or the professional services rendered by the beneficial owner in the Concluding Date or the beneficial owner of the professional services rendered by the beneficial owner in the Concluding Date.

9. For the purposes of this Article, fees for technical services shall be deemed not to exceed the fees for technical services which are agreed upon by the parties and the beneficiary or the professional services rendered by the beneficial owner in the Concluding Date or the beneficial owner of the professional services rendered by the beneficial owner in the Concluding Date.

10. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner or the professional services rendered by the beneficial owner in the Concluding Date or the beneficial owner of the professional services rendered by the beneficial owner in the Concluding Date.

11. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner or the professional services rendered by the beneficial owner in the Concluding Date or the beneficial owner of the professional services rendered by the beneficial owner in the Concluding Date.

12. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner or the professional services rendered by the beneficial owner in the Concluding Date or the beneficial owner of the professional services rendered by the beneficial owner in the Concluding Date.

13. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner or the professional services rendered by the beneficial owner in the Concluding Date or the beneficial owner of the professional services rendered by the beneficial owner in the Concluding Date.
6. Gains from the alienation of any property other than that required to be registered in paragraphs 1, 2, 3, 4 and 5 shall be allowable only in the Contracting State of which the alienor is a resident.

capital gains

Article 14

Contracting States shall provide for the other provisions of this Agreement such cases, the excess part of the fees shall remain allowable according to the laws of each
Article 15

1. No withholding of the provisions of the Article 15, remuneration derived in respect of an employment exercised or enjoyed or an employee who is not resident of the other State shall be

2. No withholding of the provisions of Article 15, remuneration derived in respect of a resident of a Contracting State not an employee who is not resident of the other State, such remuneration as derived from personal services rendered in a CONTRACTING STATE.

2. No withholding of the provisions of Article 15, remuneration derived in respect of a resident of a Contracting State who is not an employee who is not resident of the other State, such remuneration as derived from personal services rendered in a CONTRACTING STATE.
political subdivision thereof shall be payable only in the State in
which a public service which is part of the social security system of a Contracting State or a

3. No withholding the provisions of paragraph 1, paragraphs 2 and other paragraphs made

in return for adequate and full consideration in money or money's worth.

of during a service of assimilable period of time under an obligation to make the payments

The term "annuity" means a steady sum payable periodically at stated times during the

Contracting State may be paid in the first-mentioned State.

1. Subject to the provisions of paragraph 2 of Article 13, pensions, annuities and any other

Pensions and Annuities

Article 18

cultural agreement or arrangement between the Governments of the Contracting States,

first-mentioned Contracting State or a political subdivision thereof or place of work under a

other State of the work to which the other State is subject, wholly or mainly by public funds of the

other Contracting State are considered in paragraph 1 and 2 shall be exempt from tax in such

excluded, income derived by a resident of a Contracting State from activities exercised in the

in the Contracting State in which the activities of the entrepreneur or sports person are

in another country, income mentioned in subparagraph 1 to the extent of sports person's personal activities as such exercised in

such activities, in accordance with the provisions of Articles 7 and 15, be without prejudice to the provisions of sports person's personal activities as such exercised in

2. Income from personal activities exercised by an entrepreneur or a

the other Contracting State, may be taxed in that other State.

entrepreneur, such as a theatre, motion picture and television artiste,

1. No withholding the provisions of Articles 7 and 15, income derived by a resident of a

Entrepreneurs and Sports Persons

Article 17
Article 20

A person who is a student, business physician, or applicant who is or was immediately

previously employed in a private, business, or physician's practice shall be liable only if the

residence of the individual in the individual is a resident

shall be liable only if the residence of the individual is a resident

of a national of the State of

of a national of the State of

the individual is a resident of the State of

the individual is a resident of the State of

However, such salaries, wages, and other similar remuneration shall be taxable

in respect of services rendered in the State of an individual in respect of services rendered in the

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concerning a local authority.

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Institution under the laws of the State.

The regulation of a Contracting State may consist the competent authority of

Contracting State

of the other Contracting State must guarantee a characteristic institution under the laws of that State, any contributions provided under the income tax laws of each State, whatever part of the income that may be allowable as a deduction, subject to your under the income tax laws of that State, these shall be allowed as a deduction, subject to

1. In the computation of the tax payable on a resident of a Contracting State for any taxable

Donations to Charitable Institutions

Article 22

of some person or persons,

are undertaken by the individual not in the public interest but primarily for the private benefit

The provisions of paragraphs 1 shall not apply to income from research if such activities

Recontribution for such teaching or research

his services provided in the other State, shall be exempt from tax in the other State on the

official programmes of cultural exchange, for a period not exceeding two years from the date of

which is recognized as non-profitable by the Government of each State, or under an

An individual, who is or was a resident of a Contracting State immediately before

Article 21

reduction in respect of taxes available to residents of the State which he is visiting

reduction in respect of such education or training to the extent that such education or training was

paragraph 1, a student of business enterprise, or of another educational or scientific research

such payments arise from sources outside the State,

purpose of this maintenance, education or training shall not be taxed in the State, provided that
In the case of Kenya, a resident of Kenya, where a resident of Kenya receives income derived from sources outside Kenya, tax in accordance with the laws of Kenya shall be charged at a rate of not exceeding the rate of tax in accordance with the laws of Barbados which is payable, in the case of income in respect of which a deduction is allowed in Barbados, as if the income had been derived from sources within Barbados.

Elimination of Double Taxation

Article 24

Other Contracting State may also be taxed in the other State.

A Contracting State shall not levy nor will it in any way, either wholly or in part, the taxes referred to in paragraph 1 and 2, of income or of a resident of the other Contracting State.

1. the provisions of Article 7 shall apply;

2. the provisions of paragraph 1 shall not apply to income other than income from:

Other Income

Article 23
Article 25

Non-discrimination

Appropriable to the Income derived from Businesses;

exceed the part of the Kenya tax as computed before the deduction is given, which is
that portion in amount equal to the tax paid in England. Such a deduction, however, shall not
both Contracting States, then Kenya shall allow as a deduction from the tax on the income of

This Article shall apply to cases which are the subject of this Agreement,

which other similar enterprises of the first-mentioned State are or may be subjected,

therewith which is other or more burdensome than the taxation and connected requirements to

not be subjected in the first-mentioned State to any taxation or other connected connected

concluded, directly or indirectly, by one or more resident of the other Contracting State shall

4. Enquiries of a Contracting State, the capital of which is wholly or partly owned or

conditions as if they had been paid to a resident of the first-mentioned State;

accord of civil status, of family responsibilities which it claims to be own residents.

Contracting State any personal allowances, credits and reductions or any purpose on

shall not be considered as applying a Contracting State to an resident of the other

Taxation levied on enterprises of the other State on the same activity. This provision

has in the other Contracting State shall not be less favorable levied in that other State than the

shall not be subjected to any taxation or other connected connected enterprises, which is other or more burdensome than

Income or other connected connected enterprises, which is other or more burdensome than

Contracting State shall not be subjected to any taxation or other connected connected enterprises, which is other or more burdensome than

Parties to this Agreement shall not be subjected to any taxation or other connected connected enterprises, which is other or more burdensome than

portion of the Kenya tax as computed before the deduction is given, which is

Exchange of information is not restricted by Articles 1 and 2.

For the purpose of the provisions of this Agreement, any information exchanged shall be treated as confidential.

Article 27

1. The competent authorities of the Contracting Parties shall exchange such information as is necessary to the proper administration or enforcement of the domestic laws concerning taxes of every kind and nature in respect of taxes covered by this Agreement.

2. The competent authorities shall comply with the provisions of this Agreement in the manner in which they conduct similar operations in their own tax administration.

3. The competent authorities shall make every effort to obtain the assistance of their own tax administrations in the collection, exchange, and use of the information received.

4. The competent authorities shall ensure that the exchange of information is not restricted by Articles 2 and 27.
In no case shall the provisions of paragraphs 1 to 7 be construed so as to impose on a Contracting State the obligation to supply information obtained under the domestic laws of that State and the domestic authority of the Contracting State, or that of any other Contracting State, to the extent such information is required to be disclosed for any purpose other than being used for the purposes of the administration or enforcement of the territorial laws of the supplying State, or for the purpose of establishment of liability under the laws and administrative practices of the supplying State.

Where, however, a Public Authority or other authority or any public body or any private body having a public interest in the administration of the territorial laws of the supplying State, or who has been authorized by the Public Authority, or other authority or any public body or any private body having a public interest in the administration of the territorial laws of the supplying State to collect or have collected information and to use such information for the purposes of the administration of the territorial laws of the supplying State, or who has been authorized by the Public Authority, or other authority or any public body or any private body having a public interest in the administration of the territorial laws of the supplying State, or the Public Authority, or other authority or any public body or any private body having a public interest in the administration of the territorial laws of the supplying State, to the extent such information is required to be disclosed for any purpose other than being used for the purposes of the administration or enforcement of the territorial laws of the supplying State, or for the purpose of establishment of liability under the laws and administrative practices of the supplying State, the supplying State may, but is not required, to disclose such information.

In no case shall the provisions of paragraphs 1 to 7 be construed so as to require a Contracting State to supply information which it is not capable of supplying on account of the laws and administrative practices of the supplying State.

Any information which is obtained under the laws of a State or which is not obtainable under the laws of the State and the administrative practices of the supplying State may not be required to be disclosed for any purpose other than being used for the purposes of the administration or enforcement of the territorial laws of the supplying State.
ARTICLE 28

 Assistance in the Collection of Taxes

1. The Contracting States shall, to the extent permitted by their respective domestic law, 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 by the Contracting States, or their political subdivisions, in so far as the taxation thereunder is not contrary to this Agreement, or of any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or consignancy 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 consignancy with a view to ensure its collection, such measures of consignancy shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of consignancy by the competent authority of the other Contracting State. That other State shall take measures of consignancy 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 first-mentioned 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 for reasons 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, the competent authority of the Contracting State shall promptly notify the competent authority of the other Contracting State of the fact and, at the request of the latter, the first-mentioned Contracting State shall either suspend or withdraw its request.

(a) in the case of a request under paragraph 3 (b), a revenue claim of the first-mentioned Contracting State that is enforceable under the laws of that State is owned 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 (c), a revenue claim of the first-mentioned Contracting State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection.

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 the other Contracting State;

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

(c) 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 29

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 30

Enitlement to Benefits

1. Notwithstanding the other provisions of this Convention, a benefit under this Convention may be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that obtaining that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention.

2. Where a benefit under this Convention is denied to a person under paragraph 1, the competent authority of the Contracting State that would otherwise have granted this benefit shall nevertheless treat that person as not being entitled to this benefit, or to different benefits with respect to a specific item of income, if such competent authority, upon request from that person and after consideration of the relevant facts and circumstances, determines that such benefits would have been granted to that person in the absence of the transaction or arrangement referred to in paragraph 1. The competent authority of the Contracting State to which the request has been made will consult with the competent authority of the other State before rejecting a request made under this paragraph by a resident of that other State.

Article 31

Entry into Force

1. Each Contracting State shall notify the other, through the diplomatic channel, of the completion of the procedures required by its law for the bringing into force of this Agreement. The Agreement shall enter into force on the date of receipt of the last of these notifications.
2. The provisions of the Agreement shall apply:

(a) in Barbados, in respect of income tax, on taxable income derived on or after the first day of January of the year following that of the entry into force of this Agreement;

(b) in Kenya:

(i) with regard to taxes withheld at source, in respect to amounts paid or credited on or after the first day of January next following the date upon which this Agreement enters into force, and

(ii) with regard to other taxes, in respect of taxable years beginning on or after the first day of January next following the date upon which this Agreement enters into force.

3. Notwithstanding the provisions of paragraph 2, the provisions of Articles 26 and 27 shall have effect from the date of entry into force of this Agreement without regard to the date on which the taxes are levied or the taxable year to which the taxes relate.

Article 32

Termination

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement by giving notice of termination through diplomatic channels to the other Contracting State at least six months before the end of any calendar year beginning after expiry of five years from the date of entry into force of the Agreement. In such event, the Agreement shall cease to have effect:

(a) in Barbados, in respect of income tax, on taxable income derived on or after the first day of January of the year following the notice of termination;

(b) in the case of Kenya:

(i) with regard to taxes withheld at source, in respect to amounts paid or credited after the end of year of income in which the notice of termination is given, and
The Agreement shall enter into force on the date of receipt the later of these notifications.

Article 31

1. Each Contracting State shall notify the other, through the diplomatic channels of the date of receipt of these notifications.

2. Where a benefit under this Convention is denied to a person under paragraph 1, the competent authority of the Contracting State that would otherwise have granted this benefit shall nevertheless treat that person as being entitled to the benefit of this Convention.

Article 32

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions and Consular Posts.
The provisions of the Agreement shall apply:

(a) in Barbados, in respect of income tax on taxable income derived on or after the first day of January of the year following that of the entry into force of this Agreement.

(b) in Kenya:

(i) with regard to taxes withheld at source, in respect to amounts paid or credited on or after the first day of January next following the date upon which this Agreement enters into force;

(ii) with regard to other taxes, in respect of taxable years beginning on or after the first day of January next following the date upon which this Agreement enters into force.

3. Notwithstanding the provisions of paragraph 2, the provisions of Articles 26 and 27 shall have effect from the date of entry into force of this Agreement, without regard to the date on which the taxes are levied or the taxable year to which the taxes relate.

Article 32

Termination

This Agreement shall remain in force until terminated by a Contracting State.

(a) in Barbados, in respect of income tax on taxable income derived on or after the first day of January of the year following the notice of termination.

(b) in the case of Kenya:

(i) with regard to taxes withheld at source, in respect of amounts paid or credited after the end of year of income in which the notice of termination is given; and
The Agreement shall enter into force on the date of receipt by the other State of these notifications.

1. Each Contracting State shall notify the other, through the diplomatic channel, of the
compilation of the procedures required by its law for the bringing into force of the Agreement.

2. Where a person under this Convention is denied to a person under paragraph 1, the

Article 30

of special economic provisions or consultative sessions under the specific rules of international law or under the provisions

Nothing in this Agreement shall affect the legal privileges of members of diplomatic

Article 29
2. The provisions of the Agreement shall apply:

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(b) in Kenya:

(i) with regard to taxes withheld at source, in respect to amounts paid or credited on or after the first day of January next following the date upon which this Agreement enters into force; and

(ii) with regard to other taxes, in respect of taxable years beginning on or after the first day of January next following the date upon which this Agreement enters into force.

3. Notwithstanding the provisions of paragraph 2, the provisions of Articles 26 and 27 shall have effect from the date of entry into force of this Agreement without regard to the date on which the taxes are levied or the taxable year to which the taxes relate.

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(a) in Barbados, in respect of income tax, on taxable income derived on or after the first day of January of the year following the date next following the notice of termination;

(b) in the case of Kenya:

(i) with regard to taxes withheld at source, in respect to amounts paid or credited after the end of year of income in which the notice of termination is given; and
with regard to other taxes, in respect of years of income beginning after the end of year of income in which the notice of termination is given.

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

DONE at this 7th day of December, 2009 in duplicate in the English language.

For the Government of Barbados

For the Government of the Republic of Kenya