

CONVENTION BETWEEN THE PORTUGUESE REPUBLIC AND
THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA FOR THE
AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION
OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Portuguese Republic and the Federal Democratic Republic of Ethiopia,

Desiring to conclude a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, in order to promote and strengthen the economic relations between the two countries,

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 or administrative subdivisions or local authorities, irrespective of the manner in which they are levied.

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

a) in the case of Portugal:

(i) the personal income tax (Imposto sobre o Rendimento das Pessoas Singulares – IRS);

(ii) the corporate income tax (Imposto sobre o Rendimento das Pessoas Colectivas – IRC); and

(iii) the surtaxes on corporate income (Derramas);

(hereinafter referred to as “Portuguese tax”);

b) in the case of Ethiopia:

- (i) the tax on income and profit imposed by the Income Tax Proclamation; and
- (ii) the tax on income from mining, petroleum and agricultural activities imposed by the respective proclamations;

(hereinafter referred to as “Ethiopian tax”).

3. The Convention shall apply also to any identical or substantially similar taxes which 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 which 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 “Portugal” when used in a geographical sense comprises the territory of the Portuguese Republic in accordance with the International Law and the Portuguese legislation;
 - b) the term “Ethiopia” means the Federal Democratic Republic of Ethiopia, when used in a geographical sense, it means the national territory, in accordance with the International Law and the laws of Ethiopia, including any area which is or may be designated as an area in which Ethiopia exercises sovereign rights or its jurisdiction;
 - c) the terms “a Contracting State” and “the other Contracting State” mean Portugal or Ethiopia as the context requires;
 - d) the term “tax” means Portuguese tax or Ethiopian tax, as the context requires;
 - e) the term “person” includes an individual, a company and any other body of persons;
 - f) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - g) 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;

- h) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- i) the term “competent authority” means:
 - (i) in the case of Portugal: the Minister of Finance, the Director General of **[the Tax and Customs Authority]** or their authorised representative;
 - (ii) in the case of Ethiopia: the Minister of Finance and Economic Development or his authorized representative;
- 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.

2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State concerning the taxes to which the 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 his domicile, residence, place of effective management, place of registration or any other criterion of a similar nature, and also includes that State and any political or administrative subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

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

- a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to

him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);

- b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
- c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
- d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

ARTICLE 5 PERMANENT ESTABLISHMENT

1. For the purposes of this 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 shop;
- f) a workshop;
- g) a commercial warehouse; and
- h) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than six months.

4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:

- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a stock of goods or merchandise belonging to the enterprise, which is exhibited at a trade fair or exhibition, and which is sold by the enterprise at the end of such fair or exhibition;
- e) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- f) 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;
- g) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to f), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 7 applies – is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. Notwithstanding the preceding provisions of this Article, an insurance company of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or it insures risks situated therein through a person, other than an agent of an independent status to whom paragraph 7 applies.

7. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, where the activities of such an agent are devoted wholly or mainly to that enterprise he would not be considered an agent of an independent status within the meaning of this paragraph.

8. 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 or 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 and to income from immovable property used for the performance of independent personal services.

5. The foregoing provisions shall also apply to income from movable property or income derived from services, which are connected with the use or the right to use the immovable property, either of which, under the taxation law of the Contracting State in which the property is situated, is assimilated to income from immovable property.

ARTICLE 7
BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. This provision shall apply subject to limitations under the domestic law.

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
INTERNATIONAL TRAFFIC

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

3. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic include:

- a) profits from the rental on a bareboat basis of ships or aircraft;
- b) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise; and
- c) profits from the sale of tickets for the service of transportation by sea or air on behalf of other enterprises,

where such rental or such use, maintenance or rental or such sale, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

4. The provisions of paragraphs 1, 2 and 3 of this Article shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

5. Whenever companies from different countries have agreed to carry on an air transportation business together in the form of a consortium or a similar form of association, the provisions of paragraph 1 shall apply to such part of the profits of the consortium or association as corresponds to the participation held in that consortium or association by a company that is a resident of a Contracting State.

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, if it agrees that the adjustment made by the first-mentioned State is justified both in principle and as regards the amount, shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

ARTICLE 10 DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

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

- a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;
- b) 10 per cent of the gross amount of the dividends in all other cases.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term “dividends” as used in this Article means income from shares, “jouissance” shares or “jouissance” rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. 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, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or

fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, 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 or a fixed base 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.

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 shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State, if it is paid by or to:

- a) the State, a political or administrative subdivision or a local authority thereof, or
- b) the Central Bank of Portugal or the National Bank of Ethiopia.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

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 5 per cent of the gross amount of the royalties. The competent authorities of the Contracting States shall 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 computer software, cinematograph films, and films or tapes for radio or television broadcasting, transmission of every kind to the public, any patent, trade mark, design or model, plan, secret formula or process, or for the use or for the right to use of any industrial, commercial or scientific equipment, 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, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, 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 he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base 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 last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 13

TECHNICAL FEES

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

2. However, such technical fees may also be taxed in the Contracting State in which they arise and according to the laws of that Contracting State, but if the beneficial owner of the technical fees is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the technical fees. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term "technical fees" as used in this Article means payments of any kind to any person, other than to an employee of the person making the payments, in consideration for any services of a technical, managerial or consultancy nature.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the technical fees, being a resident of a Contracting State, carries on business in the other Contracting State in which the technical fees arise through a permanent establishment situated therein, or performs in that other Contracting State independent personal services from a fixed base situated therein, and the technical fees are effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.

5. Technical fees shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the technical fees, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or fixed base in connection with which the liability to pay the technical

fees was incurred, and such technical fees are borne by such permanent establishment of fixed base, then such technical fees shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base 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 technical fees exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 14 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, including shares and other comparable interests in a company, which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

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

4. Gains derived by a resident of a Contracting State from the alienation of shares or of a comparable interest deriving more than 50 percent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

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

ARTICLE 15 INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State

unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting State but only so much of it as is attributable to that fixed base.

2. The term “professional services” includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

ARTICLE 16 DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 17, 19, 20, 21 and 22, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

- a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and
- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- c) the remuneration is not borne by a permanent establishment or a fixed base 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 may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

ARTICLE 17 DIRECTORS' FEES

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

ARTICLE 18
ARTISTES AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 15 and 16, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his or her personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his or her capacity as such accrues not to the entertainer or sportsman himself or herself but to another person, that income may, notwithstanding the provisions of Articles 7, 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from the activities referred to in paragraph 1 within the framework of cultural or sports exchanges agreed to by the Governments of the Contracting States and carried out other than for the purpose of profit shall be exempt from tax in the Contracting State in which these activities are exercised.

ARTICLE 19
PENSIONS AND ANNUITIES

1. Subject to the provisions of paragraph 2 of Article 20, pensions, annuities and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

2. The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under a commitment with an obligation to make the payments in return for adequate and full consideration in money or money's worth.

3. The term "pension" means a periodical payment made in consideration of services rendered in the past or by way of compensation for injuries received, during the course of an employment.

ARTICLE 20
GOVERNMENT SERVICE

1. Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political or administrative 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. However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

- a) is a national of that State; or
- b) did not become a resident of that State solely for the purpose of rendering the services.

2. Any pensions paid by, or out of funds created by, a Contracting State or a political or administrative 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. However, such pensions shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 16, 17, 18, and 19 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political or administrative subdivision or a local authority thereof.

ARTICLE 21 PROFESSORS AND RESEARCHERS

1. An individual who is or was a resident of a Contracting State immediately before making a visit to the other Contracting State and who, at the invitation of any university, college, school or other similar non-profitable educational institution, which is recognized by the Government of that other Contracting State, is present in that other State for a period not exceeding two years from the date of his first arrival in that other Contracting State, solely for the purpose of teaching or research or both, at such educational institution shall be exempt from tax in that other Contracting State on his remuneration for such teaching or research.

2. The provisions of paragraph 1 of this Article shall not apply to income from research if such research is undertaken not in the public interest but for the private benefit of a specific person or persons.

ARTICLE 22 STUDENTS AND BUSINESS APPRENTICES

1. Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

2. A student or a business apprentice, who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting State for a continuous period not exceeding four years, shall not be taxed in the first-mentioned Contracting State in respect of remuneration for services rendered in the first-mentioned Contracting State, provided that the services are directly connected with his studies or training and the remuneration does not exceed 6,000 EUR per year

ARTICLE 23
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, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.
3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention and arising in the other Contracting State may also be taxed in that other State.

CHAPTER IV
METHODS FOR ELIMINATION OF DOUBLE TAXATION

ARTICLE 24
ELIMINATION OF DOUBLE TAXATION

1. In the case of Portugal, double taxation shall be eliminated as follows:
 - a) where a resident of Portugal derives income which, in accordance with the provisions of this Convention, may be taxed in Ethiopia, Portugal shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in Ethiopia. Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Ethiopia.
 - b) where in accordance with any provisions of this Convention income derived by a resident of Portugal is exempt from tax in Portugal, Portugal may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.
2. In the case of Ethiopia, double taxation shall be eliminated as follows:

Where a resident of Ethiopia derives income which, in accordance with the provisions of this Convention, may be taxed in Portugal, Ethiopia shall allow as

a deduction from the tax on the income of that resident an amount equal to the income tax paid in Portugal.

Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Portugal.

3. For the purposes of this Article the terms “tax paid” or “tax payable” as mentioned in paragraphs 1 and 2 of the Article shall be deemed to include the tax which would have been paid but for any exemption or reduction of tax granted under incentive provisions contained in the law of a Contracting State designed to promote economic development to the extent that such exemption or reduction is granted for profits from industrial, construction, manufacturing or agricultural activities, provided that the activities have been carried out within that Contracting State. This paragraph shall apply during the first seven years of application of this Convention. Thereafter, it may be extended by mutual agreement between the competent authorities of the Contracting States.

CHAPTER V SPECIAL PROVISIONS

ARTICLE 25 NON-DISCRIMINATION

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

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

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, paragraph 6 of Article 12, or paragraph 6 of Article 13 apply, interest, royalties, technical fees and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5. The provisions of this Article shall apply only to taxes which are covered by this Convention.

ARTICLE 26 MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of the Contracting States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the 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 the 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. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

ARTICLE 27 EXCHANGE OF INFORMATION

1. 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 or administrative subdivisions or local authorities, insofar as the taxation thereunder is not

contrary to the 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.

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

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (*ordre public*).

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

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

6. The Contracting States shall comply with the guidelines for the regulation of computer files containing personal data as established by the United Nations General Assembly Resolution A/RES/45/95, adopted on the 14th December 1990.

ARTICLE 28
MEMBERS OF DIPLOMATIC MISSIONS AND
CONSULAR POSTS

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

CHAPTER VI
FINAL PROVISIONS

ARTICLE 29
ENTRY INTO FORCE

1. This Convention shall enter into force thirty days after the date of receipt of the latter of the notifications, in writing and through diplomatic channels, conveying the completion of the internal procedures of each Contracting State required for that purpose.

2. The provisions of this Convention shall have effect:

a) in the case of Portugal:

- (i) in respect of taxes withheld at source, the fact giving rise to them appearing on or after the first day of January of the calendar year next following that in which this Convention enters into force; and
- (ii) in respect of other taxes, as to income arising in any fiscal year beginning on or after the first day of January of the calendar year next following that in which this Convention enters into force;

b) in the case of Ethiopia:

- (i) with regard to taxes withheld at source, in respect of amounts paid on or after the eighth day of July next following the date upon which this Convention enters into force; and
- (ii) with regard to other taxes, in respect of tax year beginning on or after the eighth day of July next following the date upon which this Convention enters into force.

ARTICLE 30
DURATION AND TERMINATION

1. Following the expiration of an initial period of five years, this Convention shall remain in force for an indeterminate period of time.

2. Following the expiration of the initial period of five years, either Contracting State may denounce this Convention upon notification, in writing through diplomatic channels, before the first day of July of the concerned calendar year.

3. In case of denunciation, this Convention shall cease to have effect:

a) in the case of Portugal:

- (i) in respect of taxes withheld at source, the fact giving rise to them appearing on or after the first day of January of the calendar year next following the date upon which such notice is given; and
- (ii) in respect of other taxes, as to income arising in any fiscal year beginning on or after the first day of January of the calendar year next following the date upon which such notice is given;

b) in the case of Ethiopia:

- (i) with regard to taxes withheld at source, in respect of amounts paid on or after the eighth day of July next following the date upon which such notice is given; and
- (ii) with regard to other taxes, in respect of tax year beginning on or after the eighth day of July next following the date upon which such notice is given.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Convention.

DONE in duplicate at Addis Ababa this 25th day of May 2013, in the Portuguese and English languages, both texts being equally authentic. In case of any divergence of interpretation of the text of this Convention, the English text shall prevail.

FOR THE PORTUGUESE REPUBLIC:

FOR THE FEDERAL DEMOCRATIC
REPUBLIC OF ETHIOPIA:

Francisco Almeida Leite

Secretary of State for Foreign Affairs and
Cooperation

Ahmed Shide

Minister of State of Finance and
Economic Development for External
Cooperation

PROTOCOL TO THE CONVENTION BETWEEN THE PORTUGUESE REPUBLIC AND THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

On signing the Convention between the Portuguese Republic and the Federal Democratic Republic of Ethiopia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (hereinafter referred to as “the Convention”), the parties have agreed that the following provisions shall form an integral part of the Convention:

1. Entitlement to the Benefits foreseen in the Convention:

- a) It is understood that the provisions of the Convention shall not be interpreted so as to prevent the application by a Contracting State of the anti-avoidance provisions provided for in its domestic law;
- b) It is understood that the benefits foreseen in the Convention shall not be granted to a resident of a Contracting State which is not the beneficial owner of the income derived from the other Contracting State;
- c) It is understood that the provisions of the Convention shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the property or right in respect of which the income is paid to take advantage of those provisions by means of such creation or assignment.

2. It is understood that:

- a) With reference to Article 5, paragraph 2, sub-paragraph g), the term “commercial warehouse” refers to facilities maintained by an enterprise of a Contracting State for storage of goods or merchandise for other enterprises for profit purposes;
- b) With reference to Article 7, paragraph 3, limitations under the domestic law apply only when the result from such limitations is in accordance with the principles established in the Convention;
- c) With reference to Article 10, paragraph 3, in the case of Portugal, the term “dividends” shall also include profits attributed under an arrangement for participation in profits (“associação em participação”);
- d) With reference to Article 12, paragraph 3, payments in relation to software shall fall within the definition of “royalties” where less than the full rights to the software are transferred either if the payments are in consideration for the right to use a copyright on software for commercial exploitation (except payments for

the right to distribute standardised software copies, not comprising the right to customize and/or to reproduce them) or if they relate to software acquired for the business use of the purchaser, when, in this last case, the software is not absolutely standardised but somehow adapted to the purchaser.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Protocol.

DONE in duplicate at Addis Ababa this 25th day of May 2013, in the Portuguese and English languages, both texts being equally authentic. In case of any divergence of interpretation of the text of this Protocol, the English text shall prevail.

FOR THE PORTUGUESE REPUBLIC: FOR THE FEDERAL DEMOCRATIC
REPUBLIC OF ETHIOPIA:

Francisco Almeida Leite
Secretary of State for Foreign Affairs and
Cooperation

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Economic Development for External
Cooperation