



**PROTOCOL TO THE AGREEMENT  
BETWEEN  
THE REPUBLIC OF CHILE  
AND  
THE REPUBLIC OF INDIA  
FOR THE ELIMINATION OF DOUBLE TAXATION AND THE  
PREVENTION OF FISCAL EVASION AND AVOIDANCE WITH RESPECT  
TO TAXES ON INCOME**

On signing the Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income between the Republic of Chile and the Republic of India, the signatories have agreed that the following provisions shall form an integral part of the Agreement. It is understood that:

1. General provision

(i) In the case of India: Nothing in this Agreement -

- (a) shall be construed as preventing India from charging the profits of a permanent establishment which a resident of Chile has in India at a rate of tax (including branch profits tax) which is higher than that imposed on the profits of a similar company of India;
- (b) shall affect the additional income-tax on distributed profits of an Indian resident company for any amount declared, distributed or paid by way of dividends;

(ii) In the case of Chile: Nothing in this Agreement -

- (a) shall affect the taxation in Chile of a resident in India in respect of profits attributable to a permanent establishment situated in Chile, under both the First Category Tax and the Additional Tax but only as long as the First Category Tax is creditable in computing the Additional Tax;
- (b) shall limit the application of the Additional Tax in respect of dividend payments or profit distribution payable in Chile provided that the First Category Tax is fully creditable in computing the amount of Additional tax.



(iii) If, after the date on which the Agreement enters into force, either Contracting State introduces a tax on capital under its domestic law, the Contracting States will enter into negotiations with a view to concluding a Protocol to amend the Agreement by extending its scope to include any tax on capital so introduced. The terms of any such Protocol shall have regard to any agreements between either Contracting State and a third State for the relief of double taxation on capital.

2. Ad. Article 1

For purposes of paragraph 1, the term “fiscally transparent” means situations where, under the law of a Contracting State, income or part thereof of an entity or arrangement is not taxed at the level of the entity or arrangement but at the level of the persons who have an interest in that entity or arrangement as if that income or part thereof were directly derived by such persons at the time when that income or part thereof is realized whether or not that income or part thereof is distributed by that entity or arrangement to such persons.

3. Ad. Articles 2 and 3

For purpose of Articles 2 and 3, it is clarified that the term “tax” shall not include any amount which is payable in respect of any default or omission in relation to the taxes to which this Agreement applies or which represents a penalty or fine imposed relating to those taxes.

4. Ad. Article 3

With respect to paragraph 1 subparagraph (d) of Article 3, for greater certainty of meaning of the term “any other body of persons”, it is understood that any entity which is treated as a taxable unit under the taxation laws in force in the respective Contracting State shall be regarded as a body of persons.

5. Ad. Article 5

For the purposes of preventing misuse of Articles 5 and 7, in computing the time limits in paragraph 3 of Article 5, activities carried on by an enterprise associated with another enterprise shall be aggregated with the period during which activities are carried on by the enterprise if the activities of the associated enterprises are connected or substantially similar. For the purposes of the preceding sentence, an enterprise shall be deemed to be associated with another enterprise if one



participates directly or indirectly in the management, control or capital of the other, or the same person or persons participate directly or indirectly in the management, control or capital of both enterprises.

6. Ad. Article 7

For the purpose of paragraph 3 of Article 7, the deductions of expenses to be allowed by a Contracting State shall be in accordance with the provisions of and subject to the limitations of the tax laws of that Contracting State.

7. Ad. Article 8

For the purpose of paragraph 1 of Article 8, property includes goods, livestock and mail.

8. Ad. Article 9

In the case of Chile and notwithstanding any provisions of this Agreement, Chile, in any case, shall not be obliged to make or accept an appropriate adjustment in the circumstances referred to in paragraph 2 of Article 9 after the expiry of the time limits provided for in its domestic tax laws regarding tax refunds, or after five years, whichever is the higher, from the end of the year in which the profits which would be subject to such change would have accrued to an enterprise of India.

**IN WITNESS WHEREOF** the signatories, duly authorised to that effect, have signed this Protocol.

**DONE** in duplicate at Santiago, Republic of Chile, this 9<sup>th</sup> March 2020, in the English, Hindi and Spanish languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

  
**FOR THE GOVERNMENT OF THE  
REPUBLIC OF CHILE**

  
**FOR THE GOVERNMENT OF THE  
REPUBLIC OF INDIA**