



## REPUBLIC OF KENYA

### **Status of List of Reservations and Notifications at the Time of Signature**

This document contains a provisional list of reservations and notifications to be made by the Republic of Kenya pursuant to Articles 28(7) and 29(4) of the Convention.

**Article 2 – Interpretation of Terms****Notification - Agreements Covered by the Convention**

Pursuant to Article 2(1)(a)(ii) of the Convention, Kenya wishes the following agreement(s) to be covered by the Convention:

No	Title	Other Contracting Jurisdiction	Original/ Amending Instrument	Date of Signature	Date of Entry into Force
1	Agreement between Canada and Kenya for the Avoidance of Double Taxation and The Prevention Of Fiscal Evasion with respect to Taxes on Income and on Capital	<b>Canada</b>	Original	27/04/1983	08/01/1987
2	Convention Between the Government of The Republic of Kenya And the Government of The Kingdom of Denmark For the Avoidance of Double Taxation and The Prevention Of Fiscal Evasion With Respect To Taxes On Income And Capital	<b>Denmark</b>	Original	13/12/1972	15/03/1973
3.	Convention Between The Government Of The Republic Of Kenya And The Government Of The French Republic For The Avoidance Of Double Taxation And The Prevention Of Fiscal Evasion With Respect To Taxes On Income	<b>France</b>	Original	04/12/2007	01/11/2010
4.	Convention Between India and Kenya for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion With Respect to Taxes on Income	<b>India</b>	Original	11/07/16	30/08/2017
5	Convention Between Italy And Kenya For the Avoidance Of Double Taxation and The Prevention Of Fiscal Evasion With Respect To Taxes On Income	<b>Italy</b>	Original	15/10/79	N/A
6	Agreement Between The Government of The Republic of Mauritius and The Government of The Republic of Kenya For The Avoidance of Double Taxation With Respect To Taxes on Income	<b>Mauritius</b>	Original	07/05/12	N/A
7	Convention Between The Kingdom of The Netherlands and The Republic of Kenya For The Avoidance of Double	<b>Netherlands</b>	Original	22/07/15	N/A

	Taxation And The Prevention of Fiscal Evasion With Respect To Taxes on Income.				
8.	Convention Between The Government of The Republic of Kenya and The Government of The Kingdom of Norway For The Avoidance of Double Taxation and The Prevention of Fiscal Evasion With Respect To Taxes on Income and Capital	<b>Norway</b>	Original	13/12/72	10/09/73
9	Agreement Between The Government of The State of Qatar and The Government of The Republic Of Kenya For The Avoidance of Double Taxation and The Prevention of Fiscal Evasion With Respect To Taxes On Income.	<b>Qatar</b>	Original	23/04/14	25/06/2015
10.	Agreement Between The Government of The Republic of South Africa and The Government of The Republic of Kenya For The Avoidance of Double Taxation and The Prevention Of Fiscal Evasion With Respect To Taxes On Income	<b>South Africa</b>	Original	26/11/10	19/06/15
11	Convention Between The Government of The Republic of Kenya and The Government of The Kingdom of Sweden For The Avoidance of Double Taxation and The Prevention of Fiscal Evasion With Respect To Taxes on Income And Capital	<b>Sweden</b>	Original	28/06/73	28/12/73
12.	Agreement Between The Government of The United Kingdom Of Great Britain And Northern Ireland and The Government Of The Republic of Kenya For The Avoidance of Double Taxation And The Prevention of Fiscal Evasion With Respect To Taxes On Income And Capital Gains	<b>United Kingdom</b>	Original	31/07/73	30/09/77
13	Agreement Between The Government Of The Republic of Kenya and The Government of The Republic of Seychelles For The Avoidance of Double Taxation And Prevention of Fiscal Evasion With Respect To Taxes On Income	<b>Seychelles</b>	Original	17/03/2014	09/04/2015

14	Agreement Between The Government Of The United Arab Emirates and The Government of the Republic of Kenya For The Avoidance of Double Taxation And Prevention of Fiscal Evasion With Respect To Taxes On Income	<b>United Arab Emirates</b>	Original	21/11/2011	22/2/2017
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### **Article 3 – Transparent Entities**

Pursuant to Article 3(6) of the Convention, Kenya confirms that all Covered Tax agreements do not contain the provision described in Article 3(4) [that is not subject to a reservation under Article 3(5)(c) through (e)].

**Article 4 – Dual Resident Entities****Notification of Existing Provisions in Listed Agreements**

Pursuant to Article 4(4) of the Convention, Kenya considers that the following agreement(s) contain a provision described in Article 4(2) that is not subject to a reservation under Article 4(3)(b) through (d). The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	Canada	Article 4(3)
2	Denmark	Article 4(3)
3	France	Article 4(3)
4	India	Article 4(3)
5	Italy	Article 4(3)
6	Mauritius	Article 4(3)
7	Netherlands	Article 4(3)
8	Norway	Article 4(3)
9	Qatar	Article 4(3)
10	South Africa	Article 4(3)
11	Sweden	Article 3(3)
12	United Kingdom	Article 4(3)
13	Seychelles	Article 4(3)
14	United Arab Emirates	Article 4(4)

## **Article 5 – Application of Methods for Elimination of Double Taxation**

### **Reservation**

Pursuant to Article 5(8) of the Convention, Kenya reserves the right for Article 5 not to apply with respect to all of its Covered Tax Agreements.

## Article 6 – Purpose of a Covered Tax Agreement

### Notification of Choice of Optional Provisions

Pursuant to Article 6(6) of the Convention, Kenya hereby chooses to apply Article 6(3).]

### Notification of Existing Preamble Language in Listed Agreements

Pursuant to Article 6(5) of the Convention, Kenya considers that the following agreements are not within the scope of a reservation under Article 6(4) and contain preamble language described in Article 6(2). The text of the relevant preambular paragraph is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Preambular language
1	Canada	desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital
2	Denmark	desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital
3	France	desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income:
4	India	Desiring to conclude an agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital and with a view to promoting economic cooperation between the two countries.
5	Italy	desiring to conclude a Convention to avoid double taxation and to prevent fiscal evasion with respect to taxes on income...
6	Mauritius	Desiring to conclude an agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital.
7	Netherlands	Desiring that a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income be concluded between the Contracting States
8	Norway	desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital
9	Qatar	desiring to conclude an agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
10	South Africa	desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,



11	Sweden	desiring to conclude a convention for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and capital,
12	United Kingdom	with a view to affording relief from double taxation in relation to income tax
13	Seychelles	desiring to conclude an agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
14	United Arab	desiring to further enhance the existing economic cooperation by concluding an agreement for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income,

## Article 7 – Prevention of Treaty Abuse

### Notification of Choice of Optional Provisions

Pursuant to Article 7(17)(c) of the Convention, Kenya hereby chooses to apply the Simplified Limitation on Benefits Provision pursuant to Article 7(6) to all Covered Tax Agreements and considers that the following agreement(s) contain(s) a provision described in Article 7(14).

Listed Agreement Number	Other Contracting Jurisdiction	Provision
3	France	Articles 10(7), 11(8), 12(7)
4	India	Article 29(2)
10	Qatar	Article 4(3)

## Article 8 – Dividend Transfer Transactions

### Reservation

Pursuant to Article 8(3)(b)(ii) of the Convention, Kenya reserves the right for the entirety of Article 8 not to apply to its Covered Tax Agreements to the extent that the provisions described in Article 8(1) already include a minimum holding period shorter than a 365 day period. The following agreement(s) contain(s) provisions that are within the scope of this reservation.]

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	Canada	Article 10 (2)
2	Denmark	Article 10 (2)
5	Italy	Article 10 (2)
8	Norway	Article 10 (2)
11	Sweden	Article 8 (2)

### Notification of Existing Provisions in Listed Agreements

Pursuant to Article 8(4) of the Convention, Kenya considers that the following agreements contain a provision described in Article 8(1) that is not subject to a reservation described in Article 8(3)(b). The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
3	France	Article 10(2)
4	India	Article 10(2)
6	Mauritius	Article 10(2)
7	Netherlands	Article 10(2)
9	Qatar	Article 10(2)
10	South Africa	Article 10(2)
13	Seychelles	Article 10(2)
14	United Arab Emirates	Article 11(2)

**Article 9 – Capital Gains from Alienation of Shares or Interests of Entities Deriving their Value Principally from Immovable Property**

**Notification of Choice of Optional Provisions**

Pursuant to Article 9(8) of the Convention, Kenya hereby chooses to apply Article 9(4).

***Notification of Existing Provisions in Listed Agreements***

Pursuant to Article 9(8) of the Convention, Kenya considers that the following agreements contain a provision described in Article 9(5). The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	Canada	Article 13(3)
3	France	Article 13(1)(b)
4	India	Article 14(4)
5	Italy	Article 13(3)

**Article 10 – Anti-abuse Rule for Permanent Establishments Situated in Third Jurisdictions**

**Notification of Existing Provisions in Listed Agreements**

Pursuant to Article 10(6) of the Convention, Kenya considers that none of its Covered Tax Agreements contain a provision described in Article 10(4).

**Article 11 – Application of Tax Agreements to Restrict a Party’s Right to Tax its Own Residents**

**Notification of Existing Provisions in Listed Agreements**

Pursuant to Article 11(4) of the Convention, Kenya considers that none of its Covered Tax Agreements contain a provision described in Article 11(2).

## Article 12 – Artificial Avoidance of Permanent Establishment Status through Commissionaire Arrangements and Similar Strategies

### Notification of Existing Provisions in Listed Agreements

Pursuant to Article 12(5) of the Convention, Kenya considers that that the following Covered Tax Agreements contain a provision described in Article 12(3)(a). The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	Canada	Article 5(4)
2	Denmark	Article 5(4)
3	France	Article 5(5)
4	India	Article 5(5)
5	Italy	Article 5(4)
6	Mauritius	Article 5(5)
7	Netherlands	Article 5(5)
8	Norway	Article 5(4)
9	Qatar	Article 5(5)
10	South Africa	Article 5(5)
11	Sweden	Article 5(4)
12	United Kingdom	Article 5(5)
13	Seychelles	Article 5(5)
14	United Arab Emirates	Article 5(5)

### Notification of Existing Provisions in Listed Agreements

Pursuant to Article 12(6) of the Convention, Kenya considers that that the following Covered Tax Agreements contain a provision described in Article 12(3)(b). The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	Canada	Article 5(5)
2	Denmark	Article 5(6)
3	France	Article 5(7)
4	India	Article 5(7)
5	Italy	Article 5(5)
6	Mauritius	Article 5(6)
7	Netherlands	Article 5(7)
8	Norway	Article 5(6)
9	Qatar	Article 5(7)
10	South Africa	Article 5(7)
11	Sweden	Article 5(6)
12	United Kingdom	Article 5(7)
13	Seychelles	Article 5(7)
14	United Arab Emirates	Article 5(7)

## Article 13 – Artificial Avoidance of Permanent Establishment Status through the Specific Activity Exemptions

### Reservation

Pursuant to Article 13(6)(b) of the Convention, Kenya reserves the right for Article 13(2) not to apply to its Covered Tax Agreements that explicitly state that a list of specific activities will be deemed not to constitute a permanent establishment only if each of the activities is of a preparatory or auxiliary character. The following agreements contain provisions that are within the scope of this reservation.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
4	India	Article 5(4)
8	Norway	Article 5(3)
9	Qatar	Article 5(4)
10	South Africa	Article 5(4)
11	Sweden	Article 5(3)

### Notification of Choice of Optional Provisions

Pursuant to Article 13(7) of the Convention, Kenya hereby chooses to apply Option A under Article 13(1).

### Notification of Existing Provisions in Listed Agreements

Pursuant to Article 13(7) of the Convention, Kenya considers that the following agreements contain a provision described in Article 13(5)(a). The article and paragraph number of each such provision is identified below

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	Canada	Article 5(3)
2	Denmark	Article 5(3)
3	France	Article 5(4)
4	India	Article 5(3)
5	Italy	Article 5(3)
6	Mauritius	Article 5(4)
7	Netherlands	Article 5(4)
12	United Kingdom	Article 5(3)
13	Seychelles	Article 5(4)
14	United Arab Emirates	Article 5(4)



## **Article 14 – Splitting-up of Contracts**

### **Notification of Existing Provisions in Listed Agreements**

Pursuant to Article 14(4) of the Convention, Kenya considers that none of its Covered Tax Agreements contain a provision described in Article 14(2) that is not subject to a reservation under Article 14(3)(b).

## Article 16 – Mutual Agreement Procedure

### Reservation

Pursuant to Article 16(5)(a) of the Convention, Kenya reserves the right for the first sentence of Article 16(1) not to apply to its Covered Tax Agreements on the basis that it intends to meet the minimum standard for improving dispute resolution under the OECD/G20 BEPS Package by ensuring that under all of its Covered Tax Agreements, where a person considers that the actions of one or both of the Contracting Jurisdictions result or will result for that person in taxation not in accordance with the provisions of the Covered Tax Agreement, irrespective of the remedies provided by the domestic law of those Contracting Jurisdictions, that person may present the case to the competent authority of either Contracting Jurisdiction.

### Notification of Existing Provisions in Listed Agreements

Pursuant to Article 16(6)(b)(i) of the Convention, Kenya considers that the following agreements include a provision that provides that a case referred to in the first sentence of Article 16(1) must be presented within a specific time period that is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Covered Tax Agreement. The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	Canada	Article 26(1), second sentence
5	Italy	Article 25(1), second sentence
13	Seychelles	Article 25(1), second sentence
14	United Arab Emirates	Article 26(1), second sentence

Pursuant to Article 16(6)(b)(ii) of the Convention, Kenya considers that the following agreements contain a provision that provides that a case referred to in the first sentence of Article 16(1) must be presented within a specific time period that is at least three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Covered Tax Agreement. The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
2	Denmark	Article 27(1), second sentence
3	France	Article 24(1), second sentence
4	India	Article 27(1), second sentence
6	Mauritius	Article 24(1), second sentence
7	Netherlands	Article 25(1), second sentence
8	Norway	Article 27(1), second sentence
9	Qatar	Article 25(1), second sentence
10	South Africa	Article 25(1), second sentence

Pursuant to Article 16(6)(c)(i) of the Convention, Kenya considers that the following agreement does not contain a provision described in Article 16(4)(b)(i).

Listed Agreement Number	Other Contracting Jurisdiction
11	Sweden

Pursuant to Article 16(6)(c)(ii) of the Convention, Kenya considers that the following agreements do not contain a provision described in Article 16(4)(b)(ii).

Listed Agreement Number	Other Contracting Jurisdiction
1	Canada
2	Denmark
5	Italy
8	Norway
9	Qatar
11	Sweden
12	United Kingdom

Pursuant to Article 16(6)(d)(i) of the Convention, Kenya considers that the following agreement does not contain a provision described in Article 16(4)(c)(i).

Listed Agreement Number	Other Contracting Jurisdiction
11	Sweden

Pursuant to Article 16(6)(d)(ii) of the Convention, Kenya considers that the following agreements do not contain a provision described in Article 16(4)(c)(ii).]

Listed Agreement Number	Other Contracting Jurisdiction
11	Sweden
12	United Kingdom
14	United Arab Emirates

**Article 17 – Corresponding Adjustments****Notification of Existing Provisions in Listed Agreements**

Pursuant to Article 17(4) of the Convention, Kenya considers that the following agreements contain a provision described in Article 17(2). The article and paragraph number of each such provision is identified below.]

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	Canada	Article 9(2)
3	France	Article 9(2)
4	India	Article 9(2)
6	Mauritius	Article 9(2)
7	Netherlands	Article 9(2)
9	Qatar	Article 9(2)
10	South Africa	Article 9(2)
13	Seychelles	Article 9(2)
14	United Arab Emirates	Article 10(2)

**Article 18 – Choice to Apply Part VI**

**Notification of Choice of Optional Provisions**

Pursuant to Article 18 of the Convention, Kenya hereby chooses not to apply Part VI.

## Article 35 – Entry into Effect

### Reservation

Pursuant to Article 35(7) of the Convention, Kenya reserves the right to replace:

- i) the references in Article 35(1) through (4) to “the latest of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement”; and
- ii) the reference in Article 35(5) to “the date of communication by the Depository of the notification of the extension of the list of agreements”;

with a reference to “30 days after the date of receipt by the Depository of the latest notification by each Contracting Jurisdiction making the reservation described in paragraph 7 that it has completed its internal procedures for the entry into effect of the provisions of this Convention with respect to that specific Covered Tax Agreement”;

- iii) the references in Article 28(9)(a) to “the date of the communication by the Depository of the notification of withdrawal or replacement of the reservation”; and
- iv) the reference in Article 28(9)(b) to “the latest of the dates on which the Convention enters into force for those Contracting Jurisdictions”;

with a reference to “30 days after the date of receipt by the Depository of the latest notification by each Contracting Jurisdiction making the reservation described in paragraph 7 of Article 35 (Entry into Effect) that it has completed its internal procedures for the entry into effect of the withdrawal or replacement of the reservation with respect to that specific Covered Tax Agreement”;

- v) the references in Article 29(6)(a) to “the date of the communication by the Depository of the additional notification”; and
- vi) the reference in Article 29(6)(b) to “the latest of the dates on which the Convention enters into force for those Contracting Jurisdictions”;

with a reference to “30 days after the date of receipt by the Depository of the latest notification by each Contracting Jurisdiction making the reservation described in paragraph 7 of Article 35 (Entry into Effect) that it has completed its internal procedures for the entry into effect of the additional notification with respect to that specific Covered Tax Agreement”.

Kenya has not opted for Part VI of the Convention.