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The Gazette of the Democratic Socialist Republic of Sri Lanka EXTRAORDINARY

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No. 1838/8 - TUESDAY, NOVEMBER 26, 2013

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PART I : SECTION (I) — GENERAL

Government Notifications

INLAND REVENUE ACT, No. 10 OF 2006

Notice

It is hereby notified under Section 97(1) (b) of the Inland Revenue Act, No. 10 of 2006, that the bilateral Agreement for affording relief from double taxation and prevention of fiscal evasion, entered into on 16.04.2012 between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the State of Palestine is set out in the Schedule hereto, has been approved by Parliament by resolution passed on 23.10.2013.

P. B. JAYASUNDARA,
Secretary,
Ministry of Finance and Planning.

Ministry of Finance and Planning,
Colombo 01,
26th November 2013,

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

AND

THE GOVERNMENT OF THE STATE OF PALESTINE

FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION

WITH RESPECT TO TAXES ON INCOME

The Government of the Democratic Socialist Republic of Sri Lanka (Hereinafter Referred to in as "Sri Lanka") and the Government of the State of Palestine (Hereinafter Referred to in as "Palestine")

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed as follows :



ARTICLE 1

PERSONS COVERED

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

ARTICLE 2

TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income.

3. The existing taxes to which the Agreement shall apply are in particular :

(a) in Sri Lanka :

- (i) the income tax, including the income tax based on the turnover of enterprises licensed by the Board of Investment ;
(hereinafter referred to as "Sri Lanka tax ") ; and

(b) in Palestine :

the income tax
(hereinafter referred to as "Palestine tax")

4. The Agreement shall apply also to any identical or substantially similar taxes, which are imposed after the date of signature of the Agreement 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 made in their respective taxation laws.

ARTICLE 3

GENERAL DEFINITIONS

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

- (a) (i) the term "Sri Lanka" means the territory of the Democratic Socialist Republic of Sri Lanka, including its land territory, internal waters and territorial sea, air space above them as well as the exclusive economic zone and continental shelf where the Sri Lanka exercises or may hereafter exercise sovereign rights and jurisdiction in conformity with international law and its national legislation ;
- (ii) the term "Palestine" means the territory of State of Palestine, and when used in a geographical sense, the term "Palestine" also includes the territorial sea thereof, and the sea bed and sub-soil of the submarine areas adjacent to the coast, but beyond the limits of the territorial sea over which Palestine exercises sovereign rights in accordance with international law and norms, for the purpose of exploitation of the natural resources or such areas.
- (b) the terms "a Contracting State" and "the other Contracting State" mean Sri Lanka or Palestine as the context requires ;

- (c) the term "person" includes an individual, a company and any other body of persons ;
- (d) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes ;
- (e) the term "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 ;
- (f) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State except when the ship or aircraft is operated solely between places in the other Contracting State ;
- (g) the term "national" means :
 - (i) any individual possessing the nationality or citizenship 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 ;
- (h) the term "competent authority" means :
 - (i) in Sri Lanka ;
The Commissioner General of Inland Revenue ; or his authorised representative
 - (ii) in Palestine ;
The Minister of Finance or his authorised representative.
- (i) the term "tax" means Sri Lankan or Palestine tax, as the context requires, but 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 ;

2. As regards the application of the Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Agreement 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 Agreement, 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 incorporation, place of management, or any other criterion of a similar nature and also includes that State and any political subdivision or local authority thereof. 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 Contracting 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 Contracting State in which he has his centre of vital interests cannot be determined, or if he does not have 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 Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially :

- (a) a place of management ;
- (b) a branch ;
- (c) an office ;
- (d) a factory ;
- (e) a workshop ;
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources ;
- (g) a warehouse in relation to a person providing storage facilities for others ;
- (h) a farm, plantation or other place where agriculture, forestry, plantation or related activities are carried on ;
- (i) premises used as a sales outlet or for soliciting and receiving orders.

3. The term "permanent establishment" likewise encompasses :

- (a) a building site, construction, assembly or installation project, a drilling rig or ship used for the exploration or development of natural resources, including supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than six months within any twelve month period ;
- (b) The furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue within the country for a period or periods aggregating more than six months within any twelve month period.

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 ;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display ;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise ;

- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise ;
- (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character ;
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub paragraphs (a) to (e) of this paragraph, 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 in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person :

- (a) has and habitually exercises in that State an authority to conclude contracts in the name of 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 ; or
- (b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

6. Notwithstanding the preceding provisions of this Article, an insurance enterprise 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 Contracting State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.

7. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other Contracting State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he shall not be considered an agent of an independent status within the meaning of this paragraph, if it is shown that the transactions between the agent and the enterprise were not made under arm's length conditions.

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 Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources ; ship and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall also 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.

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 Contracting 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 business 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.

4. In so far 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 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. 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.

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

7. 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 enterprises.

ARTICLE 8

SHIPPING LAND AND AIR TRANSPORT

1. Profits from the operation of aircraft in international traffic shall be taxable only in the Contracting State of which the enterprise operating the aircraft is a resident.

2. Profits derived in Contracting State by an enterprise of a other Contracting State from the operation of ships in international traffic may be taxed in the first-mentioned State, but the tax so charged shall be reduced by an amount equal to 50 per cent thereof.

3. For the purpose 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 ; and
- (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 ;

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

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

ARTICLE 9

ASSOCIATED ENTERPRISES

1. Where :

- (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State ; or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State ;

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included by a Contracting State 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 Contracting 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 Contracting 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 in the case of tax fraud.

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 Contracting 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 10 percent of the gross amount of the dividends. The provisions of this paragraph shall not effect 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 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, 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 14, 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 Contracting 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 Contracting 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 Contracting State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other Contracting State.

6. This provisions of this Article 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 shares or other rights in respect of which the dividend is paid to take advantage of this Article by means of that creation or assignment.

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 Contracting 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.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and derived by the Government of the other Contracting State, including a political subdivision or local authority thereof, the Central Bank or any financial institution wholly owned or controlled by that Government, shall be exempt from tax in the first-mentioned State.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by a 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. The term shall not include any item which is treated as a dividend under the provisions of Article 10 of this Agreement.

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 Contracting 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, or with. In such cases, the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political Sub-division, a local authority, or 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 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 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 Agreement.

8. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any reason concerned or assignment of the debt-claim in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment.

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 Contracting 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 10 per cent of the gross amount of the royalties.

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

4. The provisions of paragraph 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 Contracting 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 14, as the case may be, shall apply.

5. (a) Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or 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 or fees for technical services shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated ;

(b) Where under sub-paragraph (a) royalties do not arise in one of the Contracting States, and the royalties relate to the use of, or the right to use, the right or property, relate to services performed, in one of the Contracting States, the royalties shall be deemed to arise in that Contracting State.

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, 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 Agreement.

7. The provision of this Article shall not apply if it was the main purpose or one of the main purposes of any reason concerned with the creation or assignment of the rights in respect of which the royalties are paid to take advantage of this Article by means of that creation or assignment.

ARTICLE 13

CAPITAL GAINS

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

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State 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 a fixed base, may be taxed in that other Contracting State.

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

4. Gains from the alienation of shares of the capital stock of a company the property of which consists directly or indirectly of principally of immovable property situated in a Contracting State may be taxed in that State.

5. Gains from the alienation of stocks and shares of a company other than those mentioned in paragraph 4 representing a participation of twenty five per cent or more may be taxed in the Contracting State in which they have been issued.

6. Gains from the alienation of any property other than those referred to in the preceding paragraphs shall be taxable only in the Contracting State of which the alienator is a resident.

7. The term "alienation" means the sale, exchange, transfer, or relinquishment of the property or the extinguishment of any rights therein or the compulsory acquisition thereof under any law in force in the respective Contracting State.

ARTICLE 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State except in the following circumstances, when such income may also be taxed in the other Contracting State :

- (a) If he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities ; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State ; or
- (b) If his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned ; in that case, only so much of the income as is derived from his activities performed in that other Contracting State may be taxed in that.

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 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19 and 20 of this Agreement, 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 there from may be taxed in that other Contracting 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 that other Contracting 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 that other Contracting State ; and

(c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in that other Contracting State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State of which the enterprise operating the ship or aircraft is a resident.

ARTICLE 16

DIRECTORS' FEES

1. 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 any similar organ of a company which is a resident of the other Contracting State may be taxed in that other Contracting State.

2. Salaries, wages and other similar remuneration derived by a resident of a Contracting State in his capacity as an official in a top-level managerial position of a company which is a resident of the other Contracting State may be taxed in that other Contracting State.

ARTICLE 17

ARTISTES AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 14 and 15 of this Agreement, income derived by a resident of a Contracting State as an entertainer such as a theatre, motion picture, circus, radio or television artiste or a musician, or as a sportsperson, from his personal activities as such exercised in the other Contracting State may be taxed in that other Contracting State.

2. Where income in respect of personal activities exercised by an entertainer or sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15 of this Agreement be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from activities referred to in paragraph 1 performed under a cultural agreement or arrangement between the Contracting States shall be exempt from tax in the Contracting State in which the activities are exercised if the visit to that State is wholly or substantially supported by funds of either Contracting States, a local authority or public institution thereof.

ARTICLE 18

PENSIONS

1. Subject to the provisions of paragraph 2 of Article 19 of this Agreement, any pensions or other similar remuneration paid to a resident of one of the Contracting State from a source in the other Contracting State in consideration of past employment or services in that other Contracting shall be taxable only in that Contracting State.

2. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under a public scheme which is part of the social security system of a Contracting State shall be taxable only in that State.

ARTICLE 19

GOVERNMENT SERVICE

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

(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that other Contracting State and the individual is a resident of that State who :
 - (i) is a national of that State ; or
 - (ii) did not become a resident of that State solely for the purpose of rendering such services.
2. (a) Any pension paid by, or out of funds created by, a Contracting State, a political subdivision or a local authority to an individual in respect of services rendered to that State, political subdivision or local authority shall be taxable only in that State ;

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that other Contracting State.

3. The provisions of Articles 15, 16, 17 and 18 of this Agreement shall apply to salaries, wages and other similar remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State, political subdivision or a local authority thereof.

ARTICLE 20

TEACHERS AND RESEARCHERS

1. A Professor, teacher or researcher who is or was a resident of a Contracting State immediately before visiting the other Contracting State for the purpose of teaching or engaging in research, or both, at a university, college or other similar approved institution in that other Contracting State shall be exempt from tax in that other Contracting State on any remuneration for such teaching or research for a period not exceeding three years from the date of his/her arrival in that other Contracting State.

2. The provisions of this Article shall apply to income from research only if such research is undertaken by the individual in the public interest and not primarily for the benefit of some other private person or persons.

ARTICLE 21

STUDENTS AND TRAINEES

1. Payments which a student, apprentice or business trainee 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 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. An individual who is a resident of one of the Contracting States at the time he becomes temporarily present in the other Contracting State and who is so present as an employee of, or under contract with, a resident of the first-mentioned State, or as a participant in a programme sponsored by the Government of the other State or by any international organization for the primary purpose of -

- (a) acquiring technical, professional, or business experience from a person other than that resident of the first-mentioned State or other than a person related to such resident ; or
- (b) studying at a university or other recognized educational institution in that other Contracting State.

shall be exempt from tax in that other Contracting State for a period not exceeding one year with respect to his income from personal services.

ARTICLE 22

OTHER INCOME

1. Items of income beneficially owned by a resident of a Contracting State, which are not expressly mentioned in the foregoing Articles of this Agreement shall be taxable only in that State except that, if such income is derived from sources within the other Contracting State, it may also be taxed in that other Contracting State.

2. The provision of paragraph 1 of this Article shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6 of this Agreement, 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 Contracting State independent personal services from a fixed base situated therein, and the right of 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 14 of this Agreement, as the case may be, shall apply.

3. The provisions of this Article 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 rights in respect of which the income is paid to take advantage of this Article by means of that creation or assignment.

ARTICLE 23

ELIMINATION OF DOUBLE TAXATION

1. Where a resident of Palestine derives income from Sri Lanka which in accordance with the provisions of this Agreement may be taxed in Sri Lanka, the amount of Sri Lanka tax payable in respect of that income shall be allowed as a credit against the Palestine tax imposed on that resident in respect of that income. The credit shall not, however, exceed that part of the Palestine tax which is attributable to such income.

2. Where a resident of a Sri Lanka derives income from Palestine which in accordance with the provisions of this Agreement may be taxed in Palestine, the amount of Palestine tax payable in respect of that income shall be allowed as a credit against the Sri Lanka tax imposed on that resident in respect of that income. The Credit shall not, however, exceed that part of the Sri Lanka Tax which is attributable to such income.

3. Where in accordance with any provision of the Agreement, income derived by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

ARTICLE 24

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 Contracting State in the same circumstances, in particular with respect to residence, are or may be subjected.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourable levied in that other Contracting State than the taxation levied on enterprises of that other Contracting 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, relief and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. 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 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.

4. In this Article, the term "taxation" means taxes which are the subject of this Agreement.

ARTICLE 25

MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting States 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 Agreements, he may, irrespective of the remedies provided by the domestic law of those 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 24, of this Agreement 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 Agreement.

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 Agreement.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual Agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

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

ARTICLE 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by this Agreement in so far as the taxation there under is not contrary to the Agreement as well as to prevent fiscal evasion in relation to such taxes. The exchange of information is not restricted by Article 1 of this Agreement. Any information received 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) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of the Agreement. Such persons or authorities shall use the information only for such purposes but may disclose the information in public court proceedings, or in judicial decisions.

2. In no case shall the provisions of paragraph 1 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.

ARTICLE 27

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

Nothing in this Agreement shall effect 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 28

ASSISTANT IN THE COLLECTION OF TAXES

1. The Contracting States shall assist to each other in the collection of revenue claims. This assistance is not restricted by articles 1 and 2 of this Agreement. 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 owned in respect of taxes of every kind and description imposed on behalf of the Contracting State, or of their political subdivision or local authorities, insofar as the taxation thereunder is not contrary to this Agreement or any other instrument to which the Contracting State are parties, as well as interest, Administrative penalties and costs of collection or conservancy related to such amount.

3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other Contracting 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 Contracting State.

4. When a revenue claim of a Contracting State is a claim in respect of which that State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other Contracting State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other Contracting 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 by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State.

6. Proceedings with respect to 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 shall have collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be :

- (a) In the case of request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection or ;
- (b) In the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection ;
- (c) The competent authority of the first-mentioned Contracting State shall promptly notify the competent authority of the other Contracting State of that fact and, at the option of the other Contracting State, the first-mentioned State shall either suspend or withdraw its request.

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

- (a) To carry out administrative measures at variance with the laws and administrative practice of that or the other Contracting State ;
- (b) To carry out measures which would be contrary to public policy ;
- (c) To provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice ;
- (d) To provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State.

ARTICLE 29

ENTRY INTO FORCE

1. Each Contracting State shall notify to the other, through diplomatic channels, the completion of the procedures required by its law for the bringing into force of this Agreement. This Agreement shall enter into force on the date of the later of these notifications.

2. The provisions of this Agreement shall have effect :

- (a) In respect of tax withheld at source, to income derived on or after 1st January of the calendar year next following that in which this Agreement enters into force ; and
- (b) In respect of other taxes on income, to taxes chargeable for any taxable year beginning on or after 1st January of the calendar year next following that in which this Agreement enters into force.

ARTICLE 30

TERMINATION

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

- (a) In respect of tax withheld at source, to income derived on or after 1st January of the calendar year next following that in which the notice of termination is given ;
- (b) In respect of other taxes on income, to taxes chargeable for taxable years beginning on or after 1st January of the calendar year next following that in which the notice of termination is given.

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

Done in duplicate at Colombo on this 16 day of April 2012 in the Sinhala and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

Professor G. L. Peiris
For the Government of the Democratic Socialist Republic
of Sri Lanka.

Dr. Riad Malki
For the Government of the State of Palestine.

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