

## SCHEDULE

## CONVENTION BETWEEN THE GOVERNMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA AND THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT OF TAXES ON INCOME

THE Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Islamic Republic of Pakistan, desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

## ARTICLE 1

## PERSONAL SCOPE

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

## ARTICLE 2

## TAXES COVERED

This Convention shall apply to taxes on income imposed on behalf of each 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, including taxes on gains from the alienation of movable or immovable property and taxes on the total amounts of wages or salaries paid by enterprises.

3. The existing taxes to which this Convention shall apply are:

(a) in Sri Lanka—

the income tax, including the income tax based on the turnover of enterprises licensed by the Greater Colombo Economic Commission (hereinafter referred to as "Sri Lanka tax");

(b) in Pakistan—

- (i) the income tax;
- (ii) the super tax; and
- (iii) the surcharge.

(herein after referred to as "Pakistan Tax")

4. This Convention shall also apply to any identical 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 important changes which have been made in their respective taxation laws.

## ARTICLE 3

## GENERAL DEFINITIONS

1. In this Convention, unless the context otherwise requires:

(a) the term "Sri Lanka" means the Democratic Socialist Republic of Sri Lanka, including any area outside the territorial sea of Sri Lanka which in accordance with international law has been or may hereafter be designated, under the laws of Sri Lanka concerning the Continental Shelf, as an area within which the rights of Sri Lanka with respect to the sea bed and subsoil and the natural resources may be exercised;

(b) the term "Pakistan" used in a geographical sense means Pakistan as defined in Constitution of the Islamic Republic of Pakistan so includes any area outside the territorial waters of Pakistan which under the laws of Pakistan is an area within which the rights of Pakistan with respect to sea bed and sub-soil and their natural resources may be exercised;

(c) the terms "a Contracting State" and "the other Contracting State" mean Sri Lanka or Pakistan as the context requires;

(d) the term "person" includes an individual, a company and any other body of persons;

(e) the term "Company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(f) 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;

(g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which 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;

(h) the term "nationals" means—

(i) all individuals possessing the nationality of a Contracting State;

(ii) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State;

(i) the term "competent authority" means;

(i) in the case of Sri Lanka, the Commissioner-General of Inland Revenue;

(ii) in the case of Pakistan, the Central Board of revenue.

2. As regards the application of this Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

## ARTICLE 4

## FISCAL DOMICILE

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph (1) of this Article any 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 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 Contracting States he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interest);

(b) If the Contracting State in which he has his centre of vital interest cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;

(c) If he has an habitual abode in both Contracting States or in neither of them he shall be deemed to be a resident of the Contracting States of which he is a national;



(d) If he is a national of both Contracting 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) of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident 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 in which the business of the enterprise is wholly or partly carried on.

2. The term "permanent establishment" shall include 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 other place of extraction of natural resources;
- (g) an agricultural or farming estate or plantation;
- (h) a building site or construction or assembly project which exists for more than 183 days;
- (i) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel, where activities of that nature continue within the country for a period or periods aggregating more than 183 days within any twelve month period.

3. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

- (a) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of 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 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.

4. Notwithstanding the provisions of paragraph (1) and (2) of this Article, where a person—other than an agent of an independent status to whom paragraph (5) of this Article 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 (3) of this Article 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;

(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.

5. 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 State through a broker, general commission agent or any other agent of an independent status, where 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 enterprises, he will not be considered an agent of an independent status within the meaning of this paragraph.

6. 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.

## ARTICLE 6

### INCOME FROM IMMOVABLE PROPERTY

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.

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: ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph (1) of this Article 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) of this Article shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional 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 State but only so much of them as is attributable to (a) that permanent establishment (b) sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment or (c) other business activities carried on in that other State of the same or similar kind as those effected through that permanent establishment.



2. Subject to the provisions of paragraph (3) of this Article 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 a permanent establishment.

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the 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. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other right, or by way of commission for specific services performed or for management, or, except in the case of banking enterprise by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

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) of this Article shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment as may be customary; the method of apportionment shall, however, be such that the result will 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

##### SHIPPING AND AIR TRANSPORT

1. Profits derived 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 is situated.

2. Notwithstanding the provisions of paragraph (1) of this Article profits derived from the operation of ships in international traffic may be taxed in the Contracting State in which such operation is carried on;

but the tax so charged shall not exceed 50 per cent of the tax otherwise imposed by the internal law of that State.

3. The provisions of paragraphs (1) and (2) of this Article shall likewise apply in respect of participations in pools, in a joint business or in an international operations agency of any kind by enterprise engaged in the operation of ships or aircraft in international traffic.

4. If the place of effective management of a shipping enterprise is abroad 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.

#### 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 enterprise, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State—and taxes accordingly—profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of the Convention and the competent authorities of the Contracting State 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 the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

3. The term "dividends" as used in the Article means income from shares, 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 taxation law of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs (1) and (2) of this Article 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 a 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 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 recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph (2) of this Article, interest arising in a Contracting State shall be exempt from tax in that State if:

- (a) the payer of the interest is the Government of that Contracting State or a local authority thereof, or
- (b) the interest is paid to the Government of the other Contracting State or local authority thereof or any agency or instrumentality (including a financial institution) wholly owned by that other Contracting State or local authority thereof, or
- (c) the interest is paid to the State Bank of Pakistan or the Central Bank of Ceylon, or
- (d) the interest is paid to any other agency or instrumentality (including a financial institution) in relation to loans made in application of an agreement concluded between the Governments of the Contracting States.

4. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of that State in which the income arises.

5. The provisions of paragraphs (1), (2) and (3) of this Article 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 a case, 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 or administrative 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 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 law 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 recipient is the beneficial owner of the royalties the tax so charged shall not exceed 20 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payment 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 tapes for television or 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 provision of paragraphs (1) and (2) of this Article, 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 a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. 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 paid, having regard to 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 law of each Contracting State, due regard being had to the other provisions of this Convention.

#### 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 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 which an enterprise of a Contracting State has in the other Contracting State including such gains from the alienation of such a permanent establishment, (alone or with the whole enterprise), 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 from the alienation of stocks and shares of a company representing a participation of 20 per cent of more may be taxed in the Contracting State in which they have been issued.

5. Gains from the alienation of any property other than that referred to in paragraph (1) to (4) of this Article, shall be taxable only in the Contracting State of which the alienator is a resident.

6. 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 States.

#### ARTICLE 14

##### 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 except in the following circumstances, when such income may also be taxed in the other Contracting State:

(a) If he has 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 the fiscal year concerned; in that case only so much of the income as is derived from his activities performed in the other State may be taxed in that State.

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 and 19 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 Contracting State.

2. Notwithstanding the provisions of paragraph (1) of this Article, 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 within any 12 months period, and

(b) the remuneration is paid by, or on behalf of, an employer who is not 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 in respect of an employment exercised aboard a ship or aircraft in international traffic, may be taxed only in the Contracting State in which the place of effective management of the enterprise is situated.

#### 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 of a company which is a resident of the other Contracting State may be taxed in that other 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 State.

#### ARTICLE 17

##### ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 14 and 15, income derived by public entertainers (such as theatres, motion picture, radio or television artistes and musicians) or athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised:

Provided that such income shall not be taxed in the said Contracting State if the visit of the public entertainers or athletes to that State is directly or indirectly supported, wholly or substantially, from the public funds of the Government of the other Contracting State.

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

3. For the purposes of this Article, the term "Government" include a State Government, a political sub-division or a local authority of either Contracting State.

#### ARTICLE 18

##### GOVERNMENT SERVICE

1. (a) Remuneration, other than a pension, paid by the Government of a Contracting State to an individual in respect of services rendered to that State or a local authority thereof shall be taxable only in that State.

(b) However, such 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:

(i) is a national of that State, or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

2. Any pension paid by, or out of funds created by, the Government of a Contracting State to an individual in respect of services rendered to that State shall be taxable only in that State.



3. The provisions of Articles 15, 16 and 19 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a local authority thereof.

4. For the purposes of this Article, the term "Government" shall include any State Government or local authority of either Contracting State, the State Bank of Pakistan and the Central Bank of Ceylon.

#### ARTICLE 19

##### NON-GOVERNMENT PENSIONS AND ANNUITIES

1. Any pension (other than a pension referred to in Article 18) or annuity derived by a resident of a Contracting State from sources within the other Contracting State may be taxed only in that State.

2. The term "pension" means a periodic payment made in consideration of services rendered in the past or by way of compensation for injuries received in the course of performance of services.

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

#### ARTICLE 20

##### PROFESSORS AND TEACHERS

A professor or teacher who makes a temporary visit to a Contracting State for a period not exceeding two years for the purpose of teaching or conducting research at a university, college, school or other educational institution, and who is, or immediately before such visit was, a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State in respect of remuneration for such teaching or research.

#### ARTICLE 21

##### STUDENTS AND APPRENTICES

1. An individual who was resident of one of the Contracting States and is temporarily present in the other Contracting State solely—

- (a) as a student at a recognised university, college or school in that other territory; or
- (b) as a business apprentice; or
- (c) as the recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific, or educational organisation,

shall be exempt from tax in that other State in respect of—

- (i) the remittances from abroad for the purposes of his maintenance, education, study, research or training;
- (ii) the grant, allowance or award; and
- (iii) the remuneration from employment in that other State.

2. A resident of one of the Contracting States who is temporarily present in the other Contracting State for a period not exceeding one year, as an employee of, or under contract with, an enterprise of the former State or an organisation referred to in subparagraph (c) of paragraph (1) solely to acquire technical, professional or business experience from a person other than such enterprise or organisation, shall be exempt from tax in that other State in respect of remuneration for such period.

3. A resident of one of the Contracting States temporarily present in the other Contracting State under arrangements with Government of that other State or any agency or instrumentality thereof solely for the purpose of training, study or orientation shall be exempt from tax in that other State in respect of remuneration received by him on account of such training, research or study.

#### ARTICLE 22

##### OTHER INCOME

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Agreement in respect of which he is subject to tax in that State shall be taxable only in that State.

#### ARTICLE 23

##### ELIMINATION OF DOUBLE TAXATION

1. The laws in force in either of the Contracting States shall continue to govern the taxation of income in the respective Contracting States except when express provision to the contrary is made in this Convention. When income is subject to tax in both Contracting States, relief from double taxation shall be given in accordance with the following paragraphs of this Article.

2. Subject to the provisions of the law of Pakistan regarding the allowance as a credit against Pakistan tax of tax payable in a territory outside Pakistan (which shall not affect the general principal hereof) Sri Lanka tax payable under the law of Sri Lanka and in accordance with this Convention whether directly or by deduction, on profits, income or chargeable gains from sources within Sri Lanka (excluding in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any Pakistan tax computed by reference to the same items of income by reference to which the Sri Lanka tax is computed.

Provided that such credit shall not exceed Pakistan tax (as computed before allowing any such credit), which is appropriate to the income derived from sources within Sri Lanka.

3. Subject to the provisions of the law of Sri Lanka regarding the allowance as a credit against Sri Lanka tax of tax payable in a territory outside Sri Lanka (which shall not affect the general principal hereof) Pakistan tax payable under the law of Pakistan and in accordance with the Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Pakistan (excluding in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any Sri Lanka tax computed by reference to the same items of income by reference to which the Sri Lanka tax is computed.

Provided that such credit shall not exceed Sri Lanka tax (as computed before allowing any such credit), which is appropriate to the income derived from sources within Pakistan.

4. For the purposes of allowance as a credit the tax payable in Sri Lanka or Pakistan, as the context requires, shall be deemed to include the tax which is otherwise payable in a Contracting State but has been reduced or waived by that State in pursuance of its tax incentive programmes.

#### ARTICLE 24

##### NON-DISCRIMINATION

1. The 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, higher or more burdensome than the taxation and con-



nected requirements to which the nationals of that other State in same circumstances are or may be subjected.

2. The enterprises of a Contracting State shall not be subjected in the other Contracting State, in respect of profits attributable to their permanent establishments in that other State, to any taxation which is other, higher or more burdensome than the taxation to which the enterprises of that other State, are or may be subjected in respected of the like profits.

3. In this Article the term "taxation" means taxes which are the subject of this Convention.

4. Nothing in this Article shall be construed as obliging either Contracting State to grant to residents of the other Contracting State, those personal allowances, reliefs and reductions for tax purposes which it grants to its own residents.

#### ARTICLE 25

##### MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident. 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 this 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 an appropriate 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 not in accordance with the Convention.

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

4. The competent authorities of the Contracting States may communicate with each other directly for the purposes of reaching an agreement in the sense of the preceding paragraphs.

#### 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 Convention or of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is not contrary to the Convention, as well as to prevent fiscal evasion. The exchange of information is not restricted by Article 1. 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 covered by the Convention. 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.

2. In no case shall the provisions of paragraph 1 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 (order public).

#### ARTICLE 27

##### DIPLOMATIC AGENTS AND CONSULAR OFFICIALS

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

#### ARTICLE 28

##### TERRITORIAL EXTENSION

1. The present Convention may be extended either in its entirety or with modifications, to any territory for whose international relations the Government of either Contracting State is responsible and which imposes taxes substantially similar in character to those which are the subject of the present Convention and any such extension shall take effect from such date and subject to such modifications and conditions (including conditions as to termination) as may be specified and agreed to between the Contracting Governments in notes to be exchanged for this purpose.

2. The termination in respect of Pakistan or Sri Lanka of the present Convention under Article 30 shall, unless otherwise expressly agreed to by both Contracting Governments, terminate the application of the present Convention to any territory to which the Convention has been extended under this Article.

#### ARTICLE 29

##### ENTRY INTO FORCE

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Islamabad/Colombo.

2. This Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect in respect of taxes for any year of assessment commencing on or after the first day of January of the calendar year in which the present Convention enters into force.

3. The Convention between the Government of Ceylon and the Government of Pakistan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and property, signed on 19 May 1969, shall terminate and cease to have effect with the coming into operation of this Convention.

#### ARTICLE 30

##### TERMINATION

This Convention shall continue in effect indefinitely but either Contracting State may, on or before June 30 in any Calendar year at least 5 years after the year of the exchange of instruments of ratification, give to the other Contracting State notice of termination in writing through diplomatic channels; in such event, this Convention shall cease to be effective for any year of assessment commencing on or after January in the calendar year next following that in which such notice is given.



In witness whereof the undersigned duly authorized thereto have signed this Convention.

Done in duplicate at Colombo the 5th day of October 1981, in the Sinhala and English languages, both texts being equally authentic. In the case of divergence of interpretation the English text shall prevail.

Sgd. His Excellency MOHAMED WALIULLA  
KHAN KHAISHGI,  
For the Government of  
the Islamic Republic of Pakistan.

Sgd. C. CHANMUGAM  
For the Government of  
the Democratic Socialist  
Republic of Sri Lanka.

#### PROTOCOL

The Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Islamic Republic of Pakistan, having entered into a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on

income, have agreed, at the time of signing the said Convention, that the basis of taxing shipping profits set out in paragraph 2 of Article 8 shall not be less favourable than that provided in any Convention for the avoidance of double taxation entered into by Sri Lanka after the signing of this Convention.

In witness whereof the undersigned duly authorized thereto have signed this Convention.

Done in duplicate at Colombo the 5th day of October 1981, in the Sinhala and English languages, both texts being equally authentic. In the case of divergence of interpretation the English text shall prevail.

Sgd. His Excellency MOHAMED WALIULLA  
KHAN KHAISHGI,  
For the Government of  
the Islamic Republic of Pakistan.

Sgd. C. CHANMUGAM,  
For the Government of  
the Democratic Socialist  
Republic of Sri Lanka.

10-126