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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

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PART I: SECTION (I) — GENERAL

Government Notifications

THE INLAND REVENUE ACT, No. 28 OF 1979

Notice

It is hereby notified under Section 82(1) (b) of the Inland Revenue Act, No. 28 of 1979, that the Convention for affording relief from double taxation and for the prevention of fiscal evasion with respect to taxes on income and on wealth entered into between the Government of the Socialist Republic of Romania and the Government of the Democratic Socialist Republic of Sri Lanka on 19th October, 1984, and set out in the Schedule hereto has been approved by Parliament by resolution passed on August 08, 1985.

G. CUMARANATUNGA,
Acting Secretary,

Ministry of Finance and Planning.

Ministry of Finance and Planning,
Colombo 1,
October 07, 1985.

SCHEDULE

CONVENTION BETWEEN

THE GOVERNMENT OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA AND THE

GOVERNMENT OF THE SOCIALIST REPUBLIC OF ROMANIA
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE

PREVENTION OF FISCAL EVASION

WITH RESPECT TO TAXES ON INCOME AND ON WEALTH

The Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Socialist Republic of Romania, desiring to promote and strengthen the economic relations between the two countries on the basis of respecting the principles of independence and national sovereignty, equality in rights, reciprocal advantage and non-interference in domestic matters, have decided to conclude the Convention for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect to Taxes on Income and on Wealth,

For this purpose they have agreed upon 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 and on wealth 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 and on wealth all taxes imposed on total income, on total wealth or on elements of income, or of wealth including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

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

(a) In Sri Lanka :

(i) the income tax, including the income tax based on the turnover of enterprises licensed by the Greater Colombo Economic Commission; and

(ii) the wealth tax.
(hereinafter referred to as "Sri Lanka tax".)

(b) In Romania :

(i) tax on incomes derived by individuals and corporate bodies ;

(ii) tax on the profits of joint companies constituted with the participation of Romanian economic organisations and foreign partners ;

(iii) tax on income realised from agricultural activities ;

(hereinafter referred to as "Romanian tax".)

4. This Convention shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any 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 sub-soil and the natural resources may be exercised;
- (b) the term "Romania", used in a geographical sense, means the territory of the Socialist Republic of Romania, including the territorial sea and the continental shelf, as well as any other area beyond the territorial waters of Romania where Romania exercises sovereign rights in accordance with the international law and with its own law concerning the exploration and exploitation of natural, biological and mineral resources existing in the sea waters, sea-bed and in its sub-soil;
- (c) the terms "a Contracting State" and "the other Contracting State" means Sri Lanka or Romania as the context requires;
- (d) the term "person" includes an individual, a company and any other body of persons;
- (e) the term "Company" means anybody corporate, including a joint company, which is incorporated under the Romanian law 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" means 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 citizenship 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 Romania, the Minister of Finance or his authorized representative.

2. As regards the application of this Convention by 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 laws of that State, is liable to tax therein on 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 interests);
- (b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either 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 State 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 275 days;
- (i) the furnishing of services, including consultancy services, by an enterprise of a Contracting State through employees or other personnel, where activities of that nature continue in the other Contracting State for a period or periods aggregating more than 275 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, display or occasional delivery of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or occasional delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information for the enterprise;
- (e) the goods or merchandise belonging to the enterprise displayed in the frame of an occasional temporary fair or exhibition which are sold after the closing of the said fair of exhibition;
- (f) the maintenance of a fixed place of business solely for the purpose of advertising, for supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

ARTICLE 7 BUSINESS PROFITS

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

- that permanent establishment;
- sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or
- other business activities carried on in that other State of the same or similar kind as those effected through that permanent establishment.

The provisions of sub-paragraphs (b) and (c) above shall not apply if the enterprise proves that such sales or activities are attributable to some person or entity other than the 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 which it is 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 deductions shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent 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 received or receivable (otherwise than towards reimbursement of actual expenses), by the permanent establishment from 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 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 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.

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.

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 provision 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, and such tax so charged shall not exceed 2 per cent of the entire sum receivable on account of the carrying of passengers, mails, livestock and goods shipped in 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 aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or if there is no such home harbour in the Contracting State of which the operator of the ship is a resident.

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

2. Where a Contracting State includes in the profits of an enterprise of that State—and taxes accordingly—profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State 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 States shall, if necessary, consult each other.

ARTICLE 10

DIVIDENDS

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

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but the tax so charged shall not exceed 12 1/2 per cent of the gross amount of the dividends.

3. The term "dividends" as used in this 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. In this context, the profits distributed by Romanian joint companies to the capital subscribers are assimilated to dividends.

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 that 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 in a Contracting State shall be exempt from tax in that State if—

(a) the payer of the interest is that Contracting State or a local authority thereof; or

(b) the interest is paid to the other Contracting State or a 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—

in the case of Romania to the National Bank of the Socialist Republic of Romania or to the Romanian Bank for Foreign Trade,

in the case of Sri Lanka to 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 Government 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, an administrative territorial unit, 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

COMMISSION

1. Commission 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 commission may be taxed in the Contracting State in which it arises, and according to the law of that State, but the tax so charged shall not exceed 10 per cent of the amount of the commission. In determining the amount liable to tax, no deduction shall be allowed for expenses incurred in earning such commission.

3. The term "commission" as used in this Article means a payment made to a broker, a general commission agent or to any other person assimilated to such a broker or agent by the taxation law of the Contracting State in which such payment arises.

4. The provisions of paragraphs (1) and (2) shall not apply if the recipient of the commission, being a resident of a Contracting State, has in the other Contracting State in which the commission arises a permanent establishment with which the activity giving rise to the commission is effectively connected. In such a case, the provisions of Article 7 shall apply.

5. Commission shall be deemed to arise in a Contracting State when the payer is that State itself, an administrative territorial unit, a local authority or a resident of that State. Where, however, the person paying the commission whether a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the activities for which the payment is made was incurred, and such commission is borne by such permanent establishment, then such commission shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

ARTICLE 13

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 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 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 provisions 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 14

CAPITAL GAINS

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

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State including such gains from the alienation of such a permanent establishment, (along 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 derived within a fiscal year from the alienation of stocks and shares which represent over 25 per cent of the issued share capital of a company may be taxed in the Contracting State in which the stocks and shares have been issued.
- 5. Gains from the alienation of any property other than that referred to in paragraphs (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 15

INDEPENDENT PERSONAL SERVICES

- 1. Income derived by a resident of a Contracting State in respect of professional services or other activities of 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 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; in that case only so much of the income as is derived from his activities performed in that 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 16

DEPENDENT PERSONAL SERVICES

- 1. Subject to the provisions of Articles 17, 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 fiscal year; 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 17

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 18

ARTISTES AND ATHLETES

- 1. Notwithstanding the provisions of Articles 15 and 16, income derived by public entertainers (such as theatre, 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.
- 2. Income derived from such activities performed within the framework of cultural agreements concluded between the Contracting States are reciprocally exempted from taxes.
- 3. 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, 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

ARTICLE 19

GOVERNMENT SERVICE

- (a) Remuneration, other than a pension, paid by a Contracting State to an individual in respect of services rendered to that Contracting State 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 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 16, 17 and 20 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State.
- 4. For the purposes of this Article, the term "Contracting State" shall include a local authority of either Contracting State, the Central Bank of Ceylon and the National Bank of the Socialist Republic of Romania.

ARTICLE 20

NON-GOVERNMENT PENSION AND ANNUITIES

- 1. Any pension (other than a pension referred to in Article 19) 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 21

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 22

STUDENTS, APPRENTICES AND PERSONS SENT FOR SPECIALIZATION

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

- (a) as a student at a recognized university, college or school in that other State; 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 organization;

shall be exempt from tax in that other State for a period of six years in respect of—

- (i) the remittance from abroad for the purposes of his maintenance, education, study; research or training;
- (ii) the grant, allowance or award; and
- (iii) any remuneration from abroad.

2. The same exemption shall apply to income derived by the above mentioned individual from an employment which he exercises in the first mentioned Contracting State in order to supplement his means for maintenance, education, training and other expenses for specialization, for a period limited to two years from his arrival in that first Contracting State.

3. A resident of one of the Contracting State present in the other Contracting State under arrangements with the Government of that other State or any agency instrumentality thereof solely for the purpose of training, study or orientation shall be exempt from tax for a period not exceeding two years in that other State in respect of remuneration received by him on account of such training, research or study.

ARTICLE 23

OTHER INCOME

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

ARTICLE 24

WEALTH

1. Wealth represented by immovable property referred to in paragraph (2) of Article 6 may be taxed in the Contracting State in which such property is situated.

2. Wealth represented by movable property forming part of the business property of a permanent establishment of an enterprise may be taxed in the Contracting State in which the permanent establishment is situated.

3. Notwithstanding the provisions of paragraph (2) of this Article, ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. All other elements of wealth of a resident of a Contracting State shall be taxable only in that State.

ARTICLE 25

ELIMINATION OF DOUBLE TAXATION

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

2. 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 principle hereof) Romanian tax payable under the law of Romania and in accordance with the Convention, whether directly or by deduction, on profits, income or chargeable gains, from sources within Romania (excluding in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) or wealth in Romania shall be allowed as a credit against any Sri Lanka tax computed by reference to the same items of income or wealth by reference to which the Sri Lanka tax is computed.

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 Romania or to wealth in Romania.

3. In the case of Romania, Sri Lanka tax paid by a Romanian resident on income which, in accordance with the provisions of this Convention, may be taxed in Sri Lanka shall be deducted from the Romanian tax payable under Romanian tax law.

Profits paid by the Romanian State enterprises to the State budget shall be deemed to be Romanian tax.

4. For the purposes of allowance as a credit the tax payable in Sri Lanka or Romania, 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 under its legal provisions for tax incentives.

5. For the purposes of this Article, profits, income or gains of a resident of a Contracting State which are taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources in that other State.

ARTICLE 26

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 connected 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 respect 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 27

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 to 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 28

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting State 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 29

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 30

ENTRY INTO FORCE

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

ARTICLE 31

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 the first day of 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 Bucharest this 19th day of October, 1984, in the Sinhala, Romanian and English languages, all texts being equally authentic. In the case of divergence of interpretation, the English text shall prevail.

M. H. M. NAINA MARIKAR, D. L. GHEORGHE BREHUESCU,
for the Government of the for the Government of the
Democratic Socialist Republic of Sri Lanka Socialist Republic of
Romania.