
STATUTORY INSTRUMENTS

1987 No. 2058

INCOME TAX

The Double Taxation Relief (Taxes on Income) (Pakistan) Order 1987

Made - - - - 26th November 1987

At the Court at Buckingham Palace, the 26th day of November 1987

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order was laid before the House of Commons in accordance with the provisions of section 497(8) of the Income and Corporation Taxes Act 1970(1), and an Address has been presented to Her Majesty by that House praying that an Order may be made in the terms of that draft:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 497 of the said Income and Corporation Taxes Act 1970, and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Double Taxation Relief (Taxes on Income) (Pakistan) Order 1987.
2. It is hereby declared—
 - (a) that the arrangements specified in the Convention set out in the Schedule to this Order have been made with the Government of the Islamic Republic of Pakistan with a view to affording relief from double taxation in relation to income tax, corporation tax or capital gains tax and taxes of a similar character imposed by the laws of Pakistan;
 - (b) that those arrangements include provisions with respect to the exchange of information necessary for carrying out the domestic laws of the United Kingdom and the laws of Pakistan concerning taxes covered by the arrangements including, in particular, provisions about the prevention of fiscal evasion with respect to those taxes; and
 - (c) that it is expedient that those arrangements should have effect.

(1) 1970 c. 10; section 497 was amended and extended by sections 98(2) and 100(1) of the Finance Act 1972 (c. 41), section 10 of the Capital Gains Tax Act 1979 (c. 14) and section 70 of the Finance Act 1987 (c. 16).

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G. I. de Deney
Clerk of the Privy Council

SCHEDULE

CONVENTION BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE ISLAMIC REPUBLIC OF PAKISTAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS

The Government of the United Kingdom of Great Britain and Northern Ireland 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 and capital gains;

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

(1) The taxes which are the subject of this Convention are:

(a) in the United Kingdom of Great Britain and Northern Ireland:

- (i) the income tax;
 - (ii) the corporation tax;
 - (iii) the capital gains tax;
- (hereinafter referred to as “United Kingdom tax”);

(b) in the Islamic Republic of Pakistan:

- (i) the income tax;
 - (ii) the super tax;
 - (iii) the surcharge;
- (hereinafter referred to as “Pakistan tax”).

(2) This Convention shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Convention in addition to, or in place of, the taxes referred to in paragraph (1) of this Article. The competent authorities of the Contracting States shall notify each other of any substantial changes which are made in their respective taxation laws.

Article 3

General definitions

(1) For the purposes of this Convention, unless the context otherwise requires:

(a) the term “United Kingdom” means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law has been or may hereafter be designated, under the laws of the United Kingdom

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concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea bed and sub-soil and their natural resources may be exercised;

- (b) the term “Pakistan” used in the geographical sense means Pakistan as defined in the Constitution of the Islamic Republic of Pakistan and also includes any area outside the territorial waters of Pakistan which under the laws of Pakistan and international law is an area within which the rights of Pakistan with respect to the sea bed and sub-soil and their natural resources may be exercised;
- (c) the term “national” means:
 - (i) in relation to the United Kingdom, any British citizen or any British subject not possessing the citizenship of any other Commonwealth country or territory, provided he has the right of abode in the United Kingdom; and any legal person, partnership, association or other entity deriving its status as such from the law in force in the United Kingdom;
 - (ii) in relation to Pakistan, any individual possessing the nationality of Pakistan; and any legal person, partnership or association deriving its status as such from the law in force in Pakistan;
- (d) the terms “a Contracting State” and “the other Contracting State” mean the United Kingdom or Pakistan, as the context requires;
- (e) the term “person” means an individual, a company and any other body of persons;
- (f) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (g) 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;
- (h) 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;
- (i) the term “competent authority” means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative, and, in the case of Pakistan, the Central Board of Revenue or its authorised representative.

(2) As regards the application of this Convention by a Contracting State any term not otherwise defined 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 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 an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:

- (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 no 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 through which the business of an enterprise is wholly or partly carried on.
- (2) The term “permanent establishment” includes especially:
- (a) a place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a factory;
 - (e) a workshop;
 - (f) a warehouse;
 - (g) premises used for receiving or soliciting orders;
 - (h) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
- (3) A building site or construction or installation project constitutes a permanent establishment only if it lasts for more than six months.
- (4) Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:
- (a) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;
 - (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 merchandise, or of collecting information, for the enterprise;
 - (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
 - (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e) of this paragraph, provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

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(5) Notwithstanding the provisions of paragraphs (1) and (2) of this Article, where a person—other than an agent of an independent status to whom paragraph (6) 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 (4) 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; or
- (b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

(6) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.

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

(2) The term “immovable property” shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; 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 independent personal services.

Article 7

Business profits

(1) The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment

situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable directly or indirectly to that permanent establishment.

(2) Where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

(3) In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including a reasonable allocation of executive and general administrative expenses incurred for the purposes of the enterprise as a whole, whether in the Contracting 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 monies lent to the permanent establishment. Likewise, no account shall be taken in the determination of the profits of a permanent establishment of 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 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 monies lent to the head office of the enterprise or any of its other offices.

(4) 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.

(5) Where profits include items of income or capital gains 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.

(6) 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 adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

(7) 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.

Article 8

Shipping and air transport

(1) Profits 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 of the enterprise is situated.

(2) 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.

(3) The provisions of this Article shall also apply to profits derived from participation in a pool, a joint business or an international operating agency.

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Article 9

Associated enterprises

Where

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

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, may be included by a Contracting State in the profits of that enterprise and taxed accordingly.

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 where the beneficial owner of the dividends is a resident of the other Contracting State the tax so charged shall not exceed:

- (a) 15 per cent of the gross amount of the dividends if the beneficial owner is a company;
- (b) 20 per cent of the gross amount of the dividends in all other cases.

(3) Notwithstanding the provisions of paragraph (2) of this Article, where the dividends are paid to a company which is a resident of the United Kingdom by a company which is a resident of Pakistan and which is engaged in an industrial undertaking in Pakistan, the Pakistan tax shall not exceed 10 per cent of the gross amount of the dividends if the company which is a resident of the United Kingdom:

- (a) controls more than 25 per cent of the voting power of the company paying the dividends and the industrial undertaking is set up in Pakistan after the date on which this Convention enters into force; or
- (b) controls more than 50 per cent of the voting power of the company paying the dividends in all other cases.

(4) For the purposes of this Article:

- (a) the term “dividends” means income from shares, or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the taxation laws of the State of which the company making the distribution is a resident and also includes any other item which, under the laws of the Contracting State of which the company paying the dividend is a resident, is treated as a dividend or distribution of a company;

(b) the term “industrial undertaking” means:

(i) an undertaking engaged in

- (aa) the manufacture of goods or materials or the subjection of goods or materials to any process which results in substantially changing their original condition; or

(bb) ship-building; or

- (cc) electricity, hydraulic power, gas or water supply; or
- (dd) mining including the working of an oil-well or the source of any mineral deposit; or

- (ii) any other undertaking which is declared by the competent authority in Pakistan to be an industrial undertaking for the purposes of Pakistan tax laws.

(5) The provisions of paragraphs (1), (2) and (3) 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 case the provisions of Article 7 or Article 15 of this Convention, as the case may be, shall apply.

(6) 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 undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that 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 where the beneficial owner of the interest is a resident of the other Contracting State the tax so charged shall not exceed 15 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 it is derived and beneficially owned by the Government of the other Contracting State or a local authority thereof or, subject to the agreement of the competent authorities of the Contracting States, any agency or instrumentality of that Government or local authority.

(4) The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures. The term "interest" shall not include any item which is treated as a distribution under the provisions of Article 10 of this Convention.

(5) The provisions of paragraphs (1) and (2) 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 case the provisions of Article 7 or 15 of this Convention, 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 subdivision, a local authority or a resident of that State. Where, however, the person

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paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

(7) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest paid exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount of interest. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this 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 where the beneficial owner of the royalties is a resident of the other Contracting State the tax so charged shall not exceed 12½ per cent of the gross amount of the royalties.

(3) The term “royalties” as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films, and films or tapes for radio or television 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 (know-how) 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 case the provisions of Article 7 or 15 of this Convention, as the case may be, shall apply.

(5) Royalties shall be deemed to arise in a Contracting State where the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or fixed base in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

(6) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties paid exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13

Technical fees

(1) Technical fees arising in a Contracting State which are derived by a resident of the other Contracting State may be taxed in that other State.

(2) However, such technical fees may also be taxed in the Contracting State in which they arise, and according to the law of that State, but where the beneficial owner of such technical fees is a resident of the other Contracting State the tax so charged shall not exceed 12½ per cent of the gross amount of the technical fees.

(3) The term “technical fees” as used in this Article means payments of any kind to any person, other than to an employee of the person making the payments, in consideration for any services of a technical, managerial or consultancy nature.

(4) The provisions of paragraphs (1) and (2) of this Article shall not apply if the beneficial owner of the technical fees, being a resident of a Contracting State, carries on business in the other Contracting State in which the technical fees arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the technical fees are effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

(5) Technical fees shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the technical fees, 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 obligation to pay the technical fees was incurred, and such technical fees are borne by that permanent establishment or fixed base, then such technical fees shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

(6) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the technical fees paid exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article 14

Capital gains

(1) Subject to the provisions of paragraph (2) of this Article, capital gains which arise in a Contracting State may be taxed by that State in accordance with the provisions of its domestic law.

(2) Gains from the alienation of ships or aircraft operated in international traffic and any property, other than immovable 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.

Article 15

Independent personal services

(1) Subject to the provisions of Article 13, 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:

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- (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 the fiscal year concerned; 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 other 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, 19, 20, 21 and 22, 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 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 in any period of 12 months; and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a 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 derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 17

Directors' fees

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.

Article 18

Artistes and athletes

(1) Notwithstanding the provisions of Articles 15 and 16 of this Convention, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other 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, 15 and 16 of this Convention, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

Article 19

Pensions

(1) Subject to the provisions of paragraph (2) of Article 20, pensions and other similar remuneration paid in consideration of past employment to a resident of a Contracting State and any annuity paid to such a resident shall be taxable only in that State.

(2) 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

Government service

- (a) (1) (a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority 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 other 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.
- (a) (2) (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
- (b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident and a national of that State.

(3) The provisions of Articles 16, 17 and 19 of this Convention shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 21

Students and trainees

(1) An individual who is a resident of a Contracting State or was a resident of that State immediately before making a visit to the other Contracting State and who is temporarily present in that other State for the primary purpose of:

- (a) studying at a university or other recognised educational institution in that other Contracting State; or
- (b) securing training required to qualify him to practise a profession or a professional speciality; or

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(c) studying or doing research as a recipient of a grant, allowance or award from a governmental, religious, charitable, scientific, literary or educational organisation; shall not be subject to tax by that other Contracting State with respect to:

- (i) the amount of such grant, allowance or award;
- (ii) remittances from abroad for the purpose of his maintenance, education, study, research or training; and
- (iii) income from personal services rendered in that other Contracting State (other than any rendered by an articled clerk or other person undergoing professional training to the person or partnership to whom he is articled or who is providing the training) not exceeding the sum of 750 pounds sterling, or its equivalent in Pakistan rupees as the case may be, during any year of assessment or taxable year.

(2) The benefits under paragraph (1) of this Article shall apply only for such period of time as may be reasonably or customarily required for the purpose of the individual's visit, but in no event shall any individual have the benefit of that paragraph for more than five years from the date of his first arrival in the other Contracting State.

(3) An individual who is a resident of a Contracting State or was a resident of that State immediately before making a visit to the other Contracting State and who is present in that other State for a period not exceeding twelve months from the date of his first arrival in that other Contracting State in connection with that visit, as a participant in a programme sponsored by the Government of that other Contracting State for the purposes of training, research or study, or as an employee of or under contract with the Government or an enterprise of the first-mentioned Contracting State for the purpose of acquiring technical, professional or business experience from a person other than that Government or that enterprise, shall not be subject to tax by that other Contracting State with respect to:

- (a) all remittances from abroad for the purposes of his maintenance, training, research or study; and
- (b) any remuneration so far as it does not exceed the sum of 1,500 pounds sterling, or its equivalent in Pakistan rupees as the case may be, during any year of assessment or taxable year for personal services in that other Contracting State in connection with his studies or training.

Article 22

Teachers

(1) An individual who visits one of the Contracting States for a period not exceeding two years for the purpose of teaching or engaging in research at a university, college or other recognised educational institution in that Contracting State, and who was immediately before that visit a resident of the other Contracting State, shall be exempted from tax by the first-mentioned Contracting State on any remuneration for such teaching or research for a period not exceeding two years from the date he first visits that State for such purpose.

(2) This Article shall not apply to income from research unless such research is undertaken by the individual in the public interest and not primarily for the benefit of some other private person or persons.

Article 23

Elimination of double taxation

(1) Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom (which shall not affect the general principle hereof):

- (a) Pakistan tax payable under the laws of Pakistan and in accordance with this 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 United Kingdom tax computed by reference to the same profits, income or chargeable gains by reference to which the Pakistan tax is computed;
- (b) in the case of a dividend paid by a company which is a resident of Pakistan to a company which is a resident of the United Kingdom and which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend, the credit shall take into account (in addition to any Pakistan tax for which credit may be allowed under the provisions of sub-paragraph (a) of this paragraph) the Pakistan tax payable by the company in respect of the profits out of which such dividend is paid.

(2) In Pakistan double taxation shall be eliminated as follows:

subject to the provisions of the laws of Pakistan regarding the allowance as a credit against Pakistan tax, the amount of United Kingdom tax payable under the laws of the United Kingdom and in accordance with the provisions of this Convention, whether directly or by deduction, by a resident of Pakistan, in respect of income from sources within the United Kingdom which has been subjected to a tax both in Pakistan and the United Kingdom shall be allowed as credit against the Pakistan tax payable in respect of such income but in an amount not exceeding that proportion of Pakistan tax which such income bears to the entire income chargeable to Pakistan tax.

(3) For the purpose of paragraph (1) of this Article, the term “Pakistan tax payable” shall be deemed to include any amount which would have been payable as Pakistan tax for any year but for an exemption from, or reduction of, tax granted for that year or any part thereof under any of the following provisions of Pakistan law:

- (a) Section 48 of the Income Tax Ordinance 1979 (XXXI of 1979) (as amended), Clauses 7, 8, 75, 76, 80(c) and (cc), 81, 95B, 96, 98, 99, 100, 101, 102, 119, 120, 121, 121A, 121B, 122, 122A, 123, 124, 125 and 125A of Part I and Clause 1 of Part II of the Second Schedule to that Ordinance; so far as they were in force on, and have not been modified since the date of signature of this Convention, or have been modified only in minor respects so as not to affect their general character; or
- (b) any other provision which may subsequently be made granting an exemption from, or reduction of, tax which is agreed by the competent authorities of the Contracting States to be of a substantially similar character, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character.

Provided that relief from United Kingdom tax shall not be given by virtue of this paragraph in respect of income from any source if the income arises in a period starting more than ten years after the exemption from, or reduction of, Pakistan tax was first granted in respect of that source.

(4) For the purposes of paragraphs (1) and (2) of this Article, profits, income and capital gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources in that other Contracting State.

(5) Where profits on which an enterprise of a Contracting State has been charged to tax in that State are also included in the profits of an enterprise of the other State and the profits so included are

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profits which would have accrued to that enterprise of the other State if the conditions made between the enterprises had been those which would have been made between independent enterprises dealing at arm's length, the amount included in the profits of both enterprises shall be treated for the purposes of this Article as income from a source in the other State of the enterprise of the first-mentioned State and relief shall be given accordingly under the provisions of paragraph (1) or paragraph (2) of this Article.

Article 24

Non-discrimination

(1) Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

(2) The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

(3) Except where the provisions of Article 9, paragraph (7) of Article 11, paragraph (6) of Article 12 or paragraph (6) of Article 13 of this Convention apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

(4) Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

(5) Nothing contained in this Article shall be construed:

- (a) as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident; or
- (b) as affecting the provisions of the Pakistan law providing for a higher allowance or rebate of super-tax to those companies which make the prescribed arrangements for the declaration and payment of dividends.

(6) In this Article the term "taxation" means the taxes to which this Convention applies.

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 the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident.

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation 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.

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

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 for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes covered by this Convention insofar as the taxation thereunder is not contrary to this Convention. Any information received by a Contracting State shall be treated as secret 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 this 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) of this Article be construed so as to impose on the competent authority of either Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws and administrative practice prevailing in either Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of either 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 (ordre public).

Article 27

Members of diplomatic or permanent missions and consular posts

(1) Nothing in this Convention shall affect any fiscal privileges accorded to members of diplomatic or permanent missions or consular posts under the general rules of international law or under the provisions of special agreements.

(2) Notwithstanding the provisions of paragraph (1) of Article 4 of this Convention, an individual who is a member of a diplomatic or permanent mission or consular post of a Contracting State or of any third State which is situated in the other Contracting State or who is an official of an international organisation, and any member of the family of such an individual, shall not be deemed to be a resident of the other State if he is subject to tax on income or capital gains in that other State only if he derives income or capital gains from sources therein.

Article 28

Entry into force

(1) Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Convention. This Convention shall enter into force on the date of the later of these notifications and shall thereupon have effect:

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- (a) in relation to payments referred to in Article 13 of this Convention to amounts paid on or after 1 July 1985;
- (b) in relation to all other provisions of this Convention:
 - (i) in the United Kingdom:
 - (aa) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April in the calendar year next following that in which the Convention enters into force;
 - (bb) in respect of corporation tax, for any financial year beginning on or after 1 April in the calendar year next following that in which the Convention enters into force;
 - (ii) in Pakistan:
 - for any year of assessment beginning on or after 1 July in the calendar year next following that in which the Convention enters into force.

(2) Subject to the provisions of paragraph (3) of this Article, the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Pakistan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed at London on 24 April 1961 (hereinafter referred to as “the 1961 Agreement”) shall terminate and cease to be effective from the date upon which this Convention has effect in respect of the taxes to which this Convention applies in accordance with the provisions of paragraph (1) of this Article.

(3) Where any provision of the 1961 Agreement would have afforded any greater relief from tax than is due under this Convention, any such provision as aforesaid shall continue to have effect:

- (a) in the United Kingdom, for any year of assessment or financial year; and
 - (b) in Pakistan, for any year of assessment;
- beginning, in either case, before the entry into force of this Convention.

Article 29

Termination

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year 1992. In such event, the Convention shall cease to have effect:

- (a) in the United Kingdom:
 - (i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April in the calendar year next following that in which the notice is given;
 - (ii) in respect of corporation tax, for any financial year beginning on or after 1 April in the calendar year next following that in which the notice is given;
- (b) in Pakistan, for any year of assessment beginning on or after 1 July in the calendar year next following that in which the notice is given.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Convention.

Done in duplicate at Islamabad this 24th day of November 1986

Christopher Francis Patten
Mian Muhammad Yasin Khan Wattoo
For the Government of the United Kingdom
of Great Britain and Northern Ireland: For the
Government of the Islamic Republic of Pakistan:

EXPLANATORY NOTE

(This note is not part of the Order)

The Convention with Pakistan set out in the Schedule to this Order replaces the Agreement signed on 24th April 1961 (S.I.1961/2467).

It provides for business profits not arising through a permanent establishment to be taxed only in the taxpayer's country of residence. Profits attributable to a permanent establishment may be taxed in the country in which the permanent establishment is situated, but only so much of them as are attributable directly or indirectly to that permanent establishment (Articles 5 and 7). Profits arising from the operation of ships and aircraft in international traffic are to be taxed only in the country in which the place of effective management of the enterprise is situated (Article 8).

Income from immovable property may be taxed in the country in which the property is situated (Article 6). Capital gains arising in one country may be taxed in that country in accordance with the provision of its domestic law (Article 14).

The rate of tax which may be applied in the country of source on dividends must not exceed 15 per cent of the gross amount of the dividend where the beneficial owner is a company, and 20 per cent in all other cases. However, the rate of tax to be applied in Pakistan is 10 per cent where the payer of the dividends is a Pakistan company engaged in industrial enterprises and the UK recipient of the dividends controls at least 50 per cent of the voting power of that company (or in the case of an industrial undertaking set up in Pakistan after the date of entry into force of the Convention, the UK company controls at least 25 per cent of the voting power) (Article 10).

The rate of tax imposed in the source country on interest (Article 11), royalties (Article 12) and technical fees (Article 13) is, in general, not to exceed 15, 12½ and 12½ per cent respectively. The source country will exempt interest paid to the Government (or government agency) of the other country. The provisions relating to technical fees (Article 13) have effect in respect of amounts paid on or after 1st July 1985.

The earnings of temporary business visitors are, subject to certain conditions, to be taxed only in the taxpayer's country of residence (Articles 15 and 16).

Income derived in respect of the personal activities of entertainers and athletes may normally be taxed in the country in which those activities are exercised (Article 18).

Government remuneration and pensions are to be taxed by the paying country only, unless the recipient is a resident of the other country and is or was generally engaged and employed by the paying country in that other country, in which case the country of residence has sole taxing rights.

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Any other pensions paid in consideration of past employment and annuities are to be taxed only by the taxpayer's country of residence (Articles 19 and 20).

The remuneration of teachers and payments made to students and trainees are, subject to certain conditions, to be exempt from tax in the country visited (Articles 21 and 22).

Where income continues to be taxed in both countries, credit will be given by the taxpayer's country of residence in respect of tax imposed by the other country. In the case of dividends, the UK will also give credit for underlying tax paid in Pakistan while the UK company receiving the dividend controls at least 10 per cent of the voting power in the Pakistan company. The UK will also give credit for up to 10 years for tax spared under certain provisions of the Pakistan Income Tax Ordinance 1979 (XXXI of 1979) (as amended) (Article 23).

There are provisions safeguarding nationals and enterprises of one country against discriminatory taxation in the other country (Article 24) and for consultation and exchange of information between the competent authorities of the two countries (Articles 25 and 26).

The Agreement will enter into force when the legislative procedures in both countries have been completed and will have effect in the UK from April in the following calendar year (Article 28).