

No. 18267

**CZECHOSLOVAKIA
and
SRI LANKA**

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and property. Signed at Colombo on 26 July 1978

Authentic texts: Czech, Sinhalese and English.

Registered by Czechoslovakia on 1 February 1980.

**TCHÉCOSLOVAQUIE
et
SRI LANKA**

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur la fortune. Signée à Colombo le 26 juillet 1978

Textes authentiques : tchèque, cinghalais et anglais.

Enregistrée par la Tchécoslovaquie le 1^{er} février 1980.

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE CZECHOSLOVAK SOCIALIST REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF SRI LANKA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND PROPERTY

The Government of the Czechoslovak Socialist Republic and the Government of the Republic of Sri Lanka,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and property,

Have agreed as follows:

Article 1. TAXES COVERED

1. The taxes which are the subject of this Convention are:

- (a) In Sri Lanka: the income tax and the wealth tax (hereinafter referred to as "Sri Lanka tax");
- (b) In Czechoslovakia:
 - The taxes on profits;
 - The wages tax;
 - The tax on income from literary and artistic activities;
 - The agricultural tax;
 - The tax on population income;
 - The house tax;
 - The capital tax; and
 - The tax on the total amount of wages(hereinafter referred to as "Czechoslovak tax").

2. This Convention shall also apply to any other taxes of a substantially similar character imposed in Sri Lanka or Czechoslovakia after the date of signature of this Convention.

Article 2. GENERAL DEFINITIONS

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

- (a) The term "Sri Lanka" means the Republic of Sri Lanka and the term "Czechoslovakia" means the Czechoslovak Socialist Republic;
- (b) The terms "a Contracting State" and "the other Contracting State" mean Sri Lanka or Czechoslovakia, as the context requires;
- (c) The term "tax" means Sri Lanka tax or Czechoslovak tax, as the context requires;
- (d) The term "person" includes any individual, any company and any other body of persons corporate or not corporate;
- (e) The term "company" means any body corporate and includes any entity which is treated as a body corporate for tax purposes;

¹ Came into force on 19 June 1979, the date on which the Contracting Parties notified each other in writing of the completion of the required constitutional procedures, in accordance with article 23.

(f) The terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean, respectively, an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(g) The term “competent authorities” means in the case of Sri Lanka the Commissioner-General of Inland Revenue and in the case of Czechoslovakia the Minister of Finance of the Czechoslovak Socialist Republic or his duly authorized representative;

(h) The term “national” means:

(aa) Any individual possessing the nationality of a Contracting State;

(bb) Any other person deriving his status as such from the laws in force in a Contracting State.

2. In the application of the provisions of this Convention in one of the Contracting States, any term not otherwise defined in the present Convention shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that Contracting State relating to the taxes which are the subject of this Convention.

Article 3. FISCAL DOMICILE

1. The terms “resident of one of the Contracting States” and “resident of the other Contracting State” means a resident of Sri Lanka or a resident of Czechoslovakia, as the context requires.

2. For the purposes of this Convention, the terms “resident of Sri Lanka” and “resident of Czechoslovakia” mean, respectively, any person who is resident in Sri Lanka for the purposes of Sri Lanka tax and not resident in Czechoslovakia for the purposes of Czechoslovak tax, and any person who is resident in Czechoslovakia for the purposes of Czechoslovak tax and not resident in Sri Lanka for the purposes of Sri Lanka tax.

A company shall be regarded as resident in Sri Lanka if either it is incorporated under the laws of Sri Lanka or its business is managed and controlled in Sri Lanka, and in either case it does not have its head or main office in Czechoslovakia; a company shall be regarded as resident in Czechoslovakia if it has its head or main office in Czechoslovakia and is not managed and controlled in Sri Lanka and is not incorporated under the laws of Sri Lanka.

Article 4. PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term “permanent establishment” in relation to an enterprise 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 in any case include:

(a) A place of management;

(b) A branch;

(c) An office;

(d) A factory;

(e) A workshop;

(f) A warehouse;

(g) A mine, oil well, quarry or other place of extraction of natural resources;

- (h) An agricultural or farming estate or plantation;
- (i) An installation or structure used for the exploration of natural resources;
- (j) A building site or construction or assembly project which exists for more than 183 days.

3. The term "permanent establishment" shall not be deemed to include:

- (a) The use of facilities solely for the purpose of storage or the maintenance of a stock of goods or merchandise, whether in a warehouse or not, solely for the convenience of delivery of the 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;
- (c) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or for collecting information, for the enterprise;
- (d) The maintenance of a fixed place of business solely for the purpose of advertising including display, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise;
- (e) An activity carried on by any enterprise of a Contracting State in connection with the delivery of machinery or equipment from that State to the other Contracting State.

4. Where a person acts in one of the Contracting States 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 if he has, and habitually exercises in that first-mentioned Contracting State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

5. An enterprise of one of the Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other Contracting State through a bona fide broker, general commission agent or any other agent of an independent status where such persons are acting in the ordinary course of their business.

6. The fact that a company which is a resident of one of the Contracting States controls or is controlled by a company which is a resident of the other Contracting State or which carries on business in that other Contracting State (whether through a permanent establishment or otherwise) shall not of itself constitute either company a permanent establishment of the other.

Article 5. BUSINESS PROFITS

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

2. Where an enterprise of one of the Contracting States 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.

Nothing in this paragraph shall affect the computation of the profits derived by a Czechoslovak enterprise from the production of tea or other agricultural product in Sri Lanka in accordance with the provisions of the law of Sri Lanka at the date of signature of this Convention.

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 permanent establishment including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere.

4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude 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 laid down in this article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. Where profits include items of income which are dealt with separately in other articles of this Convention, then the provisions of those articles shall not be affected by the provisions of this article.

Article 6. ASSOCIATED ENTERPRISES

Where

- (a) An enterprise of one of the Contracting States 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 one of the Contracting States and of an enterprise of the other Contracting State,

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

Article 7. SHIPPING TRANSPORT

Profits from the operation of ships in international traffic shall be taxable in the Contracting State in which the place of effective management of the enterprise is situated as well as in the Contracting State where such operation is carried on; but the tax so chargeable in the second-mentioned Contracting State shall be reduced by an amount equal to 50 per cent thereof.

Article 8. DIVIDENDS

1. The rate of Czechoslovak tax on dividends which are paid by a company resident in Czechoslovakia to a company resident in Sri Lanka shall not exceed 15 per cent.

2. Dividends paid by a company resident in Sri Lanka to a company resident in Czechoslovakia shall be exempt from all Sri Lanka tax other than the Sri Lanka income tax on the company which pays the dividends and other than the additional tax referred to in sub-section (4) of section 26 of the Sri Lanka Inland Revenue Act on companies whose shares are not movable property situated in Sri Lanka for the purposes of the law of Sri Lanka relating to Estate Duty; but the rate of this last-mentioned additional tax shall not, in the case of companies resident in Czechoslovakia, exceed 6 per cent.

Provided that where any new contribution is made to the capital of a company resident in Sri Lanka by a company resident in Czechoslovakia after the entering into force of this Convention, the rate of tax deducted at source in respect of the dividends paid by the company in Sri Lanka relating to such contribution shall not exceed 15 per cent.

Article 9. ROYALTIES

1. Any royalties or other amounts which are payable as consideration for the use of, or for the right to use, any copyright or cinematograph films and which are derived from sources within one of the Contracting States by a resident of the other Contracting State shall be exempt from tax in that first-mentioned Contracting State.

2. Any royalties or other amounts which are payable after the entering into force of this Convention as consideration for the use of, or for the right to use, any patents, designs or models, plans, secret processes or formulae, trade marks and other like property and rights and which are derived from sources within one of the Contracting States by a resident of the other Contracting State may be taxed in that other Contracting State.

However, such royalties may be also taxed in the first-mentioned Contracting State and according to the law of that State, but the tax so charged shall, in respect of the royalties becoming payable for the first time after the entering into force of this Convention, not exceed 10 per cent of the amount of the royalties.

There shall be treated as royalties all rents and similar payments received as consideration for the use of, or for the right to use, industrial, commercial or scientific equipment.

3. The provisions of this article shall not apply where a resident of one of the Contracting States has a permanent establishment in the other Contracting State, and such items of income as are dealt with in this article are attributable to that permanent establishment; in such event the provisions of article 5 of the present Convention shall be applicable.

Article 10. INTEREST

1. Interest received by any banking institution which is a resident of one of the Contracting States shall be exempt from tax in the other Contracting State.

2. Interest derived from a Contracting State by the Government of the other Contracting State either directly or through any agency of that Government shall be exempt from tax in the first-mentioned State.

3. Interest accruing to any company, partnership, or other body of persons resident in a Contracting State from any loans in money, goods, or services or in any other form, granted by that company, partnership or body of persons to the Government of the other Contracting State or to a State Corporation, or to any State institution, or to any other institution to the capital of which the other Contracting State has made any contribution, or to a credit agency or an undertaking in that other Contracting State with the approval of the Government of the same State, shall be exempt from tax in this last-mentioned State.

4. The provisions of this article shall not apply where a resident of one of the Contracting States has a permanent establishment in the other Contracting State, and such items of income as are dealt with in this article are attributable to that permanent establishment; in such event the provisions of article 5 of the present Convention shall be applicable.

5. Any other interest received by a resident of one of the Contracting States from a resident of the other Contracting State shall be taxable in both Contracting States; but the tax payable in the Contracting State where the interest arises, shall, in respect of any debt-claim which was first created after the entering into force of this Convention, not exceed 10 per cent.

Article 11. INCOME FROM IMMOVABLE PROPERTY

Income from immovable property (including gains derived from the sale or exchange of such property) shall be taxable only in the Contracting State in which the property is situated.

Article 12. GOVERNMENTAL FUNCTIONS

1. Remuneration, including pensions, paid by, or out of funds created by one of the Contracting States to any individual for services rendered to that Contracting State in the discharge of State functions shall be exempt from tax in the other Contracting State, if the individual is not resident in that other Contracting State or (where the remuneration is not a pension) is a resident in that State solely for the purposes of rendering those services.

2. The provisions of this article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either Contracting State for purposes of profit.

Article 13. PERSONAL SERVICES

1. Profits or remuneration from professional services or from services as an employee derived by an individual who is a resident of one of the Contracting States may be taxed in the other Contracting State only if such services are rendered in that other State.

2. An individual who is a resident of one of the Contracting States shall be exempt in the other Contracting State from tax on profits or remuneration referred to in paragraph 1, if

- (a) He is present within the other Contracting State for a period or periods not exceeding in the aggregate 183 days in any year of assessment;
- (b) The services are performed for or on behalf of a resident of the first-mentioned State.

Article 14. ARTISTES AND ATHLETES

Notwithstanding the provisions of article 13, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

Article 15. PENSIONS

Any pension (other than a pension to which article 12 applies) or annuity derived from sources within one of the Contracting States by an individual who is a resident of the other Contracting State shall be taxable only in that other State.

Article 16. TEACHERS

A professor, teacher or researcher from one of the Contracting States, who receives remuneration for teaching or research, during a period of residence not exceeding two years, at a university, college, school or other educational or research institution in the other Contracting State, shall be exempt from tax in that other State in respect of that remuneration.

Article 17. STUDENTS

Payments which a student or business apprentice who is or was formerly a resident of one of the Contracting States and who is present in the other Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that other State, provided that such payments are made to him from sources outside that other Contracting State.

Article 18. TAXATION OF PROPERTY

1. Immovable property may be taxed in the Contracting State in which such property is situated.

2. 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, ships operated in international traffic and movable property pertaining to the operation of such ships shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

Article 19. ELIMINATION OF DOUBLE TAXATION

1. The laws in force in either of the Contracting States shall continue to govern the taxation of income or property in the respective Contracting States except where express provisions to the contrary are made in the present Convention.

2. In Sri Lanka, double taxation shall be avoided in the following manner: the Czechoslovak tax payable whether directly or by deduction by a person resident in Sri Lanka in respect of income from sources within Czechoslovakia shall be allowed as a credit against Sri Lanka tax payable on such income.

3. In Czechoslovakia, double taxation will be avoided in the following manner:
(a) Where a resident of Czechoslovakia derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Sri Lanka, Czechoslovakia shall, subject to the provisions of sub-paragraph (b) of this

paragraph, exempt such income or such capital from tax but may, in calculating tax on the remaining income or capital of that person, apply the rate of tax which would have been applicable if the exempted income or capital had not been so exempted.

- (b) Czechoslovakia when imposing taxes on its residents may include in the basis upon which such taxes are imposed the items of income which according to the provisions of articles 8, 9 and 10 of this Convention may also be taxed in Sri Lanka. Czechoslovakia shall allow as a deduction from the amount of tax computed on such a basis an amount equal to the tax paid in Sri Lanka.

Where in terms of articles 8, 9 and 10 of this Convention the Sri Lanka tax deducted or levied is less than the amount of the tax payable in terms of Sri Lanka tax laws, the credit shall be the tax which would have been payable in Sri Lanka but for this Convention or an amount calculated at 25 per cent of such income as the Czechoslovak tax authorities may decide.

Such deduction shall not, however, exceed that part of the Czechoslovak tax, as computed before the deduction is given, which is appropriate to the income which, in accordance with the provisions of articles 8, 9 and 10 of this Convention, was taxed in Sri Lanka.

Article 20. EXCHANGE OF INFORMATION

The competent authorities of the Contracting States shall exchange such information which is at their disposal under their respective taxation laws in the normal course of administration as is necessary for carrying out the provisions of this Convention or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Convention. Any information so exchanged shall be treated as secret but may be disclosed to persons (including a court or an administrative body) concerned with assessment, collection, enforcement or prosecution in respect of taxes which are the subject of this Convention. No information shall be exchanged which would disclose any trade, business, industrial or professional secret or any trade process.

Article 21. NON-DISCRIMINATION

1. The nationals of one of the Contracting States 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 Contracting State are or may be subjected.

2. The enterprises of one of the Contracting States shall not be subjected in the other Contracting State, in respect of profits attributable to their permanent establishments in that other Contracting 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 of every kind and description levied on behalf of any authority whatsoever.

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 22. MUTUAL AGREEMENT PROCEDURE

1. Any taxpayer who shows that the action of the revenue authorities of either Contracting State has resulted or will result in double taxation with respect to the taxes which are the subject of this Convention may lodge a claim with the competent authority of the Contracting State of which he is a resident. Should the claim be upheld, that competent authority may come to an agreement with the competent authority of the other Contracting State with a view to avoidance of taxation not in accordance with the present Convention.

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

3. 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 23. ENTRY INTO FORCE

This Convention shall enter into force on the date on which the Contracting Parties have notified each other in writing that the Convention has been approved according to their respective constitutional laws, 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 24. TERMINATION

This Convention shall continue in effect indefinitely but either of the Contracting Parties may, on or before the 30th day of June in any calendar year not earlier than the year 1981, give to the other Contracting Party notice of termination and, 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 Colombo this 26th day of July 1978 in two originals, each in the Czech, Sinhala and English languages, all text being equally authentic. In case there is any divergence of interpretation, the English text shall prevail.

Dr. JAROMÍR SEDLÁK
For the Government
of the Czechoslovak Socialist Republic

Dr. W. M. TILAKARATNA
For the Government
of the Republic of Sri Lanka