

**No. 21306**

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**PHILIPPINES  
and  
PAKISTAN**

**Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Manila on 22 February 1980**

*Authentic text: English.*

*Registered by the Philippines on 15 November 1982.*

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**PHILIPPINES  
et  
PAKISTAN**

**Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu. Signée à Manille le 22 février 1980**

*Texte authentique : anglais.*

*Enregistrée par les Philippines le 15 novembre 1982.*

CONVENTION<sup>1</sup> BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

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

*Article 1. PERSONAL SCOPE*

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

*Article 2. TAXES COVERED*

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

2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property and taxes on the total amounts of wages or salaries paid by enterprises.

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

(a) In the case of Pakistan:

- The income tax,
- The super tax, and
- Surcharge

(hereinafter referred to as “Pakistan tax”);

(b) In the case of the Philippines: the income taxes imposed under Title II of the National Internal Revenue Code, as amended, of the Philippines and all other taxes on income imposed by the Government of the Republic of the Philippines (hereinafter referred to as “Philippine Tax”).

4. The Convention shall apply also to any identical or substantially similar taxes on income which are imposed after the date of signature of this Convention in addition to, or, in place of, the existing taxes by either Contracting State. At the end of each year, the competent authorities of the Contracting States shall notify to each other of any changes which have been made in their respective taxation laws.

In case of Pakistan, this provision shall also apply in respect of any territory to which the present Convention is extended under article 29 of this Convention.

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<sup>1</sup> Came into force on 24 June 1981 by the exchange of the instruments of ratification which took place at Islamabad, in accordance with article 30 (2).

*Article 3. GENERAL DEFINITIONS*

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

(a) (i) The term “Pakistan” used in a 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 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;

(ii) The term “Philippines” means the Republic of the Philippines and when used in a geographical sense means the national territory comprising the Republic of the Philippines;

(b) The terms “a Contracting State” and “the other Contracting State” mean, as the context requires, Pakistan or the Philippines;

(c) The term “person” includes an individual, an estate, a trust, a company, a partnership and any other body of persons;

(d) The term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;

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

(f) The term “international traffic” means any transport by a ship or aircraft operated by an enterprise of one of the Contracting States, except when the ship or aircraft is operated solely between places in the other Contracting State;

(g) The term “national” means:

(i) Any individual possessing the citizenship or nationality of a Contracting State;

(ii) Any legal person, partnership and association deriving its status as such from the laws in force in a Contracting State;

(h) The term “taxable year” means:

(i) In the case of Pakistan the previous year as defined by the tax law of Pakistan;

(ii) In the case of the Philippines the calendar year, or the fiscal year ending during such calendar year, as defined in the tax law of the Philippines;

(i) The term “competent authority” means:

(i) In the case of Pakistan, the Central Board of Revenue;

(ii) In the case of the Philippines, the Minister of Finance or his authorized representative.

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

*Article 4. RESIDENT*

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the law of that State, is liable to taxation

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 an individual is a resident of both Contracting States, 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 States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (hereinafter referred to as his "centre of vital interests");
- (b) If the 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 State, he shall be deemed to be a resident of the State in which he has an habitual abode;
- (c) If he has an habitual abode in both States or in neither of them he shall be deemed to be resident of the State of which he is a national;
- (d) If he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a company is a resident of both Contracting States then its status shall be determined in accordance with the following rules:

- (a) It shall be deemed to be a resident of the Contracting State of which it is a national;
- (b) If it is a national of neither of the Contracting States, it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated;
- (c) If the place of effective management cannot be determined, then the competent authorities of the Contracting States shall by mutual agreement endeavor to settle the question and to determine the mode of application of the Convention to such person.

#### *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, quarry or other place of extraction of natural resources;
- (g) A building site or construction project or supervisory activities in connection therewith, where such site, project or activity continues for a period of more than six months;

- (h) The furnishing of services, including consultancy services through employees or other personnel where activities of that nature continue (for the same or a connected project) for a period or periods aggregating more than 90 days within any twelve-month period;
- (i) An assembly or installation project which exists for more than three months;
- (j) Premises used as a sales outlet.

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

- (a) The use of facilities solely for the purpose of storage, display or 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 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 maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise;
- (f) The maintenance of an office or like establishment by a news-agency or a newspaper or journal, being an enterprise of one of the Contracting States, exclusively for the collection and transmission to that State of information on behalf of that enterprise.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State—other than an agent of an independent status to whom paragraph 5 applies—shall be deemed to be a permanent establishment in the first-mentioned State if:

- (a) He has, and habitually exercises in that State, an authority to conclude contracts for or on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or
- (b) He habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise for or on behalf of the enterprise; or
- (c) He manufactures or processes in that State for the enterprise goods or merchandise belonging to the enterprise.

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

6. An insurance enterprise of a Contracting State shall, except in regard to reinsurance, be deemed to have a permanent establishment in the other Con-

tracting State if it collects premiums in the territory of that State or insures risks situated therein through an employee or through a representative who is not an agent of an independent status within the meaning of paragraph 5.

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 for 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 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, 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 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 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 or has carried on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as are attributable to:

- (a) That permanent establishment; or
- (b) Sales within that other Contracting State of goods or merchandise of the same or similar kind as those sold, or from other business activities of the same or similar kind as those affected, through that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment 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 deduction expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses

so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. 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 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.

5. Notwithstanding the provisions of paragraph 3, no deduction shall be allowed in respect of amounts paid or charged (other than reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of:

- (a) Royalties, fees or other similar payments in return for the use of patents or other rights;
- (b) Commission for specific services performed or for management; and
- (c) Interest on money lent to the permanent establishment, except in the case of a banking institution.

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

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.

8. 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 provision of this article.

#### *Article 8. SHIPPING AND AIR TRANSPORT*

1. Profits derived by an enterprise of a Contracting State from the operation in international traffic of ships or aircraft shall be taxable in that State.

2. Notwithstanding the provisions of paragraph 1, profits from sources within a Contracting State derived by an enterprise of the other Contracting State from the operation of ships or aircraft in international traffic may be taxed in the first-mentioned State in accordance with its domestic law, but the tax so charged shall be reduced by forty per cent. In no case, however, shall the tax so charged exceed the lowest rate of Philippine tax that may be imposed on profits of the same kind derived under similar circumstances by a resident of a third State.

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

#### *Article 9. ASSOCIATED ENTERPRISES*

1. Where

- (a) An enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

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

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included 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 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 this 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 law of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

- (a) 15% of the gross amount of the dividends if the beneficial owner is a company (excluding partnership) which holds directly at least 25 per cent of the capital of the paying company during the part of the paying company's taxable year which precedes the date of payment of the dividends and during the whole of its prior taxable year, if any.
- (b) 25% of the gross amount of the dividends in all other cases.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this article means the income from shares, *jouissance* shares or *jouissance* rights, mining shares, founder's shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, 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, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

6. Nothing in this Convention shall be construed as preventing a Contracting State from imposing in accordance with its internal law, apart from the corporate income tax, a tax on remittances of profits by a branch to its head office provided that the tax so imposed shall not exceed 15 per cent of the amount remitted.

#### *Article 11. INTEREST*

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 15 per cent of the gross amount of the interest.

3. 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, including premiums and prizes attaching to such securities, bonds or debentures, as well as income assimilated to income from money lent by the taxation law of the State in which the income arises, including interest on deferred payment sales. Penalty charges for late payment shall not be regarded as interest for the purposes of this article.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other 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.

5. 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 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.

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 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 laws of each Contracting State, due regard being had to the other provisions of this Convention.

7. Notwithstanding the provisions of paragraph 2:

- (a) Interest arising in a Contracting State and paid in respect of a bond, debenture or other similar obligations of the government of that Contracting State or of a political subdivision or local authority thereof shall be exempt from tax in both the Contracting States;
- (b) The Philippine tax on interest arising in the Philippines in respect of public issues of bonds, debentures or similar obligations and paid by a company which is a resident of the Philippines to a resident of Pakistan shall not exceed 10 per cent of the gross amount of the interest.

8. Notwithstanding the provisions of paragraphs 1 and 2:

- (a) The State Bank of Pakistan shall be exempt from Philippine tax with respect to interest from sources within the Philippines;
- (b) The Central Bank of the Philippines shall be exempt from Pakistan tax with respect to interest from sources within Pakistan;
- (c) The Government of a Contracting State shall be exempt from the tax of the other Contracting State with respect to interest on loans derived by that Government from sources within that other State; and
- (d) Any financial institution owned or controlled by the Government of a Contracting State shall be exempt from the tax of the other Contracting State with respect to interest on loans derived by that institution from sources within that other Contracting State.

#### *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, if such resident is the beneficial owner of the royalties.

2. Such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that State. However, the tax so charged shall not exceed:

- (a) 15 per cent of the gross amount of the royalties where the royalties are paid by an enterprise registered with and engaged in preferred areas of activities in that Contracting State; and
- (b) In all other cases, 25 per cent of the gross amount of the royalties.

3. (a) The term "preferred areas of activities" as used in this paragraph means such preferred areas as determined by respective Contracting States.

(b) 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, any patent, trademark, 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, and includes payments of any kind in respect of motion picture films and works on films or videotapes for use in connection with television.

4. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority, or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or fixed base situated therein, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

5. The provisions of paragraphs 1 and 2 shall not apply if the recipient 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 or fixed base situated therein. In such a case, the provisions of article 7 or 14, as the case may be, shall apply.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds 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 a 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. GAINS FROM THE ALIENATION OF PROPERTY*

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 or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such permanent establishment (alone or together with the whole enterprise) or such fixed base, may be taxed in that other State.

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

4. Gains from the alienation of shares of a company, the property of which consists principally of immovable property situated in a Contracting State, may be taxed in that State. Gains from the alienation of an interest in a partnership or a trust, the property of which consists principally of immovable property situated in a Contracting State, may be taxed in that State.

5. Gains from alienation of shares in a company other than those mentioned in paragraph 1, which is a resident of a Contracting State, may be taxed in that State.

6. Gains from the alienation of any property, other than those mentioned in paragraphs 1, 2, 3, 4 and 5 shall be taxable only in the Contracting State of which the alienator is a resident.

#### *Article 14. INDEPENDENT PERSONAL SERVICES*

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable in that State. However, such income may 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 aggregating 90 days or more in the taxable year.

2. The term “professional services” includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

#### *Article 15. DEPENDENT PERSONAL SERVICES*

1. Subject to the provisions of articles 16, 18, 19 and 20, 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, 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 the taxable year concerned, and either
- (b) The remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, or
- (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 operated in international traffic by an enterprise of a Contracting State shall be taxable only in that State.

#### *Article 16. DIRECTOR'S 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. The provisions of paragraph 1 shall likewise apply to officials of a company in top level managerial positions as to payments received in that capacity from the company.

#### *Article 17. ARTISTES AND ATHLETES*

1. Notwithstanding the provisions of articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theater, 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 athlete in his capacity as such accrues not to that entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply in the case of cultural and sports programmes sponsored by, or on behalf of, any of the Contracting States, including any political subdivision, local authority or statutory body thereof.

#### *Article 18. PENSIONS*

1. Subject to the provisions of paragraph 2 of article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

However, pensions paid out of pension plans of the enterprises not registered under the national laws of a Contracting State may be taxed in that State.

2. Notwithstanding the provisions of paragraph 1, social security pensions paid by a social security instrumentality of a Contracting State shall be taxable only in that Contracting State.

3. The term "pensions" as used in paragraphs 1 and 2 of this article means periodic payments made in consideration for past services rendered.

#### *Article 19. GOVERNMENT SERVICE*

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 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. (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 of, and a national of, that State.

3. The provisions of articles 15, 16 and 18 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 20. PROFESSORS AND TEACHERS*

1. Remuneration which a professor or teacher who is or immediately before was a resident of a Contracting State and who visits the other Contracting State for a period not exceeding two years for the purpose of teaching or carrying out advanced study or research at a university, college, school or other educational institution receives for such activities shall not be taxed in that other State in respect of such remuneration.

2. For the purposes of paragraph 1 of this article, the term remuneration shall include remittances from sources outside the other State sent to enable the professor or teacher to carry out the purposes referred to in paragraph 1.

#### *Article 21. STUDENTS AND TRAINEES*

1. An individual who was a resident of a Contracting State immediately before visiting the other Contracting State and is temporarily present in that Contracting State solely as a student at a university, college or other similar educational institution or as a business apprentice shall, from the date of his first arrival in that Contracting State in connection with that visit, be exempt from tax in that Contracting State:

- (a) On all remittances from abroad for purposes of his maintenance, education or training, and
- (b) For a period not exceeding in the aggregate of five years on any remuneration for personal services rendered in that Contracting State with a view to supplementing the resources available to him for such purposes.

2. An individual who was a resident of a Contracting State immediately before visiting the other Contracting State and is temporarily present in that Contracting State solely for the purpose of study, research or training as a recipient of a grant, allowance or award from a scientific, educational, religious or charitable organization or under a technical assistance program entered into by the Government of a Contracting State shall for a period not exceeding two years from the date of his first arrival in that Contracting State in connection with that visit be exempt from tax in that Contracting State on:

- (a) The amount of such grant, allowance or award;
- (b) All remittances from abroad for the purposes of his maintenance, education or training; and
- (c) Any remuneration for personal services in that other Contracting State provided that such services are in connection with his study, research, training or incidental thereto.

3. An individual who was a resident of a Contracting State immediately before visiting the other Contracting State and is temporarily present in that

Contracting State solely as a trainee for the purpose of acquiring technical, professional or business experience shall for a period not exceeding two years from the date of his first arrival in that Contracting State in connection with that visit be exempt from tax in that Contracting State on:

- (a) All remittances from abroad for purposes of his maintenance, education or training, and
- (b) For a period not exceeding in the aggregate of 5 years, any remuneration for personal services rendered in that Contracting State, provided such services are in connection with his studies or training or incidental thereto.

#### *Article 22. OTHER INCOME*

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing articles of this Convention shall be taxable only in that Contracting State except that, if such income is derived from sources within the other Contracting State, it may also be taxed in accordance with the law of that other State.

#### *Article 23. RELIEF FROM DOUBLE TAXATION*

Double taxation shall be avoided in the following manner:

1. In the case of the Philippines: Subject to the provisions of the laws of the Philippines relating to the allowance as credit against Philippine tax of taxes paid in a territory outside the Philippines, Pakistan taxes paid or payable under the laws of Pakistan and in accordance with this Convention, whether directly or by deduction, in respect of income from sources within Pakistan shall be allowed, where similar tax is imposed in the Philippines, as a credit against Philippine tax payable in respect of that income. Such deduction in either case shall not, however, exceed that part of the Philippine income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Pakistan.
2. In the case of Pakistan: Subject to the provisions of the Pakistan Income Tax Act, the Philippine tax payable whether directly or by deduction, by a resident of Pakistan, in respect of sources within the Philippines shall be allowed as a credit against Pakistan tax payable in respect of that income.
3. Notwithstanding the provisions of the national laws, the Contracting States shall also allow the credit provided for in paragraphs 1 and 2 in respect of a tax which may be charged in the other Contracting State but which is waived or reduced under special provisions of national laws designed to promote the economic development of the State.

#### *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. Nothing in this article shall be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, relief and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

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. Notwithstanding the preceding provisions of this article, either Contracting State may, in the promotion of necessary industry or business, limit to its nationals the enjoyment of tax incentives granted by it.

6. In this article, the term "taxation" means taxes which are the subject of this Convention.

#### *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 national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of article 24, to that Contracting State of which he is a national. An application must be presented in writing stating the grounds for claiming the revision of such taxation within two 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 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. A Contracting State shall not be obliged to implement an agreement reached after the expiration of five years from the end of the taxable year in issue.

3. A Contracting State shall not, after five years from the end of the taxable period in which the income concerned has accrued, increase the tax base of a resident of either of the Contracting States by including therein items of income which have also been charged to tax in the other Contracting State.

4. The competent authorities of the Contracting State 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.

5. The competent authorities of the Contracting State 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 of the national laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. Any information so exchanged shall be treated as secret in the same manner as information obtained under the national laws of that State and shall be disclosed only to persons or authorities concerned with the assessment, collection, or enforcement of, or litigation with respect to, the taxes which are the subject of this Convention.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States the obligation:

- (a) To carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;
- (b) To supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) To supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.

#### *Article 27.* DIPLOMATIC AND CONSULAR OFFICIALS

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

#### *Article 28.* MISCELLANEOUS RULES

1. The provisions of this Convention shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit or other allowance now or hereafter accorded:

- (a) By the laws of one of the Contracting States in the determination of the tax imposed by that Contracting State; or
- (b) By any other agreement entered into by a Contracting State.

2. Nothing in this Convention shall be construed as preventing a Contracting State from taxing, in accordance with its national laws, its citizens who are residents of the other Contracting State.

3. If, under any agreement or convention concluded by the Philippines, a resident of any other country is exempt from:

- (a) The Philippine income tax on gross billings relating to the operation of aircraft and ships in international traffic, or
- (b) The Philippine business tax on gross receipts relating to the operation of ships or aircraft in international traffic,

the Philippines will grant a corresponding exemption to residents of Pakistan and Pakistan will grant a corresponding exemption to residents of the Philippines.

4. The competent authorities of the Contracting State may communicate with each other directly for the purpose of applying this Convention.

#### *Article 29.* TERRITORIAL EXTENSION

1. Pakistan may extend this Convention, either in its entirety or with any necessary modifications, to any State or territory for whose international relations

it is responsible and which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between Pakistan and [the] Philippines in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures.

2. Unless otherwise agreed by both Contracting States, the denunciation of the Convention by one of them under article 31 shall terminate, in the manner provided for in that article, the application of the Convention to any State or territory to which it has been extended under this article.

*Article 30. ENTRY INTO FORCE*

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at [Islamabad] as soon as possible.

2. The Convention shall enter into force upon the exchange of the instruments of ratification and its provisions shall have effect:

(a) In the Philippines:

- (i) In respect of tax withheld at source on amounts paid to non-residents on or after the first day of January 1979.
- (ii) In respect of other taxes for taxation years beginning on or after the first day of January 1979.

(b) In Pakistan, in respect of all taxes payable on income arising in any previous year ending on or after the first day of January 1979.

*Article 31. TERMINATION*

This Convention shall continue in effect indefinitely but either Contracting State may, on or before June 30 in any calendar year after the fifth year following the exchange of the instruments of ratification, give notice of termination to the other Contracting State and in such event the Convention shall cease to have effect:

(a) In the Philippines:

- (i) In respect of tax withheld at the source on amounts paid to non-residents on or after the first day of January in the calendar year next following that in which the notice of termination is given; and
- (ii) In respect of other taxes for taxation years beginning on or after the first day of January in the calendar year next following that in which the notice of termination is given.

(b) In Pakistan, in respect of all taxes payable on income arising in any previous year ending on or after the first day of January of the calendar year in which the notice of termination is given.

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

DONE in duplicate at Manila this 22nd day of February one thousand nine hundred and eighty, in the English language.

For the Government  
of the Republic of the Philippines  
[Signed — Signé]<sup>1</sup>

For the Government  
of the Islamic Republic of Pakistan  
[Signed — Signé]<sup>2</sup>

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<sup>1</sup> Signed by César Virata — Signé par César Virata.

<sup>2</sup> Signed by M. Akram Zaki — Signé par M. Akram Zaki.