

SYNTHESISED TEXT OF THE MLI AND THE CONVENTION BETWEEN THE ISLAMIC REPUBLIC OF PAKISTAN AND THE KINGDOM OF SWEDEN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

General disclaimer on the Synthesised text document

This document presents the synthesised text for the application of the Convention between the Islamic Republic of Pakistan and the Kingdom of Sweden for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed on December 22, 1985 (the “Convention”), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by the Islamic Republic of Pakistan and the Kingdom of Sweden on June 7, 2017 (the “MLI”).

The document was prepared on the basis of the MLI position of the Islamic Republic of Pakistan submitted to the Depositary upon ratification on December 18, 2020 and of the MLI position of the Kingdom of Sweden submitted to the Depositary upon ratification on June 6, 2018. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on this Convention.

The authentic legal texts of the Convention and the MLI take precedence and remain the legal texts applicable.

The provisions of the MLI that are applicable with respect to the provisions of the Convention are included in boxes throughout the text of this document in the context of the relevant provisions of the Convention. The boxes containing the provisions of the MLI have generally been inserted in accordance with the ordering of the provisions of the Convention.

Changes to the text of the provisions of the MLI have been made to conform the terminology used in the MLI to the terminology used in the Convention (such as “Covered Tax Agreement” and “Convention”, “Contracting Jurisdictions” and “Contracting States”), to ease the comprehension of the provisions of the MLI. The changes in terminology are intended to increase the readability of the document and are not intended to change the substance of the provisions of the MLI. Similarly, changes have been made to parts of provisions of the MLI that describe existing provisions of the Convention: descriptive language has been replaced by legal references of the existing provisions to ease the readability.

In all cases, references made to the provisions of the Convention or to the Convention must be understood as referring to the Convention as modified by the provisions of the MLI, provided such provisions of the MLI have taken effect.

References

The authentic legal texts of the MLI and the Convention can be found on the dedicated Directorate General of International Taxes Operations webpage of the Federal Board of Revenue (FBR)'official website at <https://fbr.gov.pk/dtaa/132245/132249>

The MLI position of the Islamic Republic of Pakistan submitted to the Depositary upon ratification on December 18, 2020 and of the MLI position of the Kingdom of Sweden submitted to the Depositary upon ratification on June 22, 2018 can be found on the MLI Depositary (OECD) webpage <http://www.oecd.org/tax/treaties/beps-ml-signatories-and-parties.pdf>

Disclaimer on the entry into effect of the provisions of the MLI

Entry into Effect of the MLI Provisions

The provisions of the MLI applicable to this Convention do not take effect on the same dates as the original provisions of the Convention. Each of the provisions of the MLI could take effect on different dates, depending on the types of taxes involved (taxes withheld at source or other taxes levied) and on the choices made by the Islamic Republic of Pakistan and the Kingdom of Sweden in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: December 18, 2020 for the Islamic Republic of Pakistan and June 6, 2018 for the Kingdom of Sweden.

Entry into force of the MLI: April 1, 2021 for the Islamic Republic of Pakistan and October 1, 2018 for the Kingdom of Sweden.

Pursuant to Article 35(2) of the MLI, solely for the purpose of its own application of Article 35(1)(a) and 5(a), Pakistan chose to substitute “taxable period” for “calendar year”.

Pursuant to Article 35(3) of the MLI, solely for the purpose of its own application of Article 35(1)(b) and 5(b), Sweden chose to replace the reference to “taxable periods beginning on or after the expiration of a period” with a reference to “taxable periods beginning on or after 1 January of the next year beginning on or after the expiration of a period”.

Entry into effect of the MLI: Pursuant to Sweden's position on Article 35(7) of the MLI, the date of entry into effect of the MLI depends on the receipt by the Depositary of the notification by Sweden that it has completed its internal procedures for the entry into effect of the provisions of the MLI with respect to this Agreement. As per the OECD matching database, Sweden has not yet made notification(s) under Article 35 (7)(b) of the MLI.

Article 16 (Mutual Agreement Procedure) of the MLI has effect with respect to the Convention for a case presented to the competent authority of a Contracting State on or after 1 April 2021 except for cases that were not eligible to be presented as of that date under the Convention prior to its modification by the MLI, without regard to the taxable period to which the case relates.

CONVENTION BETWEEN THE ISLAMIC REPUBLIC OF PAKISTAN AND THE KINGDOM OF SWEDEN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the Islamic Republic of Pakistan and the Government of the Kingdom of Sweden,

[desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to Taxes on Income,]

The following preamble text described in paragraph 1 of Article 6 of the MLI is included in the preamble of this Convention:

ARTICLE 6 OF THE MLI - PURPOSE OF A COVERED TAX AGREEMENT

Intending to eliminate double taxation with respect to the taxes covered by [*this Convention*] without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in [*this Convention*] for the indirect benefit of residents of third jurisdictions),

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 a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

(2) The existing taxes to which the Convention shall apply are:

(a) in Pakistan:

- (i) the income tax;
 - (ii) the super tax; and
 - (iii) the surcharge
- (hereinafter referred to as "Pakistan tax");

(b) in Sweden:

- (i) the State income tax, including the sailors' tax and the coupon tax;

- (ii) the tax on the undistributed profits of companies and the tax on distribution in connection with reduction of share capital or the winding-up of a company;
 - (iii) the tax on public entertainers;
 - (iv) the communal income tax; and
 - (v) the profit-sharing tax
- (hereinafter referred to as "Swedish tax").

(3) The Convention shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the taxes referred to above. The competent authorities of the Contracting States shall each year notify each other of any substantial changes which have been 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 "Pakistan" means Pakistan as defined in the Constitution of the Islamic Republic of Pakistan and includes any area outside the territorial waters of Pakistan which under the laws of Pakistan and in accordance with international law is an area within which the rights of Pakistan with respect to the seabed and subsoil and their natural resources may be exercised;
- (b) the term "Sweden" means the Kingdom of Sweden and, when used in a geographical sense, includes the national territory, the territorial sea as well as other maritime areas over which Sweden, in accordance with international law, exercises sovereign rights or jurisdiction;
- (c) the term "person" includes an individual, a company and any other body of persons;
- (d) the term "company" means anybody corporate or any entity which is treated as a body corporate for tax purposes;
- (e) 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;
- (f) 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;
- (g) the term "national" means:

- (i) any individual possessing the 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 "competent authority" means:
 - (i) in Pakistan, the Central Board of Revenue or its authorized representative;
 - (ii) in Sweden, 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 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. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.

(2) Where by reason of the provisions of paragraph (1) an individual is a resident of both Contracting States, then his status shall be determined as follows:

- (a) he shall be deemed to be a resident of the 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 State with which his personal and economic relations are closer (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 a 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 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 the 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; and
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

(3) The term "permanent establishment" likewise encompasses a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of 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.

(5) Notwithstanding the provisions of paragraphs (1) and (2), where a person--other than an agent of an independent status to whom paragraph (7) 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) 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) Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph (7) applies.

(7) An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, 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 but in such cases the provision of domestic laws will apply, due regard being had to other provisions of this Convention.

(8) 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) 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 business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to:

- (a) that permanent establishment;
- (b) sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or
- (c) other business activities carried on in that other State of the same or similar kind as those effected through that permanent establishment. The provisions of subparagraphs (b) and (c) above shall not apply if the enterprise proves that such sales or activities could not have been reasonably undertaken by the 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 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)

- (a) 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 only those executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere, which are allowed under the provisions of the domestic law of the Contracting State in which the permanent establishment is situated.
- (b) However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on

moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, 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 service performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys 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) 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) of this Article shall preclude that Contracting State from determining the profits to be so 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. (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 a good and sufficient reason to the contrary.

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

Article 8

Shipping and Air Transport

(1) Profits from the operation of 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) With respect to profits derived by the air transport consortium Scandinavian Airlines System (SAS) the provisions of paragraph (1) shall apply, but only to such part of the profits as corresponds to the participation held in that consortium by AB Aerotransport (ABA), the Swedish partner of Scandinavian Airlines System (SAS).

(3) Profits from sources within a Contracting State derived by an enterprise of the other Contracting State from operation of ships may be taxed in the first-mentioned State in accordance with its domestic law. The profits from sources within a Contracting State shall consist of the amount paid or payable to, or received or deemed to be received by the enterprise of the other Contracting State, or on its behalf, on account of carriage of passengers, livestock, mail or goods shipped at any port of the first-mentioned State.

(4) The provisions of the foregoing paragraph of this Article shall also apply to profits from participation in a pool, a joint business or 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 so included are profits which would have accrued to the enterprise of the first mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged herein 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 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 if the recipient is a company which is the beneficial owner of the dividends and it owns not less than 25 per cent of the capital of the paying company the tax so charged shall not exceed 15 per cent of the gross amount of the dividends. The amount of additional tax payable in a Contracting State for not depositing tax within time and the amount of any penalty, fee or charge payable in that State on account of a tax offence shall not be considered for the purposes of determining the maximum amount of tax that may be levied in that State.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

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 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 laws of the State of which the company making the distribution is a resident.

(4) Notwithstanding the provisions of paragraph (1), dividends paid by a company being a resident of Pakistan to a company which is a resident of Sweden shall be exempt from Swedish tax to the extent that the dividends would have been exempt under Swedish law if both companies had been Swedish companies.

(5) 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 case the provisions of Article 7 or Article 15, 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 in so far as such dividends are paid to a resident of that other State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

Interest

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

(2) However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 15 per cent of the gross amount of the interest. The competent authorities of the Contracting State shall by mutual agreement settle the mode of application of this limitation. The amount of additional tax payable in that Contracting State for not depositing tax within time and the amount of any penalty, fee or charge payable in that State on account of a tax offence shall not be considered for the purposes of determining the maximum amount of tax that may be levied in that State.

(3) Notwithstanding the provisions of paragraph (2), any such interest as is mentioned in paragraph (1) shall be taxable only in the Contracting State of which the recipient is a resident if such recipient is the beneficial owner of the interest and if such interest is paid,

- (a) in the case of Sweden, to the Swedish Government or the Central Bank of Sweden; and
- (b) in the case of Pakistan, to the Pakistan Government or the State Bank of Pakistan.

The competent authorities of the Contracting States may determine by mutual agreement any other institution to which this paragraph shall apply.

(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, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

(5) 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--

- (a) such permanent establishment or fixed base, or
- (b) business activities referred to under (c) of paragraph (1) of Article 7.

In such cases the provisions of Article 7 or Article 15, 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 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, 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.

Article 12

Royalties

(1) Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State,

(2) However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 10 per cent of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation. The amount of additional tax payable in that Contracting State for not depositing tax within time and the amount of any penalty, fee or charge payable in that State on account of a tax offence shall not be considered for the purposes of determining the maximum amount of tax that may be levied in that State.

(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 concerning industrial, commercial or scientific experience.

(4) The provisions of paragraphs (1) and (2) 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--

(a) such permanent establishment or fixed base, or

(b) business activities referred to under (c) of paragraph (1) of Article 7.

In such cases the provisions of Article 7 or Article 15, as the case may be, shall apply.

(5) 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 of a fixed base in connection with which the liability 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 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, 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 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

Fees for Technical Services

(1) Fees for technical services arising in a Contracting State and paid to an enterprise of the other Contracting State may be taxed in that other State.

(2) However, such fees for technical services may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner thereof, the tax so charged shall not exceed 10 per cent of the gross amount of the fees. The amount of additional tax payable in that Contracting State for not depositing tax within time and the amount of any penalty, fee or charge payable in that State on account of a tax offence shall not be considered for the purposes of determining the maximum amount of tax that may be levied in that State.

(3) The term "fees for technical services" as used in this Article means any consideration (including any lump sum consideration) for the provision of/rendering of any managerial, technical or consultancy services (including the provision by the enterprise of the services of technical or other personnel) but does not include consideration for any construction, assembly or like project undertaken by the recipient or consideration which would be income falling under Article 15 of the Convention.

(4) The provisions of paragraphs (1) and (2) shall not apply if the beneficial owner of the fees for technical services, being a resident of a Contracting State, carries on business in the other Contracting State in which the fees for technical services arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein and the contract in respect of which the fees for technical services are paid is effectively connected with--

(a) such permanent establishment or fixed base, or

(b) business activities referred to under (c) of paragraph (1) of Article 7.

In such cases the provisions of Article 7 or Article 15, as the case may be, shall apply.

(5) Fees for technical services 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 fees for technical services, 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 make the payments was incurred, and the payments are borne by such permanent establishment, then such fees for technical services shall be deemed to arise in the State in which the permanent establishment 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 fees for technical services exceeds the amount which would have been paid 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 14

Capital Gains

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

(2) Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State 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 a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

(3) Gains from the alienation of ships or aircraft operated in international traffic or of movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

Article 15

Independent Personal Services

(1) Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, when such income may also be taxed in the other Contracting State:

- (a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or

- (b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve-month period; in that case only so much of the income as is derived from his activities performed in that other State may be taxed in that other State; or
 - (c) if the remuneration for his activities in the other Contracting State is paid by a resident of that Contracting State or is borne by a permanent establishment or a fixed base situated in that Contracting State and exceeds in the fiscal year 60,000 Swedish Kronor or its equivalent in Pakistan currency. The competent authorities of the Contracting States may, by mutual agreement, make any changes in the said monetary limit in view of changes in value of money, foreign exchange rates or other such circumstances.
- (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 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 any twelve-month period, and
 - (b) the remuneration is paid by, or on behalf of, an employer who is not resident of the other State, and
 - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
- (3) Notwithstanding the preceding provisions of this Article, remuneration 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. Where a resident of Sweden derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the air transport consortium Scandinavian Airlines System (SAS), such remuneration shall be taxable only in Sweden.

Article 17

Directors' Fees and Remuneration of Top-level Managerial Officials

(1) Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

(2) Salaries, wages and other similar remuneration derived by a resident of a Contracting State in his capacity as an official in a top-level managerial position of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 18

Income Earned by Entertainers and Athletes

(1) Notwithstanding the provisions of Articles 15 and 16, 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, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

(3) Where personal activities of an entertainer or an athlete referred to in paragraph (1) are provided in a Contracting State by an enterprise of the other Contracting State then the profits derived by that enterprise for providing those activities may, notwithstanding the provisions of Article 7 or Article 15, be taxed in the Contracting State in which such activities are exercised.

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 other State.
- (3) The provisions of Articles 16 and 17 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

Students and Business Apprentices

- (1) A student or business apprentice who is a resident in a Contracting State at the beginning of a visit to the other Contracting State for the purposes of receiving education or training in that other State shall be exempt from tax in that other State in respect of remittances from abroad for the purposes of his maintenance, education and training.
- (2) An individual who is a resident in the Contracting State at the beginning of a visit to the other Contracting State and who is present in that other State solely as a student at a university, college or other establishment for education in that other State, or as a business apprentice shall be exempt from tax in that other State for a period not exceeding the first three consecutive income years after his arrival in that State in respect of remuneration from employment in such other State, provided that:
- (a) the remuneration constitutes earnings necessary for his maintenance, education or training, and
 - (b) the said remuneration does not exceed 12,000 Swedish Kronor in the income year or the equivalent thereof in the currency of Pakistan, as the case may be. The competent authorities of the Contracting States may, by mutual agreement, make any changes in the said monetary limit in view of changes in value of money, foreign exchange rates or other such circumstances.

Article 21

Other Income

- (1) Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.
- (2) The provisions of paragraph (1) shall not apply to income, other than income from immovable property as defined in paragraph (2) of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State 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 income is paid is 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.

(3) Notwithstanding the provisions of paragraphs (1) and (2), items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention and arising in the other Contracting State may be taxed in that other State.

Article 22

Undivided Estate

(1) Where under the provisions of this Convention a resident of Pakistan is exempt or entitled to relief from Swedish tax, similar exemption or relief shall be applied to the undivided estate of a deceased person in so far as one or more of the beneficiaries is a resident of Pakistan.

(2) Swedish tax on the undivided estate of a deceased person shall, in so far as the income accrues to a beneficiary who is a resident of Pakistan, be allowed as a credit under Article 23.

Article 23

Elimination of Double Taxation

(1) In the case of Pakistan, double taxation shall be avoided as follows: Subject to the provisions of the laws of Pakistan, regarding the allowance as a credit against Pakistan tax, the amount of Swedish tax payable, under the laws of Sweden 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 Sweden which has been subjected to a tax in both Pakistan and Sweden, shall be allowed as a 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.

(2) In the case of Sweden double taxation shall be avoided as follows:

- (a) Where a resident of Sweden derives income which under the law of Pakistan and in accordance with the provisions of this Convention may be taxed in Pakistan, Sweden shall allow--subject to the limitations of the law of Sweden (as it may be amended from time to time without changing the general principle hereof) --as a deduction from the tax on such income, an amount equal to the Pakistan tax paid in respect of such income. However, no deduction shall be allowed from the Swedish tax on such income in respect of any additional tax payable in Pakistan for not depositing tax within time or in respect of any penalty, fee or charge payable in Pakistan on account of a tax offence.

- (b) Notwithstanding the provisions of subparagraph (a) of this paragraph, where a resident of Sweden derives income which in accordance with the provisions of Article 7 or paragraph 1(a) of Article 15 may be taxed in Pakistan, Sweden shall exempt such income from tax provided that the principal part of the income of the permanent establishment or fixed base arises from business activities, other than the management of securities and other similar property, and such activities are carried on within Pakistan through the permanent establishment or fixed base.
- (c) Where a resident of Sweden derives income which shall be taxable only in Pakistan in accordance with the provisions of paragraph (1) of Article 8, paragraph (3) of Article 14 and paragraphs (1) or (2) of Article 19, or shall be exempt from Swedish tax in accordance with subparagraph (b) of this paragraph, Sweden shall exempt such income from tax but may, in calculating tax on the remaining income of that person, apply the rate of tax which would have been applicable if the exempted income had not been so exempted.
- (d) For the purposes of subparagraph (a) of this paragraph the term "the Pakistan tax paid" shall
 - (i) in respect of profits attributable to a trade, business or manufacturing activity carried on or independent personal services performed in Pakistan, or
 - (ii) in respect of dividends, interest, royalties or technical fees received from an enterprise of Pakistan,

be deemed to include the amount of Pakistan tax which would have been payable if the Pakistan tax had not been exempted or reduced in accordance with tax incentives granted under the Pakistan Income Tax Ordinance, 1979.

The provisions of this subparagraph shall apply for the first ten years for which this Convention is effective. The competent authorities shall consult each other in order to determine whether such period shall be extended.

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. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

(2) Stateless persons who are residents of a Contracting State shall not be subjected in either 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 the State concerned in the same circumstances are or may be subjected.

(3) 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 in the same circumstances and under the same conditions.

(4) Interest, royalties, fees for technical services and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting States 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. However, the preceding provisions of this paragraph shall not apply--

- (a) in cases where the provisions of paragraph (1) of Article 9, paragraph (7) of Article 11, paragraph (6) of Article 12, or paragraph (6) of Article 13 apply, or
- (b) in cases where the disbursements are made without withholding and depositing tax chargeable under the domestic law and in accordance with the provisions of this Convention.

(5) 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.

(6) Nothing contained in the preceding paragraphs of this Article shall be construed--

- (i) as obliging either of the Contracting States to grant to persons not resident in its territory those personal allowances and reliefs for tax purposes which are by law available only to persons who are so resident;
- (ii) as affecting any provisions of the law of Pakistan regarding the imposition of tax on a non-resident person, other than a company; or
- (iii) as affecting any provisions of the law of Pakistan regarding the grant of rebate of tax to companies fulfilling specific requirements regarding the declaration and payment of dividends.

Article 25

Mutual Agreement Procedure

[REPLACED by paragraph 1 of Article 16 of the MLI]

(1) [Where a person 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 or, if his case comes under paragraph (1) of Article 24, to that of the Contracting State of which he is a national.]

The following first sentence of paragraph 1 of Article 16 of the MLI replaces the first sentence of paragraph 1 of Article 25 of the Convention:

Article 16 OF THE MLI– Mutual Agreement Procedure

Where a person considers that the actions of one or both of the [Contracting States] result or will result for that person in taxation not in accordance with the provisions of [the Convention], that person may, irrespective of the remedies provided by the domestic law of those [Contracting States], present the case to the competent authority of either [Contracting State].

The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the 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 which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

(3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in 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. The competent authorities shall through consultations develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this Article.

Article 26

Exchange of Information

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention, insofar as the taxation thereunder is not contrary to the Convention, in particular for the prevention of fraud or evasion of such taxes. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State. However, if the information is originally regarded as secret in the transmitting State it shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement of prosecution in respect of, or the determination of appeals in relation to the taxes which are the subject of the Convention.

Such persons or authorities shall use the information only for such purposes but may disclose the information in public court proceedings or in judicial decision. The competent authorities shall, through consultations, develop appropriate conditions, methods and techniques concerning the matters in respect of which such exchanges of information shall be made, including, where appropriate, exchanges of information regarding tax avoidance.

(2) In no case shall the provisions of paragraph (1) be construed so as to impose on a Contracting State the obligation:

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

Article 27

Diplomatic Agents and Consular Officers

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

The following paragraph 1 of Article 7 of the MLI applies and supersedes the provisions of this Convention:

ARTICLE 7 OF THE MLI –PREVENTION OF TREATY ABUSE *(Principal purposes test provision)*

Notwithstanding any provisions of [*the Convention*], a benefit under [*the Convention*] shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of [*the Convention*].

Article 28

Territorial Extension

(1) This Convention may be extended, either in its entirety or with any necessary modifications, to any part of the territory of the Contracting States which is specifically excluded from the application of the Convention or to any State or territory for whose international relations Sweden or Pakistan is responsible, 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 the Contracting States in notes to be exchanged through the diplomatic channels or in any other manner in accordance with their constitutional procedures.

(2) Unless otherwise agreed by both Contracting States, the termination of the Convention by one of them under Article 30 shall also terminate, in the manner provided for in that Article, the application of the Convention to any part of the territory of the Contracting States or to any State or territory to which it has been extended under this Article.

Article 29

Entry Into Force

(1) This Convention shall enter into force on the latter of the dates on which the respective Governments have notified each other in writing that the formalities constitutionally required in their respective States have been complied with, and its provisions shall have effect:

- (a) in respect of taxes withheld at the source on amounts paid or remitted to non-residents on or after the first day of January in the calendar year next following that in which the Convention enters into force; and
- (b) in respect of other taxes on income derived on or after the first day of January in the calendar year next following that in which the Convention enters into force.

(2) The Agreement between the Government of Pakistan and the Royal Government of Sweden for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed on 25 August, 1958, shall terminate and cease to have effect as respects taxes on income to which the present Convention applies in accordance with the provisions of paragraph (1) of this Article.

Article 30

Termination

This Convention shall remain in force indefinitely, but either of the Contracting States may, on or before 30th June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through the diplomatic channel, written notice of termination.

In such event the Convention shall cease to have effect:

- (a) in respect of taxes withheld at the source on amounts paid or remitted to non-residents on or after the first day of January next following the notice of termination; and
- (b) in respect of other taxes on income derived on or after the first day of January next following the notice of termination.

In witness whereof the undersigned, being duly authorized thereto, have signed the present Convention.

Done at Islamabad, this 22nd day of December, 1985, in duplicate in the English language.

FOR THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN

FOR THE GOVERNMENT OF THE KINGDOM OF SWEDEN
