

Pakistan - Romania

Income Tax Treaties

1999 Income Tax Convention

Signatories: Pakistan; Romania

Signed: July 27, 1999

Status: In force

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

The Government of Islamic Republic of Pakistan and the Government of Romania desiring to promote and strengthen the economic relations by concluding 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 a 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.

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

(a) In the case of Romania:

- (i) the tax on income derived by individuals;
 - (ii) the tax on profit;
 - (iii) the tax on salaries and other similar remuneration;
 - (iv) the tax on agricultural income; and
 - (v) the tax on dividends:
- (hereinafter referred to as "Romania tax")

(b) In the case of the Islamic Republic of Pakistan:

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

2. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of this Convention in addition to, or in place of, the existing taxes referred to in paragraph 3. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws, after making such changes.

Article 3

General Definitions

1. For the purposes of this Convention, unless the context otherwise requires:
 - (a) the terms "a Contracting State" and "the other Contracting State" mean Romania or Islamic Republic of Pakistan as the context requires;
 - (b) the term "Romania" indicates the State territory of Romania, including its territorial sea and the air space over the territory and the territorial sea over which Romania exercises sovereignty, as well as the contiguous zone and the Continental shelf and the exclusive economic zones over which Romania exercises, in accordance with its legislation and with the rules and principles of the international law, sovereign rights and jurisdiction;
 - (c) the term "Pakistan" when used in a geographical sense 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 international law is an area within which Pakistan exercises sovereign rights and exclusive jurisdiction with respect to the natural resources of the seabed, subsoil and superjacent waters;
 - (d) the term "tax" means Romanian tax, or Pakistani tax as the context requires;
 - (e) the term "person" includes an individual, a company or any other body of persons legally set up in either of the Contracting States;
 - (f) the term "company" means any body corporate or any other entity which is treated as a body corporate for tax purposes;
 - (g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
 - (h) the term "national" means:
 - (i) any individual possessing the citizenship of a Contracting State;

- (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State:
- (i) the term "international traffic" means any transport by a ship, aircraft, railway or road vehicle operated by an enterprise which has its place of management in a Contracting State, except when such transport is operated solely between places situated in the other Contracting State.
- (j) the term "competent authority" means:
 - (i) in the case of Romania, the Ministry of Finance or its authorized representative:
 - (ii) in the case of Pakistan, the Central Board of Revenue or its authorized representative:

2. As regards the application of this 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, place of registration 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 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 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 an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a shop;
- (f) a workshop;
- (g) a farm or plantation; and
- (h) 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) 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 9 months within any twelve month period;
- (b) the furnishing of services, including consultancy services, by an enterprise of a Contracting State through employees or other personnel engaged for such purpose in the other Contracting State, provided that such activity continues for the same project or a connected project for a period or periods aggregating more than 6 months within any twelve month period.

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 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 sale of goods or merchandise belonging to the enterprise displayed in the frame of an occasional temporary fair or exhibition where the goods or

merchandise are sold no later than two month after the closing of the said fair or exhibition:

- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise:
- (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character:
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is 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 on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for 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, will not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. Notwithstanding the preceding provisions of this Article, an insurance company except for reinsurance, of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it collects premiums on the territory of the other State or it 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 business.

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, aircraft, railway, and road vehicles 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 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 the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred whether in the State in which the permanent establishment is situated or elsewhere. This provision shall apply subject to limitations under the domestic law.

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

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

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

Article 8

International Traffic

1. Profits from the operation of ships, aircraft, railway or road vehicles in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. The profits referred to in paragraph 1 of this Article shall not include profits derived from the operation of a hotel or from a transport activity which is distinct from the operation of ships, aircraft, railway or road vehicles in international traffic.

3. If the place of effective management of a shipping enterprise is aboard a ship or a boat then it shall be deemed to be situated in the Contracting State in which the port of registration of the ship or boat is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship or boat is a resident.

4. The provisions of paragraph 1 shall also apply to profits derived from the 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 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 laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

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. 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.

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 to persons who are not residents of the other state; or the subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other state.

6. The provisions of this Article shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

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 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State from a loan advanced by the other Contracting State, a local authority or an administrative-territorial unit or a financial institution thereof, to any resident of the first mentioned Contracting State shall be exempt in that State, where such loan and the terms of its payments are approved by the Government of that State.

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 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. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority, an administrative-territorial unit or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount in such case, the

excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12

Commission

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

2. However, such commission may 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 the commission the tax so charged shall not exceed 10 per cent of the gross amount of the commission.

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

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

5. Commission shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority, an administrative-territorial unit or a resident of that State. Where, however, the person paying the commission, 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 activities for which the payment is made was incurred, and such commission is borne by such permanent establishment or fixed base, then such commission shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the commission, having regard to the activities 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 13

Royalties

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

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 12.50 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind, including payments in 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, (transmission to the public by satellite, cable, optic fibre or similar technology) any patent, trade mark, design or model, plan, secret formula or process, or for the use of or the right to use of any 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 such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority, an administrative-territorial unit 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 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 14

Capital Gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 situated in the other Contracting State may be taxed in the Contracting State in which such property is situated.
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 that other State.
3. Gains from the alienation of ships, aircraft, railway and road vehicles operated in international traffic or movable property pertaining to the operation of such means of transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. Gains derived by a resident of a Contracting State from the alienation of shares or comparable interests in a company, the assets of which consist wholly or principally of immovable property situated in the other Contracting State, may be taxed in that other State.
5. Gains from the alienation of any property other than that referred in paragraphs 1 to 4 shall be taxable only in the Contracting State of which the alienator is a resident.

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 purposes of performing his activities: or
 - (b) if he is present in the other Contracting State for a period periods amounting to or exceeding in the aggregate 183 days in and twelve month period commencing from the first date of his arrive in that State.

In the cases referred to in sub-paragraph (a) or (b) the income may be taxed in the other Contracting State but only so much of it as is attributable to the fixed base or is derived

from the activities performed in the period in which the resident was present in that other State.

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

Article 16

Dependent Personal Services

1. Subject to the provisions of Articles 17, 19, 20, 21 and 22, salaries 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 exercised in the other Contracting State, 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 period of twelve months commencing from the first date of his arrival in that State; and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provision of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship, aircraft, railway, or road vehicle operated in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

Article 17

Directors' Fees

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

Article 18

Artists and Sportsman

1. Notwithstanding the provisions of Articles 15 and 16, 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 a sportsman from his personal activities as such may be taxed in the Contracting State in which the activities are exercised.
2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person; that income may notwithstanding the provisions of Article 7, 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.
3. Notwithstanding the provisions of paragraphs 1 and 2, the income derived from the activities referred to in paragraph 1 within the framework of cultural or sport exchanges agreed to by the Governments of the Contracting States and carried out other than for the purpose of profit, shall be exempted from tax in the Contracting State in which these activities are exercised.

Article 19

Pensions

1. Subject to the provisions of paragraph 2 of Article 20, pensions, annuities and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.
2. Notwithstanding the provisions of paragraph 1 of this Article pensions and other similar payments made under the social security legislation of a Contracting State shall be taxable only in that State.
3. The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under a commitment with an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Article 20

Government Service

1.
 - (a) Remuneration, other than a pension, paid by a Contracting State or a local authority or an administrative-territorial unit thereof to an individual in respect of services rendered to that State or authority or unit 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 local authority or an administrative-territorial unit thereof to an individual in respect of services rendered to that State or authority or unit 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 16, 17 and 19 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a local authority thereof or an administrative-territorial unit thereof.

Article 21

Students and Trainees

1. A resident of a Contracting States who is temporarily present in the other Contracting State as a student or a trainee who receives a technical, professional, or business training shall not be taxed in the other Contracting State for remittances from abroad for the purpose of his maintenance, education or training or as a scholarship to continue his education.

2. Remuneration paid to the student or trainee, as the case may, be, for services rendered in the other State shall not be taxed in that other State for a period of 5 years provided that such services are connected withhis education, maintenance, or training.

Article 22

Professors and Researchers

1. An individual who is or was a resident of a Contracting State immediately before making a visit to the other Contracting State and who, at the invitation of any university, college, school or other similar non-profitable educational institution, which is recognized by the Government of that other Contracting State, is present in that other Contracting State for a period not exceeding 2 years from the date of his first arrival in that other Contracting State, solely for the purpose of teaching or research or both, at such educational institution shall be exempt from tax in that other Contracting State on his remuneration for teaching or research.

2. The provisions of paragraph 1 of this Article shall not apply to income from research if such research is undertaken not in the public interestbut for the private benefit of a specific person or persons.

Article 23

Other Income

1. Items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention shall be taxable only in that Contracting 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, derived by a resident of a Contracting State, who 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 of fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.

Article 24

Elimination of Double Taxation

Where a resident of Contracting State derives income which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned state shall allow a deduction from the tax on the income of that resident, with an amount equal to the income tax paid in that other State.

Such deduction in either case shall not however, exceed that part of the income tax as computed before the deduction is given, which is attributable, as the case may be, to the income which may be taxed in that other State.

Article 25

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 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. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of Article 9, paragraph 7 of Article 11 paragraph 6 of Articles 12 and 13, apply, interest, commission, royalties other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the

purpose of determining the tax profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first mentioned State.

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

5. Nothing in this Article shall be construed:

- (a) as obliging a Contracting State to grant to individuals who are not residents of that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to its resident individuals.
- (b) as affecting any provision in law of Pakistan which grants rebates of tax to companies which fulfil specific requirements regarding the declaration and payment of dividends.

6. The provisions of this Article will only apply to taxes which are covered by this Convention.

Article 26

Mutual Agreement Procedure

1. Where a person who is a resident of a Contracting State considers that the actions of one or both competent authorities of the Contracting States result or will result for him in taxation not in accordance with 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 25, to that of the Contracting State of which he is a national. The case must be presented within two 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 endeavor, 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 endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation of application of this 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. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 27

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 especially in order to prevent fraud or evasion in respect of such taxes exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State, and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

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

Article 28

Members of Diplomatic Missions and Consular Posts

Nothing in this Convention shall affect the fiscal privileges of member diplomatic missions or consular posts under the general rules of international or under the provisions of special agreements.

Article 29

Entry Into Force

1. This Convention shall be ratified and shall enter into force on the day after the date of the latter notification indicating that both Parties have complied with the domestic legal procedures required in each State for its entry into force. The Convention shall apply:

(a) In the case of Romania:

(i) in respect of taxes withheld at source to the income derived on or after the first day of January of the calendar year next following the year in which the Convention enters into force; and

(ii) in respect of other taxes on profit and on income derived on or after the first day of January in the calendar year next following the year in which the Convention enters into force.

(b) In the case of the Islamic Republic of Pakistan:

(i) in the case of taxes withheld at source on dividends, interest, commission or royalties in respect of amounts paid on or after the first day of January in the calendar year next following that in which the Convention enters into force; and

(ii) in respect of all other taxes, for the assessment years beginning on or after the first day of July of the calendar year next following the calendar year in which the Convention enters into force.

2. Starting the first day of January of the next following year in which this Convention enters into force, the provisions of the Convention between the Government of the Socialist Republic of Romania 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 signed in Islamabad, on 21st January, 1978, shall cease to have effect.

Article 30

Termination

1. This Convention shall remain in force indefinitely.

2. Either of the Contracting States may give to the other Contracting State, through diplomatic channels, written notice of termination on or before the thirtieth day of June in any calendar year from the fifth year following that in which the Convention entered into force. In such event, this Convention shall cease to have effect:

(a) In the case of Romania:

(i) in respect of taxes withheld at the source to the income derived on or after the first day of January in the calendar year next following the year in which the notice of termination is given; and

- (ii) in respect of other taxes on profit and on income derived on or after the first day of January in the calendar year next following the year in which the notice of termination is given.
- (b) In the case of Islamic Republic of Pakistan:
 - (i) in the cases of taxes withheld at source on dividends, interest, commission or royalties in respect of amounts paid on or after the first day of January in the calendar year next following that in which notice of termination is given; and
 - (ii) in the case of other taxes in respect of assessment year beginning on or after the first day of July in the calendar year next following that in which notice of termination is given.

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

Signed at Bucharest this day of 27th July, 1999 in two originals, in Romanian and English languages both text being equally authentic.

FOR THE GOVERNMENT OF ISLAMIC REPUBLIC OF PAKISTAN:

FOR THE GOVERNMENT ROMANIA:
