

# Pakistan - Tunisia

## Income Tax Treaties

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1996 Income Tax Convention

Signatories: Pakistan; Tunisia

Signed: April 18, 1996

In Force: August 5, 1997

Effective: In Pakistan, from July 1, 1998. In Tunisia, from January 1, 1998. See Article 27.

Status: In Force

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

The Government of the Republic of Tunisia and the Government of the Islamic Republic of Pakistan desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income and prevention of fiscal evasion

Have agreed as follows:

#### **Chapter I Scope of the Convention**

##### **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 of its local authorities, 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 or gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries, as well as taxes on capital appreciation.

3) The existing taxes to which the convention shall apply are especially:

- in the case of Tunisia:
- the income tax; and
- the corporation tax;

(herein after referred to as "Tunisian Tax")

- in the case of Pakistan:
- the income tax;
- the super tax; and
- the surcharge

(herein after referred to as "Pakistan Tax")

4) The convention shall apply also 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 existing taxes. The competent authorities of the Contracting States shall notify at the end of each year, each other of any substantial changes which have been made in their respective taxation laws.

## Chapter II Definitions

### 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 Tunisia or Pakistan, as the context requires;
- b) the term "Tunisia" means the territory of the Republic of Tunisia including any area adjacent to the territorial waters of Tunisia on which, in accordance with international law, Tunisia can exercise the rights pertaining to the sea-bed, marine sub-soil and to their natural resources;
- c) the term "Pakistan" used in the 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 "person" includes an individual, a company and any other body of persons;
- e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

- g) the term "national" means all individual possessing the nationality of a Contracting State; and legal persons, partnerships, associations and any other entity deriving its status as such from the laws in force in a Contracting State;
- h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State; and
- i) the term "competent authority" means, in the case of Tunisia, the Minister of Finance or his authorized representative.

- in the case of Pakistan, the Central Board of Revenue or its 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 incorporation, place of management or any other criterion of a similar nature. This term includes the persons, societies and other persons groupments with their place of management situated in the State and with every member personally liable to tax for its part in benefices in application to the internal legislation of this 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 endeavour to 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 workshop;
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
- g) a building site or construction or assembly project or supervisory activities in connection therewith, where such site, project or activity are followed by the sale of machines and equipments have a duration exceeding six months, or if the site or project or activity are followed by the selling of machines or equipments have a duration exceeding three months and the fees of the assembly project and supervision exceed 10% of the machine prices and equipments.

3) 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 publicity;
- e) the maintenance of a fixed place of business solely for the purpose of exercising any other activities which have a preparatory or auxiliary character, for the enterprise.
- 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.

4) Notwithstanding the provisions of paragraphs 1 and 2 of the present article, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting in a

Contracting State, on behalf of the enterprise of the other Contracting State, the enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State, if such a person:

- a) has and habitually exercises in the first-mentioned State an authority to conclude contracts on behalf of the enterprise;
- b) maintains habitually in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders or makes deliveries on behalf of the enterprise; or
- c) secures orders in the first-mentioned State wholly or almost wholly for the enterprise or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it.

5) An insurance or reinsurance enterprise of a Contracting State shall be deemed to have a permanent establishment in the other State if it collects premiums in the territory of that other State or insures risks situated therein through an employee or through a representative who is not an agent of an independent status within the meaning of paragraph 6 of this Article.

6) 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.

7) Once an enterprise of a Contracting State practices in the other Contracting State several activities, some of which are covered within the meanings of permanent establishment and others are not, irrespective of these being carried on independently in that other state, shall be deemed to constitute permanent establishment.

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.

### Chapter III Taxation of Income

#### Article 6

##### **Income From Immovable Property**

1) Income derived from immovable property may be taxed in the Contracting State in which the property is situated.

2) The term "immovable property" shall have the meaning which it has under the laws 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 income or 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 income or 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 income or 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 the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business 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. 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, amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

- 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 the permanent establishment of goods or merchandise for the enterprise.
- 6) Where profits include items of income which are dealt with separately in other articles of this Convention, then the provisions of such article shall not be affected by the provisions of this article.
- 7) The provisions of this article shall also apply to the participation of a partner in the profits of an association of persons including the factio partnership and an arrangement in participation.
- 8) For the purposes of the preceding paragraphs, the income or profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

## Article 8

### **Shipping and Air Transport**

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

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

- 2) Profits derived from the operation of ships or aircraft between points which are situated in a Contracting State are taxable only in that State.
- 3) The provisions of paragraph 1 shall also apply to profits 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 income or 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 income or profits of that enterprise and taxed accordingly.

2) Where a Contracting State includes in the profits of an enterprise of this 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, jouissance shares or jouissance rights, mining shares, founders 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 be applied if the beneficial owner of the dividends, being a resident of a Contracting State, carries on industrial activity or a commercial activity 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 14, as the case may be, shall apply.



## Article 11

### **Interest**

- 1) The 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 13 per cent of the gross amount of the interest.
- 3) The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
- 4) The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
- 5) Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
- 6) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to 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, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3) The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, harbour, agricultural, or scientific equipment, (with the exception of remunerations for charter of ships and aircraft operating in international traffic) or for technical and economic studies or for technical assistance.

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, exercises industrial or commercial activities 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 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 14, 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 in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment then such royalties shall be deemed to arise in the State in which the permanent establishment.

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

### **Capital Gains**

1) Gains derived 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 a fixed base, may be taxed in that other State.

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

4) Gains from the alienation of any property or assets, other than those referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.

## Article 14

### **Independent Professions**

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 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 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 within any twelve-month period.

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

## Article 15

### **Dependent Professions**

1) Subject to the provisions of Articles 16, 18 and 19 salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2) Notwithstanding the provisions of paragraph 1 of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days within any twelvemonth period, and

b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and

- c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3) Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, by an enterprise of a Contracting State shall be taxable only in that State.

## Article 16

### **Directors' Fees**

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

## Article 17

### **Artistes and Athletes**

1) Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as a performer, 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 performer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the artiste or athlete are exercised.

## Article 18

### **Pensions**

Pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

## Article 19

### **Government Functions**

- 1)
- a) Remunerations, 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 authority shall be taxable only in that State.
- b) However, such remunerations 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:
- has the nationality of that State; or
  - did not become a resident of that State solely for the purpose of rendering the services.

2) The provisions of Articles 15, 16 and 18 shall apply to remunerations in respect of services rendered in connection with an industrial or commercial activity exercised by one of the Contracting States or a political subdivision or local authority thereof.

## Article 20

### **Students, Apprentices and Professors**

1) Any person who is resident of a Contracting State and sojourns in the other Contracting State, solely for the purpose of his education or studies in a university, college or school in the other State; or as an apprentice of the trade; or a beneficiary of a scholarship, a subsidy or an allowance from a religious, charitable, scientific or educational institution for the purpose of his studies or research shall not be taxed in that other State on the sums received from abroad for maintenance, studies or the scholarship of which he is the recipient; or any sum that he receives as remuneration for a non-independent lucrative activity that he fulfills in this other State in order to acquire practical experience.

2) Any person who is resident of a Contracting State and sojourns temporarily in the other Contracting State for a period not exceeding 183 days in the fiscal year concerned as an agent of a company of the first mentioned Contracting State; or of a religious, charitable, scientific or education institution; or by virtue of a contract concluded with tile said company or organization solely for the purpose of acquiring technical, professional or business experience shall not be taxed in that other Contracting State in respect of the payments that he receives during that period.

3) A professor, teacher or research scholar who is or was a resident of one of the Contracting State immediately before visiting the other Contracting State for the purpose of teaching or engaging in research, or both, at a university, college, school or research institution in that other Contracting State shall be exempt from tax in that other State on any remuneration for such teaching or research for a period or periods not exceeding two years from the date of his first arrival in that other State. This provision shall, however, not apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.

## Article 21

### **Other Incomes**

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 industrial or commercial 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 14, as the case may be, shall apply.

## Article 22

### **Relief From Double Taxation**

The double taxation shall be avoided as follows:

1) For Tunisia:

- a) Where a resident of a Tunisia derives income which, in accordance with the provisions of this Convention, may be taxed in Pakistan, Tunisia shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in Pakistan.
- b) Such deduction 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 Tunisia.

2) For Pakistan:

The amount of Tunisian tax payable, under the laws of Tunisia 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 Tunisia which has been subjected to a tax both in Pakistan and Tunisia 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.

3) Taxes on income which have been subject of an exemption or reduction in one of the Contracting States, by virtue of the domestic laws of that State, shall be deemed to have been paid in that State for the purpose of deduction or allowance from taxes payable on such income in that other State.

## Article 23

### **Non-Discrimination and Encouragement to Investment**

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

2) Stateless persons are not subordinated in a Contracting State to any imposition or obligation relating to it that is other or heavier than those to which are, or can be, subjected nationals of this State being in the same condition, or in the same circumstances.

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, or in the same circumstances.

4) Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected

therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are, or may be, subjected.

5) The term "imposition" designates in the present Article, taxes of all nature, or denomination stipulated in Article 2 of the present convention.

6) The dispositions of the present convention shall not constitute hindrance to the implementation of more favourable taxation stipulations provided by law in one of the Contracting States in favour of investment.

## Article 24

### **Mutual Agreement Procedure**

1) Where a resident of a Contracting State considers that the actions of one or both of the Contracting States results 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 national.

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 this convention.

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

3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. 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 25

### **Exchange of Informations**

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. 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 for fiscal purposes or collection of the taxes covered by the Convention, in particular for the prevention of fraud or evasion of taxes.

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 (ordre public).

## Article 26

### **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.

## Article 27

### **Entry Into Force**

1) This present Convention shall be approved and the ratification instruments will be exchanged in Tunis as soon as possible.

2) This Convention shall enter into force as soon as the instruments of ratification are exchanged and shall there upon have effect:

### **In Tunisia:**

- (a) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of January in the calendar year following that in which the exchange of instruments of ratification takes place; and
- (b) in respect of other taxes, for fiscal years beginning on or after the first day of January in the calendar year following that in which the exchange of instruments of ratification takes place.



**In Pakistan:**

- (a) in respect of taxes withheld at the source on amounts paid on or after the 1st day of July in the calendar year next following that in which the Convention enters into force; and
- (b) in respect of other taxes for the year of assessment beginning on or after the 1st day of July in the calendar year next following that in which the Convention enters into force.

**Article 28**

**Termination**

This Convention shall remain in force indefinitely but either of the Contracting States may, on or before the thirtieth day of June in any calendar year from the fifth year following that in which the instruments of ratification have been exchanged, give to the other Contracting State, through diplomatic channels, written notice of termination. In such event, this Convention shall cease to have effect.

In case of denunciation before the 1st of July of such year, the Convention will have effect for the last time:

**In Tunisia:**

- (a) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of January in the calendar year following that in which the notice is given; and
- (b) in respect of other taxes, for fiscal years beginning on or after the first day of January in the calendar year following that in which the notice is given.

**In Pakistan:**

- (a) in respect of taxes withheld at the source on amounts paid on or after the 1st day of July in the calendar year next following that in which the notice is given; and
- (b) in respect of other taxes for the year of assessment beginning on or after the 1st day of July in the calendar year next following that in which the notice is given.

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

Done in duplicate at Islamabad this 18th day April of the year one thousand nine hundred and ninety six in the Arabic, French and English languages and in case there is any difference in interpretation, the English and French text shall prevail.

FOR THE GOVERNMENT OF THE REPUBLIC OF TUNISIA:

Said Ben Mustapha

Minister of State for Foreign Affairs

FOR THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN:

Makhdam Shahabuddin

Minister of State for Finance