

(TO BE PUBLISHED IN THE GAZETTE OF PAKISTAN – EXTRAORDINARY PART.I)

**GOVERNMENT OF PAKISTAN
REVENUE DIVISION
FEDERAL BOARD OF REVENUE**

Islamabad, the 26th October, 2011

**NOTIFICATION
(Income Tax)**

S.R.O 995(I)/2011.- WHEREAS the Government of the Islamic Republic of Pakistan and the Government (the Cabinet of Ministers) of Ukraine, have executed a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income on 23rd day of December, 2008, as set out in the Annexure to this Notification;

NOW, THEREFORE, in exercise of the powers conferred by section 107 of the Income Tax Ordinance, 2001 [XLIX of 2001], the Federal Government is pleased to direct that this Convention shall enter into force on the date in terms of Article 27 of this Convention and shall thereupon have effect,-

- (a) in respect of taxes on dividends, interest or royalties for any payments made on or after the sixtieth day following that day on which the Convention enters into force;
- (b) in respect of tax on profit (income) of enterprises for any taxation period beginning on or after 1 January in the calendar year next following that in which the Convention enters into force; and
- (c) in respect of personal income tax for any payments made on or after the sixtieth day following that day on which the Convention enters into force.

2. From the date of entry into force of this Convention, any Agreement with respect to taxes on income between Pakistan and the former USSR shall cease to have effect in relations between Ukraine and Pakistan.

CONVENTION

**BETWEEN THE GOVERNMENT OF THE
ISLAMIC REPUBLIC OF PAKISTAN**

AND

THE GOVERNMENT OF UKRAINE

**FOR THE AVOIDANCE OF DOUBLE TAXATION AND PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES
ON INCOME**

The Government of the Islamic Republic of Pakistan and the Government (the Cabinet of Ministers) of Ukraine, desiring to conclude a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, and confirming its endeavor to the development and promotion of mutual economic relations, 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 by or on behalf of a Contracting State or its political subdivisions or 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 on gains from the alienation of movable or immovable property and taxes on the total amounts of wages or salaries paid by enterprises.
3. The existing taxes to which this Convention shall apply are in particular:
 - a) in the case of Pakistan:
 - i) the income tax;
 - ii) the super tax; and
 - iii) the surcharge;
(hereinafter referred to as "Pakistan tax")
 - b) in the case of Ukraine:
 - i) the tax on profit (income) of enterprises; and
 - ii) the persona income tax;
(hereinafter referred to as "Ukrainian tax")
4. The Convention shall apply also to any identical or substantially similar taxes, which are imposed by either Contracting State after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws.
5. The provisions of this Convention shall not apply to penalties for infringement of the tax legislation of the Contracting State.

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:
 - a) the term "Ukraine" when used in geographical sense means the territory of Ukraine, its continental shelf and its exclusive (maritime) economic zone, including any area outside the territorial sea of Ukraine which in accordance with international law has been or may hereafter be designated, under the laws of Ukraine, as an area within which the rights of Ukraine with respect to the seabed and subsoil and their natural resources may be exercised;
 - b) the term "Pakistan" used in 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 seabed, subsoil and superjacent waters;

- c) the term "citizen" means:
- i) physical persons possessing the citizenship of a Contracting State;
 - ii) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State;
- d) the terms "a Contracting State" and "the other Contracting State" mean Ukraine or Pakistan, as the context requires;
- e) the term "person" includes an individual, a company and any other body of persons;
- f) the term "company" means any body corporate or any entity which is treated as 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 "international traffic" means any transport by a ship, boat or aircraft, road vehicle operated by an enterprise of a Contracting State, except when the ship, boat or aircraft, road vehicle is operated solely between places in the other Contracting State;
- i) the term "competent authority" means, in the case of Ukraine, the State Tax Administration of Ukraine or its authorized representative, and, in the case of Pakistan, Central Board 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 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 of this Article 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 (center of vital interests);
- b) if the State in which he has his center 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 in which he is a citizen;
- 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 of this Article 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;
- f) an installation or structure for the exploration of natural resources;
- g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources; and
- h) a warehouse or other structure used for delivery of goods.

3. The term "permanent establishment" likewise encompasses:

- a) A building site, construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period more than six months;
 - b) The furnishing of services, including consultancy services, by an enterprise of a Contracting State through employees or other personnel in the other Contracting State, but only where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than six months within any 12-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 or 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 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 for 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 of this Article, where a person other than an agent of independent status to whom paragraph 6 applies is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts on behalf of the enterprise, or maintain a stock of goods or merchandise belonging to the enterprise, from which regular delivery of such goods and merchandise is carried on 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 of this Article 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.
6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a

broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

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

Article 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 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 of this Article shall also 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 of this Article shall also apply to the income from immovable property of an enterprise and to the 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 kinds 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.

2. Subject to the provisions of paragraph 3 of this Article, 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 determination of the profits of a permanent establishment, there shall be allowed as deduction 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. 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 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 case of a banking enterprise, by way of interest on money lent to the permanent establishment by the enterprise.

4. Insofar as it has been customary in a Contracting State to determine, according to its laws, 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 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 of this Article, 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 and capital appreciation 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 TRANSPORT

1. Profits derived by a resident of a Contracting State from the operation of ships, boats or aircraft, road vehicles in international traffic shall be taxable only in that State.
2. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic include:
 - a) income from the rental on a bareboat basis of ships or aircraft; and
 - b) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise,

Where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

3. Where profits within paragraph 1 of this Article are derived by a resident of a Contracting State from participation in a pool, a joint business or an international operating agency, the profits attributable to that resident shall be taxable only in the Contracting State of which he is a resident.

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 on those profits. In determining such adjustment, due regard shall be paid 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 Contracting 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:
 - a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company which owns directly at least 25 per cent of the shares of the company paying the dividends;
 - b) 15 per cent of the gross amount of the dividends in all other cases.
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 of this Article 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 14 of this Convention, as the case may be, shall apply.
5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits 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. If such resident is the beneficial owner of this interest.
2. However, such interest may 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. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.
3. The term "interest" as used in this Article means income from debt-claim 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.
4. The provisions of paragraphs 1 and 2 of this Article 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 of this Convention, as the case may be, shall apply.
5. Interest shall be deemed to arise in a Contracting State when the payer is that Contracting 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 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 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 to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.
7. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment.

8. Notwithstanding the provisions of paragraph 2 of this Article, interest arising in a Contracting State shall be exempt from tax in that State provided it is derived and beneficially owned by:

- (i) the Government, a political subdivision or a local authority of the other Contracting State;
- (ii) the Central Bank of the other Contracting State.

Article 12

ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxed in that other State if such resident is the beneficial owner of the royalties and is subject to tax in respect of the royalties in that other Contracting State.

2. However, such income may also be taxed in the Contracting State in which it arises and in accordance with the laws of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of all payment.

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, or for any services of a technical, managerial or consultancy nature.

4. The provisions of paragraph 1 of this Article 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 14 of this Convention, as the case may be, shall apply.

5. 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 a 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 given to the other provisions of this Convention.

6. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the rights in respect of which the royalties are paid to take advantage of this Article by means of that creation or assignment.

7. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which royalties are paid 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.

Article 13

CAPITAL GAINS

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

2. Gains derived by a resident of a Contracting State from the alienation of:

- a) shares, other than shares quoted on an approved Stock Exchange, deriving their value or the greater part of their value directly or indirectly from immovable property situated in the other Contracting State, or
- b) a contribution in a partnership the assets of which consist principally of immovable property situated in the other Contracting State, or of shares referred to in subparagraph (a) above,

may be taxed in that other State.

3. 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 purposes 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.

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

5. Gains from the alienation of any property, other than that mentioned in paragraphs 1, 2, 3 and 4 of this Article, shall be taxable only in the Contracting State of which the alienator is a resident provided that those gains are subject to tax in that Contracting State.

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless the following circumstances warrant taxation 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;
- (b) 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 US\$ 10,000 or its equivalent in currency of a Contracting 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 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19 and 20 of this Convention, 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 in any twelve-month 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, or aboard a boat, may be taxed in the Contracting State of which the enterprise operating the ship, boat or aircraft is a resident.

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 SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15 of this Convention, 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 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 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 Articles 7, 14 and 15 of this Convention, 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 of this Article, the income referred to in this Article shall be exempt from tax in the Contracting State in which the activities of the entertainer or sportsman are exercised, if such activities are substantially financed from the public funds of both States, or are carried on under culture cooperation agreement between the Contracting States.

Article 18

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) Notwithstanding the provisions of sub-paragraph a) of this paragraph, 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 citizen 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) Notwithstanding the provisions of sub-paragraph a) of this paragraph, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a citizen of, that State.
3. The provisions of Articles 15, 16 and 18 of this Convention 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 19

PENSIONS

1. Subject to the provisions of paragraph 2 of Article 18 of this Convention, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment and any annuity paid to such resident shall be taxable only in that State.
2. The term "annuity" means a stated sum payable to an individual periodically at stated times during his life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.
3. Notwithstanding the provisions of paragraph 1 of this Article, pensions and other similar remuneration, and any annuity paid under State Pension Plan as a part of social security system of a Contracting State, its political subdivision or local authority, shall be taxed only in that State.

Article 20

STUDENTS, TEACHERS AND RESEARCHERS

1. Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in the first-mentioned State, provided that such payments arise from sources outside that State.
2. Income which a student or apprentice referred to in paragraph 1 of this Article receives from his activities in connection with the ordinary course of his education or training performed in the Contracting State in which he is present solely for the purpose of his education or training shall not be taxed in that State.
3. Remuneration received for teaching or scientific research by an individual who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first State for the purpose of scientific research or for teaching at a university or other accredited educational institution shall be exempt from tax in the first State for a period not exceeding 2 years from the date of his/her first arrival in the first mentioned State.
4. The provisions of paragraph 3 of this Article shall only apply to income from research if such research is undertaken by the individual in the public interest and not primarily for the private benefit of some person or persons.

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, other than income arising as a result of transfer or acquisition of the right on ownership or management of property situated in the other State, shall be taxable in the first-mentioned State.
2. The provisions of paragraph 1 of this Article shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6 of this Convention, 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 14 of this Convention, as the case may be, shall apply.

Article 22

ELIMINATION OF DOUBLE TAXATION

1. Subject to the provision of the law of Ukraine regarding the elimination of tax payable in a territory outside Ukraine (which shall not affect the general principle thereof), Pakistan tax payable under the laws of Pakistan and in accordance with this Convention, whether directly or by deduction, on profits, income from sources within Pakistan shall be allowed as a credit against any Ukrainian tax computed by reference to the same profits, income by reference to which the Pakistan tax is computed.
2. Subject to the provisions of the laws of Pakistan regarding the allowance as a credit of tax payable in any country other than Pakistan, tax payable in Ukraine in respect of income, profit or capital gains derived from Ukraine shall be allowed as a credit against Pakistan tax.
3. Such deductions in either case shall not exceed that part of 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.
4. Where in accordance with any provision of the Convention income derived by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.
5. For the purposes of paragraphs 1 and 2 of this Article, profits, income and capital gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources in that other Contracting State.

Article 23

NON-DISCRIMINATION

1. Citizens 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 citizens of that other State in the same circumstances, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1 of this Convention, also apply to persons who are not residents of one or both 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 citizens 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 favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.
4. Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11, or paragraph 4 of Article 12, apply, or in accordance with the provisions of paragraph 5 of Article 12 of this Convention, interest, royalties and 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 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. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.
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 requirements connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.
6. Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident under the criteria not contained in general tax laws.
7. The provisions of this Article shall apply to taxes covered by this Convention.

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 result or will result for him in taxation not in accordance with the provisions of this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23 of this Convention, to that of the Contracting State of which he is a citizen. 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 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 not

in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting State.

3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of 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 of this Article.

Article 25

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, to prevent fraud and to facilitate the administration of statutory provisions against legal avoidance. Any information received by a Contracting State shall be treated as secret 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.

The competent authorities shall develop appropriate conditions, methods and techniques regarding cases, in respect of which such exchange of information may be done, including where it is necessary exchange of information regarding tax evasions, by way of consultations.

2. In no case shall the provisions of paragraph 1 of this Article be construed so as to impose on the competent authority of either Contracting State the obligation:

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

Article 26

MEMBERS OF DIPLOMATIC OR PERMANENT MISSIONS AND CONSULAR POSTS

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

Article 27

ENTRY INTO FORCE

1. Each of the Contracting States shall notify to the other, through the diplomatic channel the completion of the procedures required by its domestic law for the bringing into force of this Convention. This Convention shall enter into force on the date of the later of these notifications and shall thereupon have effect:

- (d) in respect of taxes on dividends, interest or royalties for any payments made on or after the sixtieth day following that day on which the Convention enters into force;
- (e) in respect of tax on profit (income) of enterprises for any taxation period beginning on or after 1 January in the calendar year next following that in which the Convention enters into force;
- (f) in respect of personal income tax for any payments made on or after the sixtieth day following that day on which the Convention enters into force.

2. From the date of entry into force of this Convention any Agreement with respect to taxes on income between Pakistan and the former USSR shall cease to have effect in relations between Ukraine and Pakistan.

Article 28

TERMINATION

1. This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention, through diplomatic channel, by giving notice of termination at least six months before the end of any calendar year beginning after the expiry of five years from the date of entry into force of the Convention.

2. In such event, the Convention shall cease to have effect:

- a) in respect of taxes on dividends, interest or royalties for any payments made on or after the sixtieth day following that day on which the notice of termination is given;
- b) in respect of tax on profit (income) of enterprises for any taxation period beginning on or after 1 January in the calendar year next following that in which the notice of termination is given;
- c) in respect of personal income tax for any payments made on or after the sixtieth day following that day on which the notice of termination is given.

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

Done in duplicate at Kyiv, Ukraine this twenty-third day of December 2008 in English and Ukrainian languages, both equally authentic.

Sd/

**For the Government of the
Islamic Republic of Pakistan**

Sd/

For the Government of Ukraine

PROTOCOL

At the signing today of the Convention between the Government of the Islamic Republic of Pakistan and the Government of Ukraine for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, the undersigned have agreed upon the following provisions, which shall form an integral part of the Convention:

With regard to Article 7:

It is understood that

- in case of Pakistan income tax levied on presumptive basis, as a percentage of the gross payments or receipts shall be considered applicable irrespective of any provisions to the contrary contained in paragraphs 2 and 3 of this Article, or any provision of Article 24;
- similarly, such taxation shall be allowed in case of Ukraine, as and when it is levied.

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

Done in duplicate at Kyiv, Ukraine this twenty-third day of December 2008 in English and Ukrainian languages, both equally authentic.

Sd/

**For the Government of the
Islamic Republic of Pakistan**

Sd/

For the Government of Ukraine

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[F.No.2(78)Int.Taxes/93]

(Shahid Hussain Asad)
Member (Inland Revenue)/
Additional Secretary