

# China (P.R.C.) - Pakistan

## Income Tax Treaties

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### 1989 Income Tax Agreement

Signatories: China (P.R.C.); Pakistan

Signed: November 15, 1989

In Force: December 27, 1989

Effective: In the P.R.C.: income subject to withholding tax, from July 1, 1990; other provisions, from January 1, 1989. In Pakistan, from July 1, 1990. See Article 29.

Status: In Force

**AGREEMENT BETWEEN THE GOVERNMENT OF THE PEOPLE'S  
REPUBLIC OF CHINA AND THE GOVERNMENT OF THE ISLAMIC  
REPUBLIC OF PAKISTAN FOR THE AVOIDANCE OF DOUBLE TAXATION  
AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES  
ON INCOME**

The Government of the People's Republic of China and the Government of the Islamic Republic of Pakistan,  
Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,  
Have agreed as follows:

### Article 1

#### **Personal Scope**

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

### Article 2

#### **Taxes Covered**

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. The existing taxes to which the Agreement shall apply are:
  - (a) in Pakistan:
    - (i) the income tax;
    - (ii) the super tax; and
    - (iii) the surcharge(hereinafter referred to as "Pakistan tax");

- (b) in China:
- (i) the individual income tax;
  - (ii) the income tax concerning joint ventures with Chinese and foreign investment;
  - (iii) the income tax concerning foreign enterprises; and
  - (iv) the local income tax (hereinafter referred to as "Chinese tax").
3. This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes referred to in paragraph 2. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws within a reasonable period of time after such changes.

### Article 3

#### **General Definitions**

1. For the purposes of this Agreement, unless the context otherwise requires:
- (a) 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;
  - (b) the term "China" means the People's Republic of China, when used in the geographical sense, means all the territory of the People's Republic of China, including its territorial sea, in which the Chinese laws relating to taxation apply, and any area beyond its territorial sea, within which the People's Republic of China has sovereign rights of exploration for and exploitation of resources of the seabed and its subsoil and superjacent water resources in accordance with international law;
  - (c) the terms "a Contracting State" and "the other Contracting State" mean China or Pakistan as the context requires;
  - (d) the term "tax" means Chinese tax or Pakistani tax, 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 a body corporate for tax purposes;

(g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean, respectively, an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(h) the term "national" means:

- (i) any individual possessing the nationality of a Contracting State;
- (ii) any legal person, partnership and association deriving its status as such from the laws in force in a Contracting State;

(i) 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;

(j) the term "competent authority" means, in the case of China, State Tax Bureau or its authorized representative, and in the case of Pakistan, the Central Board of Revenue or its authorized representative.

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

## Article 4

### **Resident**

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that Contracting State, is liable to tax therein by reason of his domicile, residence, place of head office or effective management or any other criterion of a similar nature.

But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.

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

- (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting 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 Contracting 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 Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
  - (d) if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where, by reason of the provisions of paragraph 1, a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which the head office of its business is situated. However, where such a person has the place of effective management of its business in one of the Contracting States and the place of head office of its business in the other Contracting State, then the competent authorities of the Contracting States shall determine by mutual agreement the State of which the person shall be deemed to be a resident for the purposes of this Agreement.

## Article 5

### **Permanent Establishment**

1. For the purposes of this Agreement, 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; and
  - (g) a permanent sales exhibition.
3. The term "permanent establishment" likewise encompasses a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than six months.
4. Notwithstanding the provisions of paragraphs 1 to 3, the term "permanent establishment" shall be deemed not to include:

- (a) the use of facilities solely for the purpose of storage, display of goods or merchandise belonging to the enterprise;
  - (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;
  - (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
  - (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
  - (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character.
5. Notwithstanding the provisions of paragraphs 1 and 2, where a person -- other than an agent of an independent status to whom paragraph 7 applies -- is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:
- (a) has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or
  - (b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.
6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.
7. An enterprise 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 Contracting State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.

8. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is resident of the other Contracting State, 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 and forestry) situated in the other Contracting State may be taxed in that other Contracting State.
2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

## Article 7

### **Business Profits**

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to:
  - (a) that permanent establishment;
  - (b) sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or
  - (c) other business activities (other than activities referred to in paragraph 3 of Article 5) carried on in that other State of the same or similar kind as those carried on through that permanent establishment.

However, the provisions of sub-paragraphs (b) and (c) of this paragraph shall not apply if the enterprise proves that such sales or activities could not have been undertaken by the permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In determining 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, which are allowed under the provisions of the domestic law of the Contracting State in which the permanent establishment is situated. The application of the provisions of the domestic law shall be in accordance with the principles contained in this paragraph. 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, for 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 that permanent establishment of goods or merchandise for the enterprise.



6. For the purposes of paragraphs 1 to 5, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

## Article 8

### **Shipping and Air Transport**

1. Profits from the operation of 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.
2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the 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.
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 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 Contracting State -- and taxes accordingly -- profits on which an enterprise of the other Contracting State has been charged to tax in that other Contracting 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 Contracting State shall make an appropriate adjustment to the amount of tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement 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 Contracting State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 10% of the gross amount of the dividends.

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

3. The term "dividends" as used in this Article means income from shares, or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other Contracting State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.
5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other Contracting 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 Contracting State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or fixed base situated in that other Contracting 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 Contracting 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 Contracting State.
2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that Contracting State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10% of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be exempted from tax in the Contracting State, if the interest is paid to:
  - (a) the Government of the other Contracting State;
  - (b) State Banks of the other Contracting State;
  - (c) local authorities, financial institutions and agencies of the other Contracting State, which are agreed upon from time to time by the competent authorities of both Contracting States. "State Banks" mentioned in sub-paragraph (b) mean, in the case of China, the People's Bank of China and Bank of China, and, in the case of Pakistan, the State Bank of Pakistan.
4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and, in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
5. The provisions of paragraphs 1, 2 and 3 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 Contracting State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.
6. Interest shall be deemed to arise in a Contracting State when the payer is the Government of that Contracting State, a local authority thereof or a resident of that Contracting State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent

establishment or fixed base, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement,

## 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 Contracting State.
2. However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that Contracting State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 12.5% 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 and films or tapes for radio or television broadcasting, any patent, know-how, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other Contracting State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is the Government of that Contracting State, a local authority thereof or a resident of that Contracting State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment

or fixed base, then such royalties shall be deemed to arise in the 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 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 Agreement.

## Article 13

### **Fees for Technical Services**

1. Fees for technical services arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State.
2. However, such fees for technical services may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner thereof, the tax so charged shall not exceed 12.5% of the gross amount of the fees.
3. The term "fees for technical services" as used in this Article means any consideration (including any lump sum consideration) for the provision of rendering of any managerial, technical or consultancy services by a resident of a Contracting State in the other Contracting State (including the provision by such resident of the services of technical or other personnel) but does not include consideration for any activities mentioned in paragraph 3 of Article 5 or Article 15 of the Agreement.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the fees for technical services, being a resident of a Contracting State, carries on business in the other Contracting State in which the fees for technical services arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein and the contract in respect of which the fees for technical services are paid is effectively connected with such permanent establishment or fixed base. In such cases the provisions of Article 7 or Article 15, 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 fees for technical services exceeds the amount which would have been paid in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

## Article 14

### Capital Gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other Contracting 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 together with the whole enterprise) or of such a fixed base, may be taxed in that other Contracting State.
3. Gains 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 the Contracting State in which the place of effective management of the enterprise is situated.
4. Gains from the alienation of shares of the capital stock of a company the property of which consists directly or indirectly principally of immovable property situated in a Contracting State may be taxed in that Contracting State.
5. Gains from the alienation of shares other than those mentioned in paragraph 4 representing a participation of at least 25% in a company which is a resident of a Contracting State may be taxed in that Contracting State.
6. Gains derived by a resident of a Contracting State from the alienation of any property other than that referred to in paragraphs 1 to 5 and arising in the other Contracting State may be taxed in that other Contracting State.

## Article 15

### Independent Personal Services

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that Contracting State except in one of the following circumstances, when such income may also be taxed in the other Contracting State:
  - (a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or
  - (b) if his stay in the other Contracting State is for a period or periods exceeding in the aggregate 183 days in the calendar year concerned; in that case, only so much of

the income as is derived from his activities performed in that other Contracting State may be taxed in that other 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 16

### **Dependent Personal Services**

1. Subject to the provisions of Articles 17, 19, 20 and 21, 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 Contracting 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 Contracting State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
  - (a) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned; and
  - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Contracting State; and
  - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Contracting State.
3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated by an enterprise of a Contracting State in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

## Article 17

### **Directors' Fees**

1. Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the Board of directors of a company which is a resident of the other Contracting State may be taxed in that other Contracting State.
2. Salaries, wages and other similar remuneration derived by a resident of a Contracting State in his capacity as an official in a top-level managerial position of a company which is a resident of the other Contracting State may be taxed in that other Contracting State.

## Article 18

### **Artistes and Athletes**

1. Notwithstanding the provisions of Articles 15 and 16, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other Contracting State.
2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.
3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, income derived from such activities as are referred to in paragraph 1, performed under a cultural agreement or arrangement between the Contracting States shall be exempt from tax in the Contracting State in which the activities are exercised if the visit to that State is wholly or substantially supported by public or government funds of either Contracting State.

## Article 19

### **Pensions**

1. Subject to the provisions of paragraph 2 of Article 20, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that Contracting State.
2. Notwithstanding the provisions of paragraph 1, pensions paid and other similar payments made by the Government of a Contracting State or a local authority thereof under a public welfare scheme of the social security system of that Contracting State shall be taxable only in that Contracting State.

## Article 20

### **Government Service**

1.
  - (a) Remuneration, other than pension, paid by the Government of a Contracting State or a local authority thereof to an individual in respect of services rendered to the Government of that Contracting State or a local authority thereof, in the discharge of functions of a governmental nature, shall be taxable only in that Contracting State.
  - (b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other Contracting State and the individual is a resident of that other Contracting State who:



- (i) is a national of that other Contracting State; or
  - (ii) did not become a resident of that other Contracting State solely for the purpose of rendering the services.
2.
  - (a) Any pension paid by, or out of funds to which contributions are made by, the Government of a Contracting State or a local authority thereof to an individual in respect of services rendered to the Government of that Contracting State or a local authority thereof shall be taxable only in that Contracting State.
  - (b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that other Contracting State.
3. The provisions of Articles 16, 17, 18 and 19 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by the Government of a Contracting State or a local authority thereof.

## Article 21

### **Teachers and Researchers**

1. An individual who is, or immediately before visiting a Contracting State was, a resident of the other Contracting State and is present in the first-mentioned Contracting State for the primary purpose of teaching, giving lectures or conducting research at a university, college, school or educational institution or scientific research institution accredited by the Government of the first-mentioned State shall be exempt from tax in the first-mentioned Contracting State, for a period of two years from the date of his first arrival in the first-mentioned Contracting State, in respect of remuneration for such teaching, lectures or research, and other income received outside the first-mentioned Contracting State.
2. This Article shall not apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.

## Article 22

### **Students and Trainees**

A student, business apprentice or trainee 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 shall be exempt from tax within a period of five years from the date of his first arrival in that first-mentioned State on the following payments or income received or derived by him for the purpose of his maintenance, education or training:

- (a) payments derived from sources outside that Contracting State for the purpose of his maintenance, education, study, research or training;

- (b) grants, scholarships or awards supplied by the Government, or a scientific, educational, cultural or other tax- exempt organization; and
- (c) income derived from personal services performed in that Contracting State.

## Article 23

### **Other Income**

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that Contracting State.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, 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 Contracting State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.
3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement and arising in the other Contracting State may be taxed in that other Contracting State.

## Article 24

### **Elimination of Double Taxation**

1. In Pakistan, double taxation shall be eliminated as follows:
  - (a) Subject to the provisions of the laws of Pakistan regarding the allowance as a credit against Pakistan tax, the amount of Chinese tax payable, under the laws of China and in accordance with the provisions of this Agreement, whether directly or by deduction, by a resident of Pakistan, in respect of income derived from China, shall be allowed as a credit against the Pakistan tax payable in respect of such income. The amount of credit, however, shall not exceed the amount of the Pakistan tax on that income computed in accordance with the taxation laws of Pakistan.
  - (b) Where the income derived from China is a dividend paid by a company which is a resident of China to a company which is a resident of Pakistan and which owns not less than 10% of the shares of the company paying the dividend, the credit shall take into account the tax paid to China by the company paying the dividend in respect of its income.

(c) For the purpose of sub-paragraphs (a) and (b), Chinese tax paid shall include the amount of Chinese tax which would have been paid if the Chinese tax had not been exempted, reduced or refunded in accordance with:

(i) Articles 5 and 6 of the Income Tax Law of the People's Republic of China concerning Joint Ventures with Chinese and Foreign Investment and Article 3 of the Detailed Rules and Regulations for the implementation of the Income Tax Law of the People's Republic of China concerning Joint Ventures with Chinese and Foreign Investment;

(ii) Articles 4 and 5 of the Income Tax Law of the People's Republic of China concerning Foreign Enterprises;

(iii) Articles 1, 2, 3, 4 and 10 of Part 1, Articles 1, 2, 3 and 4 of Part 2 and Articles 1, 2 and 3 of Part 3 of the interim provisions of the State Council of the People's Republic of China on Reduction in or Exemption from Enterprise Income Tax and the Consolidated Industrial and Commercial Tax for Special Economic Zones and Fourteen Coastal Cities;

(iv) Articles 12 and 19 of the State Council Regulations for the Encouragement of Investment in the Development of Hainan Island;

(v) Articles 8, 9 and 10 of the State Council Regulations concerning the Encouragement of Foreign Investment; and

(vi) Articles 1, 2 and 3 of the Interim Provisions of the Ministry of Finance of the People's Republic of China regarding (reduction in or exemption from) Enterprise Income Tax and Industrial and Commercial Consolidated Tax for Encouraging Foreign Investment in the Coastal Open Economic Areas;

(vii) any other similar special incentive measures designed to promote economic development in the People's Republic of China which may be introduced in the laws of the People's Republic of China after the date of signature of this Agreement, and which may be agreed upon by the competent authorities of the Contracting States.

2. In the case of China, double taxation shall be eliminated as follows:

(a) Where a resident of China derives income from Pakistan, the amount of tax on that income payable in Pakistan in accordance with the provisions of this Agreement may be credited against the Chinese tax imposed on that resident. The amount of credit, however, shall not exceed the amount of the Chinese tax on that income computed in accordance with the taxation laws and regulations of China.

(b) Where the income derived from Pakistan is a dividend paid by a company which is a resident of Pakistan to a company which is a resident of China and which owns not less than 10% of the shares of the company paying the dividend, the

credit shall take into account the tax paid to Pakistan by the company paying the dividend in respect of its income.

(c) For the purpose of sub-paragraphs (a) and (b), Pakistan tax paid shall include:

(i) the amount of Pakistan tax which would have been paid if the Pakistan tax had not been exempted, reduced or refunded in accordance with the tax incentives granted under the Pakistan Income Tax Ordinance, 1979, as amended from time to time;

(ii) any other similar special incentive measures designed to promote economic development in the Islamic Republic of Pakistan which may be introduced in the laws of the Islamic Republic of Pakistan after the date of signature of this Agreement, and which may be agreed upon by the competent authorities of the Contracting States.

3. In the application of paragraph 1(c) or paragraph 2(c) of this Article in relation to dividend, interest, or royalty income and fees for technical services to which Articles 10, 11, 12 and 13 respectively apply, the amount of Pakistan tax or Chinese tax shall be deemed to be the amount equal to:

(i) in the case of dividends, 15% of the gross amount of such dividends;

(ii) in the case of interest, 10% of the gross amount of such interest;

(iii) in the case of royalties, 15% of the gross amount of such royalties; and

(iv) in the case of fees for technical services, 15% of the gross amount of such fees.

## Article 25

### **Non-discrimination**

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other Contracting State in the same circumstances are or may be subjected. The provisions of this paragraph shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities.

3. Except where the provisions of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, 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.

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. Nothing contained in the preceding paragraphs of this Article shall be construed as obliging either of the Contracting States to grant to a resident of the other Contracting State those allowances, reliefs, reductions, credits and rebates for tax purposes which are by law available only to a resident of the Contracting State.

## Article 26

### **Mutual Agreement Procedure**

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provision of the Agreement.
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 provisions of this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. The competent authorities shall through consultations develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this Article.

## Article 27

### **Exchange of Information**

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement, insofar as the taxation thereunder is not contrary to this Agreement, in particular for the prevention of evasion of such taxes. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret 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 Agreement. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.
2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:
  - (a) to carry out administrative measures at variance with the laws and the administrative practice of that or of the other Contracting State;
  - (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
  - (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

## Article 28

### **Diplomatic Agents and Consular Officers**

Nothing in this Agreement 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 29

### **Entry Into Force**

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

- (a) in Pakistan:

- (i) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of July of the year next following that in which the Agreement enters into force; and
- (ii) in respect of other taxes for assessment years beginning on or after the first day of July of the year next following that in which the Agreement enters into force;
- (b) in China:
- (i) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of July of the year next following that in which the Agreement enters into force; and
- (ii) in respect of other taxes for taxation years beginning on or after the first day of January of the year next following that in which the Agreement enters into force.

## Article 30

### **Termination**

This Agreement shall continue in effect indefinitely but either of the Contracting States may, on or before the thirtieth day of June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give written notice of termination to the other Contracting State through the diplomatic channel. In such event this Agreement shall cease to have effect as respects income derived during the taxable years beginning on or after the first day of January in the calendar year next following that in which the notice of termination is given.

Done at Islamabad, this 15th day of November 1989, in duplicate in the English and Chinese languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA:

Qian Qichen

Minister of Foreign Affairs

FOR THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN:

Sahabzada Yakub-Khan

Minister of Foreign Affairs



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**PROTOCOL  
TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE  
PEOPLE’S REPUBLIC OF CHINA AND THE GOVERNMENT OF THE ISLAMIC REPUBLIC  
OF PAKISTAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF  
FISCAL EVASION WITH RESPECT TO TAXES ON INCOME**

The Government of the People’s Republic of China and the Government of the Islamic Republic of China, having regard to the Agreement between the Government of the People’s Republic of China and the Government of the Islamic Republic of Pakistan for the Avoidance of double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income done at Islamabad on the 15<sup>th</sup> day of November, 1989 (hereinafter referred to as “the Agreement”),

Have agreed that the following provisions shall form an integral part of the Agreement:

**Article 1**

Paragraph 2 of Article 2 of the Agreement shall be deleted and replaced by the following:

- “2. The existing taxes to which the agreement shall apply are:
- (a) in Pakistan:
    - (i) the income tax;
    - (ii) the super tax; and
    - (iii) the surcharge;(hereinafter referred to as ‘Pakistan tax’)
  - (b) in China:
    - (i) the individual income tax;
    - (ii) the income tax for enterprises with foreign investment and foreign enterprises.(hereinafter referred to as ‘Chinese tax’)

**Article 2**

Sub-paragraph (j) of paragraph 1 of Article 3 of the Agreement shall be deleted and replaced by the following:

- “(j) the term “competent authority” means, in the case of China, the State Administration of Taxation or its authorized representative, and in the case of Pakistan, the Central Board of Revenue or its authorized representative.”

**Article 3**

With refer to Article 16 “Dependent Personal Services”, wages, salaries or other similar remuneration derived by employees of airlines or shipping company of a Contracting State stationed in the other Contracting State shall be taxed in respect of such income only in that Contracting State of which they are nationals.

**Article 4**

1. Items (i) and (i) of sub-paragraph (c) of paragraph 1 of Article 24 of the Agreement shall be substituted by the following:

“(i) the provisions of Article 7, 8, 9, 10 and the provisions of paragraphs 1, 3 and 4 of Article 19 of the Income Tax Law of the People’s Republic of China for Enterprises with Foreign Investment and Foreign Enterprises and the provisions of Articles 73, 75 and 81 of the Detailed Rules and Regulations for the Implementation of the Income Tax Law of the People’s Republic of China for Enterprises with Foreign Investment and Foreign Enterprises.”

2. Items (iii), (iv), (v), (vi) and (vii) of sub-paragraph (c) of paragraph 1 of Article 24 of the Agreement shall be renumber as (ii), (iii), (iv), (v) and (vi), respectively.

#### **Article 5**

1. Each of the Contracting State shall notify each other that the procedures required by its laws for the entry into force of this Protocol have been complied with.

2. This Protocol shall enter into force on the day after the day of the later of the notifications referred to in paragraph 1 of this Article.

Done at Beijing on the 19<sup>th</sup> day of June, 2000 in duplicate in the Chinese and English languages, both texts being equally authentic.

Sd/  
For the Government of the  
People’s Republic of China

Sd/  
For the Government of the  
Islamic Republic of Pakistan

## THE SECOND PROTOCOL

### TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME.

The Government of the Islamic Republic of Pakistan and the Government of the People's Republic of China,

Desiring to conclude a Protocol to amend the Agreement between the Government of the Islamic Republic of Pakistan and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at Islamabad on the 15<sup>th</sup> day of November 1989 (hereinafter referred to as "the Agreement"),

Have agreed as follows:

#### Article 1

The provisions of paragraph 3(c) of Article 11 of the Agreement are deleted and replaced by the following provisions:

- “(c) local authorities, financial institutions and agencies of the other Contracting State, which are agreed upon from time to time by the competent authorities of both Contracting States. “State Banks” mentioned in the sub-paragraph (b) mean, in the case of China, the People's Bank of China, the Bank of China, the Export-Import Bank of China, the Agricultural Development Bank of China and the China Development Bank, and in the case of Pakistan, the State Bank of Pakistan.”

#### Article 2

This Protocol shall enter into force on the date of signatures.

In Witness Whereof the duly authorized representatives of the two Governments have signed this Protocol in the English and the Chinese languages at Beijing on April 17, 2007, both texts being equally authentic.

Sd/  
For the Government of the  
Islamic Republic of Pakistan

Sd/  
For the Government of the  
People's Republic of China

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

GOVERNMENT OF PAKISTAN  
REVENUE DIVISION

Islamabad, the February 16, 2017

NOTIFICATION

Income Tax

**S.R.O. 145(I)/2017.-** WHEREAS the Third Protocol as set out in the Annexure to this Notification to amend the Agreement between the Government of the People’s Republic of China and the Government of the Islamic Republic of Pakistan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at Islamabad on November 15, 1989, hereinafter referred to as the Agreement, as well as the Second Protocol to the Agreement, signed at Beijing on the April 17, 2007, hereinafter referred to as the Second Protocol;

Whereas, in terms of Article 2 of the Third Protocol, the contracting States shall notify each other through diplomatic channels that the procedures required by its laws for the entry into force have been complied with. This Third Protocol shall enter into force on the date of the receipt of the later notification;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of section 107 of the Income Tax Ordinance, 2001 (XLIX of 2001), the Federal Government is pleased to direct that the provisions of the Third Protocol, shall have effect:

“For the provisions of Article 1 of the Second Protocol, the Industrial and Commercial Bank of China and the Silk Road Fund are included as “State Banks”, but only for the purpose of interest income they derive from loans in Pakistan for the Energy Projects mentioned in the China-Pakistan Economic Corridor Energy Projects Cooperation Agreement signed at Beijing on the November 8, 2014”.

**Annexure**

**THE THIRD PROTOCOL TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA AND THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME**

The Government of the People's Republic of China and the Government of the Islamic Republic of Pakistan:

Desiring to establish a favorable financing environment for the Energy Projects mentioned in the China-Pakistan Economic Corridor Energy Projects Cooperation Agreement signed at Beijing on November 8, 2014, by concluding a Protocol to amend the Agreement between the Government of the People's Republic of China and the Government of the Islamic Republic of Pakistan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at Islamabad on November 15, 1989 (hereinafter referred to as "the Agreement"), as well as the Second Protocol to the Agreement, signed at Beijing on April 17, 2007 (hereinafter referred to as "the Second Protocol"),

Have agreed as follows:

**Article 1**

For the provisions of Article 1 of the Second Protocol, the Industrial and Commercial Bank of China and the Silk Road Fund are included as "State Banks", but only for the purpose of interest income they derive from loans in Pakistan for the Energy Projects mentioned in the China-Pakistan Economic Corridor Energy Projects Cooperation Agreement signed at Beijing on November 8, 2014.

**Article 2**

The Contracting States shall notify each other through diplomatic channels that the procedures required by its laws for the entry into force of this Third Protocol have been complied with. This Third Protocol shall enter into force on the date of the receipt of the later notification.

In Witness Whereof the undersigned, being duly authorized representatives of the two Governments, have signed this Protocol in the Chinese and English languages at Islamabad on December 8<sup>th</sup>, 2016, both texts being equally authentic.

**For the Government of  
the People's Republic of China**

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

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[C.No.2(14)Int.Taxes/83]

-Sd-  
(Rehmat Ullah Khan Wazir)  
Additional Secretary/Member (IR- Policy)