

**SYNTHESISED TEXT OF
THE CONVENTION BETWEEN CANADA AND THE ISLAMIC
REPUBLIC OF PAKISTAN FOR THE AVOIDANCE OF DOUBLE
TAXATION AND THE PREVENTION OF FISCAL EVASION WITH
RESPECT TO TAXES ON INCOME AND
THE MULTILATERAL CONVENTION TO IMPLEMENT
TAX TREATY RELATED MEASURES TO PREVENT
BASE EROSION AND PROFIT SHIFTING**

General disclaimer on the Synthesised text document

This document presents the text for the application of the *Convention between Canada and the Islamic Republic of Pakistan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income* signed on February 24, 1976 (the “Convention”), as modified by the *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting* (the “MLI”). The MLI was signed by both Canada and Pakistan on June 7, 2017.

This document was prepared jointly by the competent authorities of the Islamic Republic of Pakistan and Canada and represents their shared understanding of the modifications made to the Convention by the MLI.

The document was prepared on the basis of the MLI position of the Islamic Republic of Pakistan submitted to the Depositary upon ratification on December 18, 2020 and of the MLI position of Canada submitted to the Depositary upon ratification on August 29, 2019. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on this Convention.

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

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

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

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

References

The legal text of the MLI can be found on the MLI (OECD) webpage:

in English: <http://www.oecd.org/tax/treaties/multilateral-convention-to-implement-tax-treaty-related-measures-to-prevent-BEPS.pdf>

in French: <http://www.oecd.org/fr/fiscalite/conventions/convention-multilaterale-pour-la-mise-en-oeuvre-des-mesures-relatives-aux-conventions-fiscales-pour-prevenir-le-BEPS.pdf>

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

The MLI position of the Islamic Republic of Pakistan submitted to the Depository upon ratification on December 18, 2020 and of the MLI position of Canada submitted to the Depository upon ratification on August 29, 2019 can be found on the MLI Depository (OECD) webpage <http://www.oecd.org/tax/treaties/beps-ml-signatories-and-parties.pdf>

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

Entry into Effect of the MLI Provisions

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

Dates of the deposit of instruments of ratification, acceptance or approval: December 18, 2020 for the Islamic Republic of Pakistan and August 29, 2019 for Canada.

Entry into force of the MLI: April 1, 2021 for the Islamic Republic of Pakistan and December 1, 2019 for Canada.

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

Unless it is stated otherwise elsewhere in this document, the provisions of the MLI shall have effect in accordance with paragraph 1 and 2 of Article 35 of the MLI, in each Contracting State with respect to the Convention:

(i) in Canada:

(aa) with respect to taxes withheld at source on amounts paid or credited to

non-residents, where the event giving rise to such taxes occurs on or after January 1, 2022; and

(bb) with respect to all other taxes, for taxes levied with respect to taxable periods beginning on or after October 1, 2021.

(ii) in Pakistan:

(aa) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after April 1, 2021; and

(bb) with respect to all other taxes, for taxes levied with respect to taxable periods beginning on or after October 1, 2021.

**CONVENTION BETWEEN CANADA
AND 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 Canada and the Government of the Islamic Republic of Pakistan,

[REPLACED by paragraph 1 of Article 6 of the MLI]

[Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,]

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

ARTICLE 6 OF THE MLI – PURPOSE OF COVERED TAX AGREEMENT

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

Have agreed as follows:

Chapter I - SCOPE OF THE CONVENTION

Article I

Personal Scope

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

Article II

Taxes Covered

1. This Convention shall apply to taxes on income imposed on behalf of each Contracting State, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable

¹Both the preamble text described in Article 6(1) of the MLI and the principal purposes test found in Article 7(1) of the MLI, apply to the Convention. Article 7(1) of the MLI, which is reproduced immediately following Article 27 (Miscellaneous Rules), is a general anti-abuse rule that may apply to deny a benefit that would otherwise be available under the Convention.

property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which the Convention shall apply are in particular:
 - a) in the case of Canada: The income taxes imposed by the Government of Canada, (hereinafter referred to as "Canadian tax");
 - b) in the case of Pakistan: the income tax, the super tax and surcharge (hereinafter referred to as "Pakistan tax").
4. The Convention shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Convention in addition to, or in place of, the existing taxes. The Contracting States shall notify each other of changes which have been made to their respective taxation laws.

Chapter II - DEFINITIONS

Article III

General Definitions

1. In this Convention, unless the context otherwise requires:
 - a)
 - (i) the term "Pakistan" used in a geographical sense means Pakistan as defined in the Constitution of the Islamic Republic of Pakistan and also includes any area outside the territorial waters of Pakistan which under the laws of Pakistan is an area within which the rights of Pakistan with respect to sea-bed and sub-soil and their natural resources may be exercised;
 - (ii) the term "Canada" used in a geographical sense means the territory of Canada, including any area outside the territorial waters of Canada which under the laws of Canada is an area within which the rights of Canada with respect to sea-bed and sub-soil and their natural resources may be exercised;
 - b) the terms "a Contracting State" and "the other Contracting State" mean, as the context requires, Canada or Pakistan;
 - c) the term "person" includes an individual, a company, a partnership, an estate, a trust and any other entity treated as taxable unit;
 - d) the term "company" means any body corporate or any other entity which is treated as a body corporate for tax purposes; in French, the term "société" also means a "corporation" within the meaning of Canadian law;
 - e) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other

Contracting State;

- f)* the term "competent authority" means:
 - (i)* in the case of Canada, the Minister of National Revenue or his authorized representative;
 - (ii)* in the case of Pakistan, the Central Board of Revenue;
- g)* the term "tax " means Canadian tax or Pakistan tax as the context requires;
- 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 law in force in a Contracting State.

2. As regards the application of the Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the Convention.

Article IV

Fiscal Domicile

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, his status shall be determined in accordance with the following rules:
 - 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 closest (hereinafter referred to as his "centre of vital interests");
 - b)* if the Contracting 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 Contracting 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. **REPLACED** [Where by reason of the provisions of paragraph 1 a company is a resident of both Contracting States, then its status shall be determined in accordance with the following rules:

- a) it shall be deemed to be a resident of the Contracting State of which it is a national;
- b) if it is a national of neither of the Contracting States, it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.]

4. **REPLACED** [Where by reason of the provisions of paragraph 1 a person other than an individual or a company is a resident of both Contracting States, the competent authorities of the Contracting States shall by mutual agreement endeavour to settle the question and to determine the mode of application of the Convention to such person.]

The following paragraph 1 of Article 4 of the MLI replaces paragraph 4 of Article IV of the Convention:

ARTICLE 4 OF THE MLI – DUAL RESIDENT ENTITIES

Where by reason of the provisions of [the Convention] a person other than an individual is a resident of [both Contracting States], the competent authorities of the Contracting [States] shall endeavour to determine by mutual agreement the Contracting [State] of which such person shall be deemed to be a resident for the purposes of the [Convention], having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by the [Convention] except to the extent and in such manner as may be agreed upon by the competent authorities of the Contracting [States].

Article V

Permanent Establishment

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.
2. The term "permanent establishment" shall include especially:
- a) a place of management;
- b) a branch;

- c)* an office;
 - d)* a factory;
 - e)* a workshop;
 - f)* a mine, quarry or other place of extraction of natural resources;
 - g)* a building site or construction or assembly project or supervisory activities in connection therewith, where such site, project or activity continues for a period of more than 3 months;
 - h)* the furnishing of services including consultancy services by an enterprise through employees or other personnel, where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than 3 months within the fiscal year.
3. The term "permanent establishment" shall not be deemed to include:
- a)* the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
 - b)* the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - c)* the 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 advertising, for the supply of information, for scientific research, or for similar activities which have a preparatory or auxiliary character, for the enterprise.
4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State (other than an agent of an independent status to whom paragraph 5 applies) shall be deemed to be a permanent establishment in the first-mentioned State, if:
- a)* he has and habitually exercises in that State an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for that enterprise; or
 - b)* he habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly fills orders on behalf of the enterprise.
5. 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, where such persons are acting in the ordinary course of their business. However, when the activities of such an agent are performed wholly or almost wholly on behalf of that enterprise, he would not be considered an agent of an independent status within the meaning of this paragraph.

6. The fact that a company which is a resident of a Contracting State has a subsidiary or is a subsidiary of a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute for either company a permanent establishment of the other.

Chapter III - TAXATION OF INCOME

Article VI

Income from Immovable Property

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

2. The term "immovable property" shall be defined in accordance with 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, 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 and to profits from the alienation of such 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 professional services.

Article VII

Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on or has carried 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; or

- b) sales of goods or merchandise of the same or similar kind as those sold, or from other business activities of the same or similar kind as those effected, through that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on or has carried on business in the other Contracting State through a permanent establishment situated therein, there shall be attributed to that permanent establishment profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In the determination of the profits of a permanent establishment, there shall be allowed those deductible expenses which are incurred for the purpose of the permanent establishment including the executive and general expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
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 apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then, the provisions of those Articles shall not be affected by the provisions of this Article.

Article VIII

Shipping and Air Transport

1. Profits derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.
2. Notwithstanding the provisions of paragraph 1 or Article VII, profits derived from the operation of ships or aircraft used principally to transport passengers or goods exclusively between places in a Contracting State may be taxed in that State.
3. The provisions of paragraphs 1 and 2 shall also apply to profits referred to in those paragraphs derived by an enterprise of a Contracting State from its participation in a pool, a joint business or in an international operating agency.

Article IX

Associated Enterprises

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.

Article X

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 both Contracting States.
2. Where a company which is a resident of Pakistan pays dividends to a company which is a resident of Canada and which owns 25 per cent or more of the share capital of the first-mentioned company, the tax charged in Pakistan on such dividends shall not exceed
 - a) **MODIFIED**[15 per cent of the gross amount of the dividends where the first-mentioned company is engaged in an industrial undertaking;] and

The following paragraph 1 of Article 8 of the MLI applies to subparagraph a) of paragraph 2 of Article X of the Convention:

ARTICLE 8 OF THE MLI – DIVIDENDS TRANSFER TRANSACTIONS

[Subparagraph a) of paragraph 2 of Article X of the Convention] shall apply only if the ownership conditions described in those provisions are met throughout a 365 day period that includes the day of the payment of the dividends (for the purpose of computing that period, no account shall be taken of changes of ownership that would directly result from a corporate reorganisation, such as a merger or divisive reorganisation, of the company that holds the shares or that pays the dividends).

- b) 20 per cent of the gross amount of the dividends in all other cases.

3. Where a company which is a resident of Canada pays dividends to a resident of Pakistan who is the beneficial owner thereof, the tax charged in Canada on such dividends shall not exceed 15 per cent of their gross amount.

4. a) The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident.

b) The term "industrial undertaking" as used in this Article means an undertaking engaged in

(i) the manufacture of goods or materials or the subjection of goods or materials to any process which results in substantially changing their original condition;

(ii) ship-building;

(iii) electricity, hydraulic power, gas and water supply;

(iv) mining, including working of an oil-well or the source of any mineral deposit; and

(v) any other undertaking, which may be declared by the competent authority to be an industrial undertaking for the purposes of this article.

5. The provisions of paragraph 2 and 3 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment or a fixed base with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of Article VII or Article XIV shall apply.

6. Where a company is a resident of a Contracting State, the other Contracting State may not impose any tax on the dividends paid by the company to persons who are not residents of that other State, or subject the company to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State. The provisions of this paragraph shall not prevent that other State from taxing dividends relating to a holding which is effectively connected with a permanent establishment or a fixed base operated in that other State by a person who is not a resident of that other State.

7. The provisions of this Article shall not affect the taxation of the company on the profits out of which the dividends are paid.

Article XI

Interest

1. The rate of Pakistan tax on interest paid by a resident of Pakistan to a resident of Canada who is subject to tax in respect thereof shall not exceed 25 per cent of the gross amount of the interest.
2. The rate of Canadian tax on interest paid by a resident of Canada to a resident of Pakistan who is subject to tax in respect thereof shall not exceed 15 per cent of the gross amount of the interest.
3. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as income assimilated to income from money lent by the taxation law of the State in which the income arises. However, the term "interest" does not include income dealt with in Article X.
4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment or a fixed base and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article VII or Article XIV, as the case may be, shall apply.
5. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and that interest is borne by that 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, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.
7. Notwithstanding the provisions of paragraphs 1 and 2,
 - a) interest arising in a Contracting State and paid in respect of a bond, debenture or other similar obligation of the government of that Contracting State or of a political subdivision or local authority thereof shall, provided that the interest is beneficially owned by a resident of the other Contracting State, be taxable only in that other State;

- b) interest paid by a resident of Pakistan to a resident of Canada on approved loans and on foreign currency accounts shall be exempt from Pakistan tax;
- c) interest arising in Pakistan in respect of a loan made or credit extended by the Export Development Corporation of Canada shall be taxable only in Canada;
- d) interest arising in Canada in respect of a loan made by any financial institution controlled by the Government of Pakistan and agreed to by the competent authorities shall be taxable only in Pakistan;
- e) the State Bank of Pakistan shall be exempt from the Canadian tax with respect of interest arising in Canada;
- f) the Bank of Canada shall be exempt from Pakistan tax with respect to interest arising in Pakistan.

Article XII

Royalties

1. The rate of Pakistan tax on royalties arising in Pakistan and paid to a resident of Canada shall not exceed 20 per cent of the gross amount of royalties as defined in paragraph 4 (a) and 15 per cent of the gross amount of royalties as defined in paragraph 4 (b).
2. The rate of Canadian tax on royalties arising in Canada and paid to a resident of Pakistan who is subject to tax in respect thereof shall not exceed 15 per cent of the gross amount of the royalties.
3. Notwithstanding the provisions of paragraphs 1 and 2, copyright royalties and other like payments in respect of the production or reproduction of any literary, dramatic, musical or artistic work (but not including royalties in respect of motion picture films and works on film or videotape for use in connection with television) arising in a Contracting State and paid to a resident of the other Contracting State who is subject to tax thereon shall be taxable only in that other State.
4. The term "royalties" as used in this Article means:
 - a) payments of any kind received as a consideration for the use of, or the right to use, any copyright, patent, trademark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment and includes payments of any kind in respect of motion picture films and works on film or videotape for use in connection with television;
 - b) payments received as consideration for technical know-how or information concerning industrial, commercial or scientific experience.
5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the

royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment or a fixed base 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 a case, the provisions of Article VII or Article XIV, as the case may be, shall apply.

6. 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 fixed base in connection with which the obligation to pay the royalties was incurred, and those royalties are borne by that 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.

7. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article XIII

Gains from the Alienation of Property

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article VI, may be taxed in the Contracting State in which such property is situated.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional 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 the other State. However, gains from the alienation of ships and aircraft operated by an enterprise of a Contracting State in international traffic and movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that Contracting State.

3. **REPLACED** [Gains from the alienation of shares of a company, or of an interest in a partnership or a trust, the property of which consists principally of immovable property as defined in paragraph 2 of Article VI, may be taxed in the Contracting State in which such immovable property is situated.]

The following paragraph 4 of Article 9 of the MLI replaces paragraph 3 of Article XIII of the Convention:

ARTICLE 9 OF THE MLI - CAPITAL GAINS FROM ALIENATION OF SHARES OR INTERESTS OF ENTITIES DERIVING THEIR VALUE PRINCIPALLY FROM IMMOVABLE PROPERTY

For purposes of [the Convention], gains derived by a resident of a [Contracting State] from the alienation of shares or comparable interests, such as interests in a partnership or trust, may be taxed in the other [Contracting State] if, at any time during the 365 days preceding the alienation, these shares or comparable interests derived more than 50 per cent of their value directly or indirectly from immovable property situated in that other [Contracting State].

4. Gains from the alienation of shares forming part of a substantial interest in the share capital of a company which is a resident of a Contracting State may be taxed in that State. For the purposes of this paragraph, a substantial interest exists when the alienator, alone or together with associated persons, owns directly or indirectly 25 per cent or more of the shares of any class of the share capital of a company.

5. Gains from the alienation of any property, other than those mentioned in paragraph 1, 2, 3 and 4 shall be taxable only in the Contracting State of which the alienator is a resident.

6. The provisions of paragraph 5 shall not affect the right of either of the Contracting States to levy, according to its domestic law, a tax on gains from the alienation of any property derived by an individual who is a resident of the other Contracting State and has been a resident of the first-mentioned State at any time during the six years immediately preceding the alienation of the property.

Article XIV

Independent Personal Services

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State. However, in the following circumstances such income may 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 he is present in the other Contracting State for a period or periods amounting to or exceeding in the aggregate 183 days in the fiscal year concerned; or
- c) if the remuneration for his services in the other Contracting State derived from residents of that Contracting State exceeds Rs. 25,000 or its equivalent in

Canadian currency in the fiscal year, notwithstanding that his stay in that State is for a period or periods amounting to less than 183 days during the fiscal year.

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

Article XV

Dependent Personal Services

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

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

- a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned, 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 in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State, shall be taxable only in that State.

Article XVI

Directors' Fees

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

Article XVII

Artistes and Athletes

1. Notwithstanding the provisions of Articles XIV and XV income derived by entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and

by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are performed.

2. The provisions of paragraph 1 shall not apply to income derived from activities performed in a Contracting State by entertainers and athletes if the visit to that Contracting State is supported by public funds of the other Contracting State, including any political subdivision, local authority or statutory body thereof, not to income derived by entertainers and athletes in respect of such activities performed for a non-profit organisation no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof.

3. Notwithstanding the provisions of Article VII, where the activities mentioned in paragraph 1 of this Article are provided in a Contracting State by an enterprise of the other Contracting State the profits derived from providing these activities by such an enterprise may be taxed in the first-mentioned Contracting State unless the enterprise is supported from the public funds of the other Contracting State, including any political subdivision, local authority or statutory body thereof, in connection with the provision of such activities, or unless the enterprise is a non-profit organisation referred to in paragraph 2.

Article XVIII

Pensions and Annuities

1. Pensions and annuities arising in a Contracting State shall be taxable only in that State.
2. Pensions and annuities 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.

Article XIX

Government Service

1.
 - a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof shall be taxable only in that State.
 - b) However, such remuneration shall be taxable only in the Contracting State of which the recipient is a resident if the services are rendered in that State and the recipient did not become a resident of that State solely for the purpose of performing the services.
2. The provisions of paragraph 1 shall not apply to remuneration in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or a political subdivision or a local authority thereof.

Article XX

Students

A student, apprentice or business trainee who is, or was immediately before visiting one of the Contracting States, a resident of the other Contracting State and who is present in the first-mentioned Contracting State solely for the purpose of his education or training shall not be taxed in that first-mentioned State in respect of remittance received by him from abroad for the purpose of his maintenance, education or training.

Article XXI

Income not Expressly Mentioned

1. Subject to the provisions of paragraphs 2 and 3 of this Article, items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Convention shall be taxable only in that Contracting State.
2. However, if such income is derived by a resident of a Contracting State from sources in the other Contracting State, such income may also be taxed in the State in which it arises, and according to the law of that State.
3. Notwithstanding the provisions of paragraph 2, in the case of alimony or other similar payments and in the case of income from an estate or trust derived from sources in Canada by a resident of Pakistan who is subject to tax in respect thereof, the tax charged in Canada shall not exceed 15 per cent of the gross amount of the payments or the income, as the case may be.

Chapter IV - METHODS FOR ELIMINATION OF DOUBLE TAXATION

Article XXII

1. In the case of Canada, double taxation shall be avoided as follows:
 - a) Subject to the existing provisions of the law of Canada regarding the deduction from tax payable in Canada of tax paid in a territory outside Canada and to any subsequent modifications of those provisions (which shall not affect the general principle hereof), and unless a greater deduction or relief is provided under the laws of Canada, tax payable in Pakistan in accordance with this Convention on profits, income or gains arising in Pakistan shall be deducted from any Canadian tax payable in respect of such profits, income or gains;
 - b) Subject to the existing provisions of the law of Canada regarding the determination of the exempt surplus of a foreign affiliate and to any subsequent modification of those provisions (which shall not affect the general principle hereof) for the purpose of computing Canadian tax a company resident in Canada shall be allowed to deduct in computing its taxable income any dividend received by it out of the exempt surplus of a foreign affiliate resident in Pakistan.

2. For the purposes of paragraph 1(a), tax payable in Pakistan by a resident of Canada
- a) in respect of profits attributable to a trade or business carried on by it in Pakistan, or
 - b) in respect of dividends, interest or royalties received by it from a company which is a resident of Pakistan, shall be deemed to include any amount which would have been payable as Pakistan tax for any year but for an exemption from, or reduction of, tax granted for that year or any part thereof under:
 - any of the following provisions, that is to say:
 - Notification S.R.O. 17(R), dated 1st July, 1960;
 - Notification S.R.O. 625(I)/72, dated 12th August, 1972;
 - Notification S.R.O. 861(1)/74, dated 29th August, 1974;
 - so far as they were in force on, and have not been modified since, the date of signature of this Convention, or have been modified only in minor respects so as not to affect their general character; and except to the extent that any of the said provisions has the effect of exempting or relieving a source of income for a period in excess of ten years;
 - any other subsequent enactment or statutory rule of Pakistan adopted in pursuance of its economic development granting an exemption or reduction of tax with respect to any item of income mentioned in subparagraphs (a) and (b) above and which is specified and agreed in letters exchanged between the competent authorities of the Contracting States, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character;
- provided that any deduction from Canadian tax granted in accordance with the provisions of this paragraph in respect of dividends, interest or royalties shall not exceed an amount equal to 15 per cent of the gross amount thereof.
3. Subject to the provisions of the Pakistan Income Tax Act regarding the allowance as a credit against Pakistan tax of tax payable in a country outside Pakistan, tax payable in Canada, whether directly or by deduction, by a person resident in Pakistan, in respect of income from sources within Canada (including income accruing or arising in Canada but deemed under the provisions of the law of Pakistan to accrue or arise in Pakistan) shall be allowed as a credit against any Pakistan tax payable in respect of that income.
4. For the purposes of this Article, profits, income or gains of a resident of one of the Contracting States which are taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources in that other State.

Chapter V - SPECIAL PROVISIONS

Article XXIII

Non-Discrimination

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.
2. Stateless persons resident in one 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 State in the same circumstances are or may be subjected.
3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.
4. Nothing in this Article shall be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs, rebates and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of a third State, are or may be subjected.
6. Nothing in this Article shall be construed
 - a) as preventing Canada from imposing on the earnings of a company attributable to a permanent establishment in Canada, its Additional Tax On Corporations Other Than Canadian Corporations provided that the rate of such tax shall not exceed 15 per cent;
 - b) as affecting any provision in the law of Pakistan which grants rebates of tax to companies which are residents of Pakistan and fulfill specific requirements regarding the declaration and payment of dividends.
7. In this Article, the term "taxation" means taxes which are the subject of this Convention.

Article XXIV

Mutual Agreement Procedure

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

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 this Convention, he may, without prejudice to the remedies provided by the national laws of those States, address to the competent authority of the Contracting State of which he is a resident an application in writing stating the grounds for claiming the revision of such taxation.]

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

Article 16 of the MLI – Mutual Agreement Procedure

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

[REPLACED] [To be admissible, the said application must be submitted within two years from the first notification of the action which gives rise to taxation not in accordance with the Convention.]

The following second sentence of paragraph 1 of Article 16 of the MLI replaces the second sentence of paragraph 1 of XXIV of the Convention:²

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 referred to in paragraph 1 shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate 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.

² Article 16 of the MLI has effect with respect to the Convention for a case presented to the competent authority of a Contracting State on or after 1 April 2021, except for cases that were not eligible to be presented as of that date under the Convention prior to its modification by the MLI, without regard to the taxable period to which the case relates.

The following second sentence of paragraph 2 of Article 16 of the MLI applies to this Convention:

ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the [Contracting States].

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention and may also consult together with respect to the allocation of profits to a resident of a Contracting State and its permanent establishment situated in the other Contracting State, or to the allocation of income between a resident of a Contracting State and any associated person provided for in Article IX.

The following second sentence of paragraph 3 of Article 16 of the MLI applies to the Convention:³

They [the competent authorities of the Contracting States] may also consult together for the elimination of double taxation in cases not provided for in the [Convention].

Article XXV

Exchange of Information

1. The competent authorities of the Contracting States shall upon request exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is in accordance with this Convention and in particular for the prevention of fraud and evasion of such taxes. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment, collection or enforcement of the taxes which are the subject of this Convention.

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

- a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;
- b) to supply particulars which are 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.

³Article 16 of the MLI has effect with respect to the Convention for a case presented to the competent authority of a Contracting State on or after 1 April 2021, except for cases that were not eligible to be presented as of that date under the Convention prior to its modification by the MLI, without regard to the taxable period to which the case relates.

Article XXVI

Diplomatic and Consular Officials

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

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

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

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

2. Notwithstanding Article IV of this Convention, an individual who is a member of a diplomatic, consular or permanent mission of a Contracting State which is situated in the other Contracting State or in a third State shall be deemed for the purposes of this Convention to be a resident of the sending State if he is liable in the sending State to the same obligations in relation to tax on his total world income as are residents of that sending State.

3. This Convention shall not apply to International Organizations, to organs or officials thereof and to persons who are members of a diplomatic, consular or permanent mission of a third State, being present in a Contracting State and who are not liable in that State to the same obligations in relation to tax on their total world income as are residents of that State.

Article XXVII

Territorial Extension

1. This Convention may be extended, either in its entirety or with any necessary modifications, to any State or territory for whose international relations either of the Contracting States is responsible and which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their

⁴See, in this respect, articles 7(2) and 7(17)(a) of the MLI.

constitutional procedures.

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

Article XXVIII

Miscellaneous Rules

1. The provisions of this Convention shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit, rebate or other allowance now or hereafter accorded.

a) by the laws of one of the Contracting States in the determination of the tax imposed by that Contracting State, or

b) by any other agreement between the Contracting States.

2. Nothing in this Convention shall be construed as preventing Canada from imposing tax on amounts included in the income of a resident of Canada according to section 91 of the Canadian Income Tax Act.

3. The competent authorities of the Contracting States may communicate with each other directly for the purpose of applying this Convention.

Chapter VI - FINAL PROVISIONS

Article XXIX

Entry into Force

1. This Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible.

The Convention shall enter into force upon the exchange of the instruments of ratification and its provisions shall have effect:

a) in Pakistan:

in respect of Pakistan tax for the "previous years" (as defined by the tax laws of Pakistan) beginning on or after the first day of January in the calendar year in which the exchange of instruments of ratification takes place; and

b) in Canada:

(i) in respect of tax withheld at the source on amounts paid to on-residents on or after the first day of January in the calendar year in which the exchange

of instruments of ratification takes place; and

- (ii) in respect of other Canadian tax for taxation years beginning on or after the first day of January in the calendar year in which the exchange of instruments of ratification takes place.

Article XXX

Termination

This Convention shall continue in effect indefinitely but either Contracting State may, on or before June 30 in any calendar [year] after the year 1978, give notice of termination to the other Contracting State and in such event the Convention shall cease to have effect:

- a) in Pakistan:

in respect of Pakistan tax for the "previous years" (as defined by the tax laws of Pakistan) beginning on or after the first day of January in the calendar year next following that in which the notice is given; and

- b) in Canada:

- (i) in respect of tax withheld at the source on amounts paid to non-residents on or after the first day of January in the calendar year next following that in which the notice is given; and
- (iii) in respect of other Canadian tax for taxation years beginning on or after the first day of January in the calendar year next following that in which the notice is given.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by the respective Governments, have signed this Convention.

DONE in duplicate at Ottawa, this twenty-fourth day of February, 1976.

FOR THE GOVERNMENT OF CANADA:

Donald S. MacDonald

FOR THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN:

Aziz Ahmed

PROTOCOL

At the signing of the Convention between Canada and the Islamic Republic of Pakistan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, the undersigned have agreed on the following provisions which shall be an integral part of the Convention:

1. With reference to paragraph 3 of Article VII, it is understood that no 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 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 toward 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 by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

2. With reference to paragraph 7 (b) of Article XI, it is agreed that the terms "approved loans" and "foreign currency amounts" mean respectively loans covered by Notifications S.R.O. 17(R) dated 1st July, 1960 and S.R.O. 625(I)/72 dated 12th August, 1972 and accounts covered by Notification S.R.O. 861(I)/74 dated 29th August, 1974. The said terms also mean loans or accounts covered by any substantially similar provision or statutory rule subsequently enacted by Pakistan in addition to, or in place of, the Notifications mentioned above.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention.

DONE at Ottawa, this twenty-fourth day of February, 1976.

FOR THE GOVERNMENT OF CANADA:

Donald S. MacDonald

FOR THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN:

Aziz Ahmed