SYNTHESISED TEXT
OF THE MLI AND THE CONVENTION BETWEEN THE ISLAMIC REPUBLIC OF PAKISTAN AND THE KINGDOM OF DENMARK FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

General disclaimer on the Synthesised text document

This document presents the synthesised text for the application of the Convention between the Islamic Republic of Pakistan and the Kingdom of Denmark for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed on October 22, 1987 (the "Convention"), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by the Islamic Republic of Pakistan and the Kingdom of Denmark on June 7, 2017 (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 the Kingdom of Denmark submitted to the Depositary upon ratification on September 30, 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made to parts of provisions of the MLI that describe existing provisions of the Convention: descriptive language has been replaced by legal references of the existing provisions to ease the readability.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 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 Depositary upon ratification on December 18, 2020 and of the MLI position of the Kingdom of Denmark submitted to the Depositary upon ratification on June 6, 2018 can be found on the MLI Depositary (OECD) webpage http://www.oecd.org/tax/treaties/beps-mli-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 the Kingdom of Denmark 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 September 30, 2019 for the Kingdom of Denmark.

Entry into force of the MLI: April 1, 2021 for the Islamic Republic of Pakistan and January 1, 2020 for the Kingdom of Denmark.

Pursuant to Article 35(2) of the Convention, solely for purposes of its own application of Article 35(1)(a) and (5)(a), Pakistan chose to substitute "taxable period" for "calendar year". Pursuant to Article 35(3) of the MLI, solely for the purpose of its own application of Article 35(1)(b) and 5(b), Denmark chose to replace the reference to "taxable periods beginning on or after the expiration of a period" with a reference to "taxable periods beginning on or after 1 January of the next year beginning on or after the expiration of a period".

Unless it is stated otherwise elsewhere in this document, the provisions of the MLI shall have effect in accordance with paragraph 1, 2 and 3 of Article 35 of the MLI, in each Contracting State with respect to the Convention:

(i) 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 the first day of the next taxable period that begins on or after April 1, 2021; and

(bb) with respect to all other taxes levied by Pakistan, for taxes levied with respect to taxable periods beginning on or after October 1, 2022; and

(ii) in Denmark:

(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 levied by Denmark, for taxes levied with respect to taxable periods beginning on or after January 1, 2022.

Article 16 (Mutual Agreement Procedure) 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.

CONVENTION BETWEEN THE ISLAMIC REPUBLIC OF PAKISTAN AND THE KINGDOM OF DENMARK FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITHRESPECT TO TAXES ONINCOME

The Government of the Islamic Republic of Pakistan and the Government of the Kingdom of Denmark,

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

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

The following paragraph 1 of Article 6 of the MLI replaces the text referring to an intent to eliminate double taxation in the preamble of this Convention:

ARTICLE 6 OF THE MLI - PURPOSE OF A 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:

Article 1

Personal Scope

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

The following paragraph 1 of Article 11 of the MLI applies and supersede the provisions of this Convention:

ARTICLE 11 OF THE MLI – APPLICATION OF TAX AGREEMENTS TO RESTRICT A PARTY'S RIGHT TO TAX ITS OWN RESIDENTS

[*The Convention*] shall not affect the taxation by a [*Contracting State*] of its residents, except with respect to the benefits granted under {*paragraph 3 of Article 7, paragraph 2 of Article 9 or Article 20, Article 21, Article 22, Article 24, Article 25, Article 26 or Article 28* of [*the Convention*].

Article 2

Taxes Covered

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political sub-divisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income including taxes on gains from the alienation of movable 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 Pakistan:
(i) the income tax;
(ii) the super tax; and
(iii) the surcharge;
(hereinafter referred to as "Pakistan tax");

(b) In the case of Denmark:
(i) the income tax to the state (indkomstskatten till stazen);
(ii) the municipal income tax (den kommunale indkomstskat);
(iii) the income tax to the country municipalities (den amuskommunale indkomstskat);
(iv) the old age pension contribution(folkepensionsbidnaget);
(v) the seaman's tax(somandsskatten);
(vi) the special income tax (den saerlige indkomstskat);
(vii) the church tax(kirkeskatten);
(viii) the tax on dividends(udbytteskatten);
(ix) the contribution to the sickness "per diem" fund (bidrag til dagpengefonden);and
(x) the hydrocarbon tax(kulbrinteskatten);
(hereinafter referred to as "Danish tax").

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

Article 3

General Definitions

1. For the purposes of this Convention, unless the context otherwise requires:

(a) the terms "a Contracting State" and "the other Contracting State" mean Denmark or Pakistan, as the context requires;

(b) the term "Pakistan" used in the 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 and the international law is an area within which the rights of Pakistan with respect to the sea-bed and sub-soil and their natural resources may be exercised;

(c) the term "Denmark" means the Kingdom of Denmark including any area outside the territorial sea of Denmark which in accordance with international law has been or may hereafter be designated under Danish laws as an area within which Denmark may exercise sovereign rights for the purpose of exploring and exploiting the natural resources of the sea-bed or its sub-soil and the superjacent waters and with regard to

other activities for the economic exploitation and exploration of the area; the term does not comprise the Faroe Islands and Greenland;

(d) the term "person" includes an individual, a company and any other body or persons;

(e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

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

(g) the term "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;

(h) the term "competent authority" means:

(i) in Pakistan: the Central Board of Revenue or its authorized representative; and in the case of any territory to which the present Convention is extended under Article 29, the competent authority for the administration in such territory of the taxes to which the present Convention applies;
(ii) in Denmark: the Minister for Inland Revenue, Customs and Excise or his authorized representative.

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

Article 4

Resident

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management 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, then his status shall be determined as follows:

(a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);

(b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;

(c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;

(d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

[REPLACED by paragraph 1 of Article 4 of the MLI]

3. [Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.]

The following paragraph 1 of Article 4 of the MLI replaces paragraph 3 of Article 4 of this Convention:

ARTICLE 4 OF THE MLI – DUAL RESIDENT ENTITIES

Where by reason of the provisions of [*this 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 [*this 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 [*this Convention*] except to the extent and in such manner as may be agreed upon by the competent authorities of the [Contracting States].

Article 5

Permanent Establishment

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

(a) a place of management;
(b) a branch;
(c) an office;
(d) a factory;
(e) a workshop; and
(f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

[MODIFIED by paragraph 1 of Article 14 of the MLI]

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.]

The following paragraph 1 of Article 14 of the MLI applies and supersedes the provisions of this Convention:

ARTICLE 14 OF THE MLI – SPLITTING-UP OF CONTRACTS

For the sole purpose of determining whether the period(s) referred to in [*paragraph 3 of Article 5 of the Convention*] has been exceeded:

a) where an enterprise of a [*Contracting State*] carries on activities in the other [*Contracting State*] at a place that constitutes a building site, construction project, installation project or other specific project identified in [*paragraph 3 of Article 5 of the Convention*] {or carries on supervisory or consultancy activities in connection with such a place}, and these activities are carried on during one or more periods of time that, in the aggregate, exceed 30 days without exceeding the period(s) referred to in [*paragraph 3 of Article 5 of the Convention*]; and
b) where connected activities are carried on in that other [*Contracting State*] at {(or, where [*paragraph 3 of Article 5 of the Convention*] applies to supervisory or consultancy activities, in connection with)} the same building site, construction project, installation project or other specific project identified in [*paragraph 3 of Article 5 of the Convention*] during different periods of time, each exceeding 30 days, by one or more enterprises closely related to the first-mentioned enterprise,

these different periods of time shall be added to the aggregate period of time during which the first mentioned enterprise has carried on activities at that a building site, construction project, installation project or other specific project identified in [*paragraph 3 of Article 5 of the Convention*].

[MODIFIED by paragraph 2 and paragraph 4 of Article13 of the MLI]

4. [Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

(a) the use of facilities solely for the purpose of storage or display 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.]

The following paragraph 2 of Article 13 of the MLI applies with respect to paragraph 4 of Article 5 of this Convention:

ARTICLE 13 OF THE MLI – ARTIFICIAL AVOIDANCE OF PERMANENT ESTABLISHMENT STATUS THROUGH THE SPECIFIC ACTIVITY EXEMPTIONS (Option A)

Notwithstanding [*Article 5 of the Convention*], the term "permanent establishment" shall be deemed not to include:

a) the activities specifically listed in [*paragraph 4 of Article 5 of the Convention*] as activities deemed not to constitute a permanent establishment, whether or not that exception from permanent establishment status is contingent on the activity being of a preparatory or auxiliary character;
b) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any activity not described in subparagraph a);
c) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) and b),

provided that such activity or, in the case of subparagraph c), the overall activity of the fixed place of business, is of a preparatory or auxiliary character.

The following paragraph 4 of Article 13 of the MLI applies with respect to paragraph 4 of Article 5 of this Convention {as modified by paragraph 2 of Article 13 of the MLI}:

[*Paragraph 4 of Article 5 of this Convention {as modified by paragraph 2 of Article 13 of the MLI}*]shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same [*Contracting State*] and*:*

a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of [*Article 5 of this Convention*]; or

b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

provided that the business activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, constitute complementary functions that are part of a cohesive business operation.

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:

[REPLACED by paragraph 1 of Article 12 of the MLI]

(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;]

The following paragraph 1 of Article 12 of the MLI replaces subparagraph a) of paragraph 5 of Article 5 of this Convention:

ARTICLE 12 OF THE MLI - ARTIFICIAL AVOIDANCE OF PERMANENT ESTABLISHMENT STATUS THROUGH COMMISSIONNAIRE ARRANGEMENTS AND SIMILAR STRATEGIES

Notwithstanding [*Article 5 of this Convention*], but subject to [*paragraph 7 of Article 5 of the Convention as modified by paragraph 2 of Article 12 of the MLI*], where a person is acting in a [*Contracting State*] on behalf of an enterprise and, in doing so, habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the enterprise, and these contracts are:

a) in the name of the enterprise; or

b) for the transfer of the ownership of, or for the granting of the right to use, property owned by that enterprise or that the enterprise has the right to use; or

c) for the provision of services by that enterprise,

that enterprise shall be deemed to have a permanent establishment in that [*Contracting State*]in respect of any activities which that person undertakes for the enterprise unless these activities, if they were exercised by the enterprise through a fixed place of business of that enterprise situated in that [*Contracting State*], would not cause that fixed place of business to be deemed to constitute a permanent establishment under the definition of permanent establishment included in the provisions of [*Article 5 of this Convention.]*

(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; or

(c) habitually secures orders in the first-mentioned Contracting State exclusively, or almost exclusively, for the enterprise itself or for such other enterprises which are controlled by it or have a controlling interest in it. 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 7applies.

[REPLACED by paragraph 2 of Article 12 of the MLI]

6. [An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. 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.]

The following paragraph 2 of Article 12 of the MLI replaces paragraph 6 of Article 5 of this Convention:

ARTICLE 12 OF THE MLI - ARTIFICIAL AVOIDANCE OF PERMANENT ESTABLISHMENT STATUS THROUGH COMMISSIONNAIRE ARRANGEMENTS AND SIMILAR STRATEGIES

[*Paragraph 1 of Article 12 of the MLI*] shall not apply where the person acting in a [*Contracting State*] on behalf of an enterprise of the other [*Contracting State*] carries on business in the first-mentioned [*Contracting State*] as an independent agent and acts for the enterprise in the ordinary course of that business. Where, however, a person acts exclusively or almost exclusively on behalf of one or more enterprises to which it is closely related, that person shall not be considered to be an independent agent within the meaning of this paragraph with respect to any such enterprise.

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

The following paragraph 1 of Article 15 of the MLI applies to this Convention:

ARTICLE 15 OF THE MLI – DEFINITION OF A PERSON CLOSELY RELATED TO AN ENTERPRISE

For the purposes of the provisions of [*Article 5 of the Convention*], a person is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, a person shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise.

Article 6

Income From Immovable Property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources, ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall also apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 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 carried on in that other State of the same or similar kind as those effected through that permanent establishment.

2. Subject to the provisions of paragraph 3, 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. (a) In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for purposes of the permanent establishment including only those executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere, which are allowed under the provisions of the domestic law of the Contracting State in which the permanent establishment is situated.

(b) However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expense) by the permanent establishment to the head office of the enterprises 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 commissions, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on monies lent to the permanent establishment. Likewise, no account shall be taken in the determination of the profits of a permanent establishment of 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 monies lent to the head office of the enterprise or any of its other offices.

4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

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

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless

there is good and sufficient reason to the contrary.

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

Article 8

Shipping and Air Transport

1. Profits from the operation of 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. With respect to profits derived by the air transport consortium Scandinavian Airlines System (SAS), the provisions of paragraph 1 shall apply but only to such part of the profits as corresponds to the participation held in that consortium by Det Danske Luftfartsselskab (DDL), the Danish partner of Scandinavian Airlines System (SAS).

3. Profits from the operation of ships in international traffic may be taxed in the Contracting State in which the effective management of the enterprise is situated. However, such profits derived from sources within the other Contracting State may also be taxed in that other State in accordance with its domestic law, provided that for the first five years for which this Convention is effective, the tax so charged in that other State shall be reduced by 50 per cent and for the next five years it shall be reduced by 25 per cent.

4. The provisions of the foregoing paragraphs of this Article 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 enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State and taxes accordingly profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall, if necessary, consult each other.

Article 10

Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that State, but if the recipient company is the beneficial owner of the dividends the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

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. The amount of additional tax payable in a Contracting State for not depositing tax within time and the amount of any penalty, fee or charge payable in that State on account of a tax offence shall not be considered at the time of determining the maximum amount of tax that may be levied in the Contracting State of which the company paying the dividends is a resident.

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

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends

are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

Interest

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State if such resident is the beneficial owner of the interest.

2. However, such interest may be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 15 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph2,

(a) interest arising in Denmark and paid to the Pakistan Government or the State Bank of Pakistan shall be exempt from Danish tax;

(b) interest arising in Pakistan and paid to the Danish Government or the National Bank of Denmark shall be exempt from Pakistan tax;

(c) interest paid to a resident of Denmark on an approved loan (including loan in the form of deferred payments) made to a Pakistan enterprise shall be exempt from the Pakistan tax payable thereon unless that resident has a permanent establishment in Pakistan and such interest is attributable to that permanent establishment. The term "approved loan" means a loan approved by the Government of Pakistan for the purposes of this clause.

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 to 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 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:

(a) such permanent establishment or fixed base, or with

(b) business activities referred to under (c) of paragraph 1 of Article 7. In such cases the provisions of Article 7 or Article 15, as the case may be, shall apply.

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

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

Article 12

Royalties

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

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 12 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and films or tapes for radio or television broadcasting, any patent, trade mark, design or model plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent, personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with:

(a) such permanent establishment or fixed base, or

(b) business activities referred to under (c) of paragraph 1 of Article 7. In such cases the provisions of Article 7 or Article 15, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State

itself, a political sub-division, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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

Article 13

Fees for Technical Services

1. Fees for technical services arising in a Contracting State and paid to an enterprise of the other Contracting State may be taxed in that other 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 per cent 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 or rendering of any managerial, technical or consultancy services (including the provision by the enterprise of the services of technical or other personnel) but does not include consideration for any construction, assembly or like project referred to in paragraph 3 of Article 5 undertaken by the recipient or consideration which would be income falling under Article 15 of the Convention.

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

(a) such permanent establishment or fixed base; or

(b) business activities referred to under (c) of paragraph 1 of Article7.

In such cases the provisions of Article 7 or Article 15, as the case may be, shall apply.

5. Fees for technical services shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, a local authority or a resident of that State. Where, however, the person paying the fees for technical services, 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 obligation to make the payments was incurred, and the payments are borne by such permanent establishment or fixed base, then such fees for technical services shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the 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 Convention.

Article 14

Capital Gains

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

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other 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.

[REPLACED by Paragraph 4 of Article 9 of the MLI]

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 State.]

The following paragraph 4 of Article 9 of the MLI replaces paragraph 4 of Article 14 of this 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 (real property) situated in that other [*Contracting State*].

5. Gains from the alienation of shares, other than those mentioned in paragraph 4, representing a participation of 30 per cent in a company which is a resident of a Contracting State may be taxed in that State.

6. Gains from the alienation of any property other than those referred to in the preceding paragraphs shall be taxable only in the Contracting State of which the alienator is a resident.

Article 15

Independent Personal Services

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, when such income may also be taxed in the other Contracting State:

(a) if he has a fixed base regularly available to him in the other Contracting State for the 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 amounting to or exceeding in the aggregate 183 days in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State; or

(c) if the remuneration for his activities in the other Contracting State is paid by a resident of that Contracting State or is borne by a permanent establishment or a fixed base situated in that Contracting State and exceeds in the fiscal year Rs. 75,000 (seventy-five thousand) or its equivalent in Danish currency.

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 and 20, 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 derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

4. Where a resident of Denmark derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the Scandinavian Airlines System (SAS) consortium, such remuneration shall be taxable only in Denmark.

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 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 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 artist, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the 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.

Article 19

Pensions, Social Security Payments, Annuities and Alimony

1. Pensions, annuities and social security payments arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in the first-mentioned State.

2. Alimony and other similar payments arising in a Contracting State and paid to a resident of the other Contracting State who is subject to tax therein in respect thereof shall be taxable only in that other State.

3. Pensions, annuities and social security payments shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, a local authority or a resident of that State or a permanent establishment or fixed base situated therein.

Article 20

Government Service

1.

(a) Remuneration other than a pension, paid by a Contracting State or a political sub-division or a local authority thereof to an individual in respect of services rendered to that State or sub-division or authority, shall be taxable only in that State.

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

(i) is a national of that State; or
(ii) did not become a resident of that State solely for the purpose of rendering the services.

2. The provisions of Articles 16 and 17 shall apply to remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political sub-division or a local authority thereof.

Article 21

Students

An individual from one of the territories who is temporarily present in the other territory solely

(a) as a student at a university, college or school in such other territory;

(b) as a business apprentice, or

(c) as a recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific or educational organization

shall not be taxed in the other territory in respect of remittances from abroad for the purpose of his maintenance, education or training, in respect of a scholarship (including a grant, allowance or award) and in respect of any amount representing remuneration for services rendered in that other territory, provided such services are in connection with his studies or training or are necessary for the purpose of his maintenance.

Article 22

Offshore Activities

1. The Provisions of this Article have effect notwithstanding any other provision of this Convention.

2. A person who is a resident of a Contracting State and carries on activities offshore in the other Contracting State in connection with the exploration or exploitation of the sea-bed and sub-soil and their natural resources situated in that other State shall, subject to paragraphs 3 and 4 of this Article, be deemed in relation to those activities to be carrying on business in that other State through a permanent establishment or fixed base situated therein.

3. The provision of paragraph 2 shall not apply where the activities are carried on for a period not exceeding 30 days in the aggregate in any 12-month period. However, for the purposes of this paragraph:

   (a) activities carried on by an enterprise associated with another enterprise shall be regarded as carried on by the enterprise with which it is associated if the activities in question are substantially the same as those carried on by the last mentioned enterprise;

   (b) two enterprises shall be deemed to be associated if one is controlled directly or indirectly by the other, or both are controlled directly or indirectly by a third person or persons.

4. Profits derived by a resident of a Contracting State from the transportation of supplies or personnel to a location, or between locations, where activities in connection with the exploration or exploitation of the sea-bed and sub-soil and their natural resources are being carried on in a Contracting State, or from the operation of tugboats and other vessels auxiliary to such activities, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

5. (a) Subject to sub-paragraph (b) of this paragraph, salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment connected with the exploration or exploitation of the sea-bed and sub-soil and their natural resources situated in the other Contracting State may, to the extent that the duties are performed offshore in that other State, be taxed in that other State provided that the employment offshore is carried on for a period exceeding 30 days in the aggregate in any 12-month period.

(b) Salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft engaged in the transportation of supplies or personnel to a location, or between locations, where activities connected with the exploration or exploitation of the sea-bed and sub-soil and their natural resources are being carried on in a Contracting State or in respect of an employment exercised aboard tugboats or other vessels operated auxiliary to such activities, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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 Convention, shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 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 Convention and arising in the other Contracting State may also be taxed in that other State.

Article 24

Methods for Elimination of Double Taxation

Double taxation shall be avoided as follows:

1. In Pakistan: Subject to the provisions of the laws of Pakistan regarding the allowance as a credit against Pakistan tax, the amount of Danish tax payable, under the laws of Denmark and in accordance with the provisions of this Convention, whether directly or by deduction, by a resident of Pakistan, in respect of income from sources within Denmark which has been subjected to tax both in Pakistan and Denmark, shall be allowed as a credit against the Pakistan tax payable in respect of such income but in an amount not exceeding that proportion of Pakistan tax which

such income bears to the entire income chargeable to Pakistan tax.

2. In Denmark:

(a) Subject to the provisions of sub-paragraph (c), where a resident of Denmark derives income which, in accordance with the provisions of this Convention, may be taxed in Pakistan, Denmark shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Pakistan;

(b) Such deduction shall not, however, exceed the part of the income tax as computed before the deduction is given which is attributable to the income which may be taxed in Pakistan;

(c) Where a resident of Denmark derives income which, in accordance with the provisions of this Convention, shall be taxable only in Pakistan Denmark may include this income in the tax base, but shall allow as a deduction from the income tax that part of the income tax which is attributable to the income derived from Pakistan.

3.

(a) For the purposes of paragraph 2, tax payable in Pakistan by a resident of Denmark with respect to income covered by Articles 10 and 11, the term "tax in Pakistan" shall be deemed to include any amount which would have been payable as Pakistan tax under the laws of Pakistan and in accordance with this Convention for any year but for an exemption from, or reduction of, tax granted for that year under the provisions of clauses (75) to (82) of Part I of the Second Schedule of the Income Tax Ordinance, 1979. Similarly, for the purposes of the deduction referred to in (a) of paragraph 2 above with respect to income covered by Articles 12 and 13, the term "tax paid in Pakistan" shall be deemed to include any amount which would have been payable as Pakistan tax under the laws of Pakistan and in accordance with this Convention for any year but for an exemption from, or reduction of, tax granted for that year under a tax incentive scheme.

(b) For the purposes of paragraph 2, "tax paid in Pakistan" by a resident of Denmark with respect to income covered by Article 7 shall be deemed to include any amount which would have been payable as Pakistan tax under the laws of Pakistan and in accordance with this Convention for any year but for an exemption from, or reduction of, tax granted for that year under the provisions of sections 105A and 106 of the Income Tax Ordinance 1979 or under clauses (96), (98), (99), (100), (101), (102) and (126) of Part I of the Second Schedule to the said Ordinance.

This paragraph shall apply to any substantially similar provisions which may replace or be added to the aforesaid provisions of Pakistan law subject to the notification and approval of the competent authorities of the Contracting States. The provisions of this paragraph shall apply for the first ten years for which the Convention is effective, but the competent authorities of the Contracting States may consult each other to determine whether this period shall be extended.

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 State in the same circumstances are or may be subjected. This provision 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 term "nationals “means:

   (a) all individuals possessing the nationality of a Contracting State;

   (b) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State.

3. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances are or may be subjected.

4. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging the Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs, and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

5. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, paragraph 6 of Article 12, or paragraph 6 of Article 13 apply, interest, royalties, fees for technical services and other disbursement 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.

6. 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.

7. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 26

Mutual Agreement Procedure

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

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 Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the Contracting State of which he is a national.]

The 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*].

The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

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

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a commission consisting of representatives of the competent authorities of the Contracting States.

Article 27

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention, insofar as

the taxation thereunder is not contrary to the Convention, in particular for the prevention of fraud or 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 in the same manner as information obtained under the domestic laws of that State. However, if the information is originally regarded as secret in the transmitting State it 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 which are the subject of the Convention. Such persons or authorities shall use the information only for such purposes but may disclose the information in public court proceedings or in judicial decisions. The competent authorities shall, through consultation, develop appropriate conditions, methods and techniques concerning the matters in respect of which such exchanges of information shall be made including, where appropriate, exchanges of information regarding tax avoidance.

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

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 28

Diplomatic Agents and Consular Officers

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

The following paragraphs 8 to 13 of Article 7 of the MLI apply and supersede the provisions of this Convention:

ARTICLE 7 OF THE MLI – PREVENTION OF TREATY ABUSE
(Simplified Limitation on Benefits Provision)

Paragraph 8 of Article 7 of the MLI

Except as otherwise provided in the Simplified Limitation on Benefits Provision, a resident of a [*Contracting State*] shall not be entitled to a benefit that would otherwise be accorded by [*this Convention*], other than a benefit under *{paragraph 3 of Article 4, paragraph 2 of Article 9 or Article 25}* of [*the Convention*], unless such resident is a "qualified person", as defined in paragraph 9 [*of Article 7 of the MLI*] at the time that the benefit would be accorded.

Paragraph 9 of Article 7 of the MLI

A resident of a [*Contracting State*] shall be a qualified person at a time when a benefit would otherwise be accorded by [*the Convention*] if, at that time, the resident is:

a) an individual;

b) that [*Contracting State*], or a political subdivision or local authority thereof, or an agency or instrumentality of any such [*Contracting State*], political subdivision or local authority;

c) a company or other entity, if the principal class of its shares is regularly traded on one or more recognised stock exchanges;

d) a person, other than an individual, that:

(i) is a non-profit organisation of a type that is agreed to by the [*Contracting States*] through an exchange of diplomatic notes; or

(ii) is an entity or arrangement established in that [*Contracting State*] that is treated as a separate person under the taxation laws of that [*Contracting State*] and:

A) that is established and operated exclusively or almost exclusively to administer or provide retirement benefits and ancillary or incidental benefits to individuals and that is regulated as such by that [*Contracting State*] or one of its political subdivisions or local authorities; or

B) that is established and operated exclusively or almost exclusively to invest funds for the benefit of entities or arrangements referred to in subdivision A);

e) a person other than an individual, if, on at least half the days of a twelve-month period that includes the time when the benefit would otherwise be accorded, persons who are residents of that [*Contracting State*] and that are entitled to benefits of the Convention under subparagraphs a) to d) own, directly or indirectly, at least 50 per cent of the shares of the person.

Paragraph 10 of Article 7 of the MLI

a) A resident of a [*Contracting State*] will be entitled to benefits of [*the Convention*] with respect to an item of income derived from the other [*Contracting State*], regardless of whether the resident is a qualified person, if the resident is engaged in the active conduct of a business in the first-mentioned [*Contracting State*], and the income derived from the other [*Contracting State*] emanates from, or is incidental to, that business. For purposes of the Simplified Limitation on Benefits Provision, the term "active conduct of a business" shall not include the following activities or any combination thereof:
   i) operating as a holding company;

   ii) providing overall supervision or administration of a group of companies;

iii) providing group financing (including cash pooling); or

iv) making or managing investments, unless these activities are carried on by a bank, insurance company or registered securities dealer in the ordinary course of its business as such.

b) If a resident of a [*Contracting State*] derives an item of income from a business activity conducted by that resident in the other [*Contracting State*], or derives an item of income arising in the other [*Contracting State*] from a connected person, the conditions described in subparagraph a) shall be considered to be satisfied with respect to such item only if the business activity carried on by the resident in the first-mentioned [*Contracting State*] to which the item is related is substantial in relation to the same activity or a complementary business activity carried on by the resident or such connected person in the other [*Contracting State*]. Whether a business activity is substantial for the purposes of this subparagraph shall be determined based on all the facts and circumstances.

c) For purposes of applying this paragraph, activities conducted by connected persons with respect to a resident of a [*Contracting State*] shall be deemed to be conducted by such resident.

Paragraph 11 of Article 7 of the MLI

A resident of a [*Contracting State*] that is not a qualified person shall also be entitled to a benefit that would otherwise be accorded by [*the Convention*] with respect to an item of income if, on at least half of the days of any twelve-month period that includes the time when the benefit would otherwise be accorded, persons that are equivalent beneficiaries own, directly or indirectly, at least 75 per cent of the beneficial interests of the resident.

Paragraph 12 of Article 7 of the MLI

If a resident of a [*Contracting State*] is neither a qualified person pursuant to the provisions of paragraph9 [*of Article 7 of the MLI*], nor entitled to benefits under paragraph 10 or 11 [*of Article 7 of the MLI*], the competent authority of the other [*Contracting State*] may, nevertheless, grant the benefits of [*the Convention*], or benefits with respect to a specific item of income, taking into account the object and purpose of [*the Convention*], but only if such resident demonstrates to the satisfaction of such competent authority that neither its establishment, acquisition or maintenance, nor the conduct of its operations, had as one of its principal purposes the obtaining of benefits under [*the Convention*]. Before either granting or denying a request made under this paragraph by a resident of a [*Contracting State*], the competent authority of the other [*Contracting State*] to which the request has been made shall consult with the competent authority of the first-mentioned [*Contracting State*].

Paragraph 13 of Article 7 of the MLI

For the purposes of the Simplified Limitation on Benefits Provision:

a) the term "recognised stock exchange" means:
   i) any stock exchange established and regulated as such under the laws of either[*Contracting State*]; and
   ii) any other stock exchange agreed upon by the competent authorities of the [*Contracting States*];

b) the term "principal class of shares" means the class or classes of shares of a company which represents the majority of the aggregate vote and value of the company or the class or classes of beneficial interests of an entity which represents in the aggregate a majority of the aggregate vote and value of the entity;

c) the term "equivalent beneficiary" means any person who would be entitled to benefits with respect to an item of income accorded by a [*Contracting State*] under the domestic law of that [*Contracting State*], [*the Convention*] or any other international instrument which are equivalent to, or more favourable than, benefits to be accorded to that item of income under [*the Convention*]; for the purposes of determining whether a person is an equivalent beneficiary with respect to dividends, the person shall be deemed to hold the same capital of the company paying the dividends as such capital the company claiming the benefit with respect to the dividends holds;

d) with respect to entities that are not companies, the term "shares" means interests that are comparable to shares;

e) two persons shall be "connected persons" if one owns, directly or indirectly, at least 50 per cent of the beneficial interest in the other (or, in the case of a company, at least 50 per cent of the aggregate vote and value of the company's shares) or another person owns, directly or indirectly, at least 50 per cent of the beneficial interest (or, in the case of a company, at least 50 per cent of the aggregate vote and value of the company's shares) in each person; in any case, a person shall be connected to another if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same person or persons.

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)*

Notwithstanding any provisions of [*this Convention*], a benefit under [*this 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 [*this Convention*].

Article 29

Territorial Extension

1. This Convention may be extended, either in its entirety or with any necessary modifications, to any part of the territory of the Contracting States which is specifically excluded from the application of the Convention or to any State or territory for whose international relations Denmark or Pakistan is responsible, 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 constitutional procedures.

2. Unless otherwise agreed by both Contracting States, the termination of the Convention by one of them under Article 31 shall also terminate, in the manner provided for in that Article, the application of the Convention to any part of the territory of the Contracting States or to any State or territory to which it has been extended under this Article.

Article 30

Entry Into Force

1. This Convention shall enter into force on the latter of the dates on which the respective Governments have notified each other in writing that the formalities constitutionally required in their respective States have been complied with, and its provisions shall have effect:

   (a) in respect of taxes withheld at the source on amounts paid or remitted to non-residents on or after the first day of January in the calendar year next following that in which the Convention enters into force; and

   (b) in respect of other taxes for the assessment year beginning on or after the first day of January in the calendar year next following that in which the Convention enters into force and subsequent years.

2. The Convention between the Government of Pakistan and the Government of Denmark signed on 4th September 1961 for the avoidance of double taxation and prevention of fiscal evasion with respect of taxes on income shall terminate upon the entry into force of this Convention and cease to have effect as respects taxes on income to which the present Convention applies in accordance with the provision of paragraph 1 of this Article.

Article 31

Termination

This Convention shall remain in force indefinitely, but either of the Contracting States may, on or before 30th June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through the diplomatic channels, written notice of termination.

In such event the Convention shall cease to have effect,

(a) in respect of taxes withheld at the source, on amounts paid or remitted to non-residents, on or after the first day of January next following the notice of termination; and

(b) in respect of other taxes on income derived during the year relevant to the year of assessment, beginning on or after the first day of January next following the notice of termination.

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

Done at Copenhagen this 22nd day of October 1987 in duplicate in the English language.
FOR THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN:
(Signature)
FOR THE GOVERNMENT OF THE KINGDOM OF DENMARK:
(Signature)

PROTOCOL

At the signing of the Convention concluded today between the Government of the Kingdom of Denmark 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 undersigned have agreed upon the following additional provisions which shall form an integral part of the said Convention.

It is understood:

(a) That the onshore activities of drilling rigs shall constitute a permanent establishment in terms of Article 5 if the activities are carried on for a period of six months in any twelve-month period.

(b) That with reference to (e) of paragraph 4 of Article 5, a fixed place of business may be deemed not to constitute a permanent establishment if it contributes to the productivity of the enterprise but the services it performs are so remote from the actual realization of profits that it is difficult to allocate any profits to the said fixed place of business. Such services may include a place of business:

--solely for the purpose of publicity or advertising for the enterprise;
--solely for the purpose of scientific research.

In any case the fixed place of business shall constitute a permanent establishment if the activity performed at the said fixed place of business in itself forms an essential and significant part of the activity of the enterprise as a whole.

(c) That with reference to paragraph 3 of Article 8, the competent authorities of the Contracting States may consult each other for determining whether this period shall be extended and at what rate.

(d) That with reference to (c) of paragraph 3 of Article 11, interest received by an institution financed principally by the Government of the National Bank of Denmark is in any case exempt from tax in Pakistan if no tax is leviable on the interest in Denmark.

(e) That with reference to paragraph 4 of Article 14, the word "principally" used in the paragraph denotes that at least 50 per cent of the property of the company consists of immovable property.

(f) That paragraph 2 of Article 17 shall have meaning stated in the United Nations Model Double Taxation Convention between Developed and Developing Countries. The term "top-level managerial position" refers to a limited group of positions that involve primary responsibility for the general direction of the affairs of the company, apart from the activities of the directors. The term would cover a person acting as both a director and a top-level manager.

(g) That the term "annuity" in Article 19 means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time, under an

obligation to make the payments in return for adequate and full consideration in money or money's worth.

(h) That with reference to Article 25, where a Contracting State applies different tax rates for resident and non-resident persons or applies different rules for the computation of income of resident and non-resident persons or imposes an obligation regarding the with-holding of tax from payments to non-resident persons, it would not be construed as discrimination in the context of the Article.

(i) That all information concerning individuals or legal persons supplied under Article27 is secret under the law of the Contracting States and shall be treated as such.

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

Done at Copenhagen this 22nd day of October 1987 in duplicate in the English language.

FOR THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN:
(Signature)
FOR THE GOVERNMENT OF THE KINGDOM OF DENMARK:
(Signature)

GOVERNMENT OF PAKISTAN
REVENUE DIVISION
CENTRAL BOARD OF REVENUE

Islamabad, the 21st December, 2002.

N O T I F I C A T I O N
(Income Tax)

S.R.O.935(I)/2002.- WHEREAS the Government of the Islamic Republic of Pakistan and the Kingdom of Denmark have executed a Protocol-2 for Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income on the 2nd May,2002;

NOW, THEREFORE, in exercise of the powers conferred by section 107 of the Income Tax Ordinance, 2001 [XLIX of 2001], the Federal Government is pleased to direct that the provisions of the aforesaid Protocol-2, as set out in the Annexure to this notification, shall come into force on the dates specified in the said Protocol-2.

"PROTOCOL-2
TO THE CONVENTION BETWEEN THE ISLAMIC REPUBLIC OF PAKISTAN AND THE KINGDOM OF DENMARK 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 Kingdom of Denmark, desiring to conclude a further Protocol (Protocol-2) to amend the Convention between the Islamic Republic of Pakistan and the Kingdom of Denmark for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at Copenhagen on the 22nd day of October 1987 (hereinafter referred to as "the Convention");

Have agreed as follows:

Article 1

Subparagraph (b) of paragraph 3 of article 2 of the Convention shall be deleted and replaced by the following:

"b) In the case of Denmark:

(i) the income tax to the State (indkomstskatten tilstaten);
(ii) the income tax to the municipalities (den kommunale indkomstskat);
(iii) the income tax to the county municipalities (den amtskommunale indkomstskat);
(iv) taxes imposed under the Hydrocarbon Tax Act (skatter i henhold til kulbrinteskatteloven);

Article 2

Article 8 of the Convention shall be deleted and replaced by the following:

"Article 8
Profits from International Traffic

1. Profits from the operation of 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. With respect to profits derived by the Danish, Norwegian and Swedish air transport consortium the Scandinavian Airlines System (SAS), the provisions of paragraph 1 shall apply only to such proportion of the profits as corresponds to the participation held in that consortium by SAS Danmark A/S, the Danish partner of Scandinavian Airlines System.

3. Profits form the operation of ships in international traffic may be taxed in the Contracting State in which the effective management of the enterprise is situated. However, such profits derived from sources within the other Contracting State may also be taxed in that other State in accordance its domestic law, provided that the tax so charged in that other State shall be reduced by 50 percent.

4. The provisions of paragraph 1 to 3 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 3

Paragraph 3 of Article 24 of the Convention shall be deleted and replaced by the following:

3. (a) Where exemption from or reduction of Pakistani tax payable in accordance with the provisions of Article 7 in respect of profits derived by a Danish enterprise from a permanent establishment situated in Pakistan has been granted under Pakistani law, then, for the purpose of paragraph 2, deduction from Danish tax for Pakistani tax shall be allowed as if no such exemption or reduction had been granted, provided the permanent establishment is engaged in business activities (other than business activities in the financial sector) and that no more than 25 per cent of such profits consist of interest and gains from the alienation of shares and bonds or consist of profits derived from third state.

(b) Where dividends are paid by a company which is a resident of Pakistan to a person (being a company) which is a resident of Denmark, and which owns directly or indirectly not less than 25 per cent of the share capital of the first mentioned company, then such dividends shall be exempt from tax in Denmark, provided that the company paying the dividends is engaged in business activities (other than business activities in the financial sector) and that no more than 25 per cent of the company's profits consist of interest and gains from the alienation of shares and bonds or consist of profits derived from third state.

(c) For the purposes of paragraph 2, in the case of royalties paid as a consideration for the use of, or the right to use, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial or scientific experience, Pakistani tax shall be deemed to be paid at the rate provided for in paragraph 2 of Article 12, where the assets for which royalties are paid have been used in an activity (other than business activity in the financial sector) which has been carried out in Pakistan. However, Pakistani tax shall in no case be deemed to be paid at a rate exceeding the tax rate applicable to royalties under Pakistani law. This provisions shall not apply where royalties are paid between associated enterprises within the meaning of Article 9 or where royalties are paid in respect of assets which have been sold and leased back by the person paying the royalties.

(d) For the purposes of paragraph 2, tax payable in Pakistan by a resident of Denmark with respect to income covered by Article 13, the term "tax paid in Pakistan" shall be deemed to include any amount which would have been payable as Pakistan tax under the laws of Pakistan or in accordance with this Convention for any year but for exemption from, or reduction of, tax granted for that year

under a tax incentive scheme. However, Pakistani tax shall in no case be deemed to be paid at a rate exceeding the tax rate applicable to fees for technical services under Pakistan law.

Article 4

1. This Protocol shall enter into force on the latter of the dates on which the respective government have notified each other in writing that the formalities constitutionally required in their respective states have been complied with, and its provisions shall have effect:

(a) in respect of taxes withheld at the source on amounts paid or remitted to non-residents on or after the first day of January in the calendar year next following that in which the Protocol enters into force; and

(b) in respect of other taxes for the assessment year beginning on or after the first day of January in the calendar year next following that in which the Protocol enters into force and subsequent years.

2. This Protocol shall remain in force as long as the Convention remains in force.

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

Done in duplicate at Islamabad this 2nd day of May 2002 in the English language.

Sd/
For the Government of the
Kingdom of Denmark
Mr. Sven B. Bjerregaard
Charge' d' Affaires e.p.

Sd/
For the Government of the
Islamic Republic ofPakistan
Mr. Riaz Ahmad Malik
Secretary RevenueDivision/
Chairman, Central Board of Revenue"

[C.No.2(19)Int.Taxes/74 (Den-DTA)]

Sd/
(Vakil Ahmad Khan)
Additional Secretary/Member (Direct Taxes)