SYNTHESISED TEXT
OF THE MLI AND THE CONVENTION BETWEEN THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN AND THE GOVERNMENT OF THE REPUBLIC OF INDONESIA 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 Republic of Indonesia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed on 7 October 1990 (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 Republic of Indonesia on 7 June 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 18 December 2020 and of the MLI position of the Republic of Indonesia submitted to the Depositary upon ratification on 28 April 2020. 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made to parts of provisions of the MLI that describe existing provisions of the Convention: descriptive language has been replaced by legal references of the existing provisions to ease the readability.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 webpages of the Federal Board of Revenue (FBR) https://fbr.gov.pk/dtaa/132245/132249

The MLI position of the Islamic Republic of Pakistan submitted to the Depositary upon ratification on 18 December 2020 and of the MLI position of the Republic of Indonesia submitted to the Depositary upon ratification on 28 April 2020 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 Republic of Indonesia in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 18 December 2020 for the Islamic Republic of Pakistan and 28 April 2020 for the Republic of Indonesia.

Entry into force of the MLI: 1 April 2021 for the Islamic Republic of Pakistan and 1 August 2020 for the Republic of Indonesia.

Pursuant to Article 35(3) of the MLI, solely for the purpose of its own application of Article 35(1)(b) and 5(b), Indonesia 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”.

As a result of the reservation made by Indonesia pursuant to Article 35(6) of the MLI, Article 35(4) will not apply. Hence, the general rules determine the date of the entry into effect of Article 16 of the MLI.

Entry into effect of the MLI: Pursuant to Indonesia's position on Article 35(7) of the MLI, the date of entry into effect of the MLI depends on the receipt by the Depositary of the notification by Indonesia that it has completed its internal procedures for the entry into effect of the provisions of the MLI with respect to this Agreement. As per the OECD matching database, Indonesia has not yet made notification(s) under Article 35 (7)(b) of the MLI.

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.

AGREEMENT BETWEEN THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN AND THE GOVERNMENT OF THE REPUBLIC OF INDONESIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES OF INCOME

The Government of the Islamic Republic of Pakistan and the Government of the Republic of Indonesia.

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

[Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.]

The following paragraph 1 of Article 6 of the MLI 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 **[***the Convention***]** for the indirect benefit of residents of third jurisdictions),

Have agreed as follows:

Article 1

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

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 Agreement 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 Agreement shall apply are:

(a) in Pakistan:

(i) the income tax;
(ii) the super tax; and
(iii) the surcharge.
(hereinafter referred to as “Pakistan tax”).

(b) in Indonesia:
the income tax (pajak-penghasilan),
(hereinafter referred to as "Indonesian tax").

4. This Agreement shall also apply to any identical or substantially similar taxes (including surcharge in Indonesia) which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes referred to in paragraph 3. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws within a reasonable period of time after such changes.

Article 3

General Definitions

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

(a) the term “Pakistan” used in the geographical sense means Pakistan as defined in the Constitution of the Islamic Republic of Pakistan and includes any area outside the territorial waters of Pakistan which under the laws of Pakistan and international law is an area within which Pakistan exercises sovereign rights and exclusive jurisdiction with respect to the natural resources of the seabed and subsoil and superjacent waters;

(b) the term “Indonesia” comprises the territory of the Republic of Indonesia as defined in its laws and the adjacent areas over which the Republic of Indonesia

has sovereign rights or jurisdiction in accordance with the provisions of the United Nations Convention on the law of the Sea, 1982;

(c) the terms “a Contracting State” and “the other Contracting State” mean Pakistan or Indonesia, as the context requires;

(d) the term “tax” means Pakistani tax or, Indonesian tax, as the context requires;

(e) the term “person” includes an individual, a company and any other body of persons;

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

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

(h) the term “national” means all individuals having the nationality of a Contracting State and all legal persons, partnerships and other bodies of persons deriving their status as such from the law in force in a Contracting State;

(i) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(j) the term “competent authority” means, in the case of Pakistan, the Central Board of Revenue or its authorised representative and in the case of Indonesia, the Minister of Finance or his authorised representative.

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

Article 4

Resident

1. For the purposes of this Agreement, the term “resident of a Contracting State” means any person who, under the laws of that Contracting State, is liable to tax therein by reason of his domicile, residence, place of effective management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.

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

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

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

(c) if he has an habitual abode in both Contracting States or in neither of them, 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 Contracting State in which the place of effective management of its business is situated. However, where the place of effective management of the business or such person cannot be determined, then the competent authorities of the Contracting States shall determine by mutual agreement the State of which the said person shall be deemed to be a resident for the purposes of this Agreement.]

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

Article 5

Permanent Establishment

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

2. The term “permanent establishment” includes especially:

(a) a place of management;
(b) a branch;
(c) an office;
(d) a factory;
(e) a workshop;
(f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
(g) a warehouse;
(h) a permanent sales exhibition; and
(i) premises for receiving and soliciting orders.

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 three 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 provisions of paragraphs 1 to 3, the term "permanent establishment" shall be deemed not to include:

(a) the use of facilities, solely for the purpose of storage, 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 advertising, for the supply of information or for similar activities which have a preparatory or auxiliary character, for the enterprise and which are performed free of charge and not for purpose of profits.]

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,*] 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 the 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 this paragraph;] or

The following paragraph 1 of Article 12 of the MLI replaces paragraph {5} of 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.

6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.

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

7. [An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other Contracting State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.]

The following paragraph 2 of Article 12 of the MLI replaces paragraph 7 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.

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

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 and forestry) situated in the other Contracting State may be taxed in that other Contracting State.

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

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

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to:

(a) that permanent establishment;

(b) sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or

(c) other business activities 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 attributable 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 the purposes of the permanent establishment including only those executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere, 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 expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or

other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

4. 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 head-office of the enterprise.

6. For the purposes of paragraph 1 to 5, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

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

Article 8

Shipping and Air Transport

1. Profits of an enterprise of a Contracting State from the operation of aircraft in international traffic should be taxable in that State.

2. Profits from sources within a Contracting State derived by an enterprise of the other Contracting State from operation of ships may be taxed in the first-mentioned State in accordance with its domestic laws. The profits from sources within a Contracting State shall consist of the amount paid or payable to, or received or deemed to be received by the enterprise of the other Contracting State or on its behalf, on account of carriage of passengers, livestock, mail or goods shipped at any port of the first-mentioned State.

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

Article 9

Associated Enterprises

1. Where:

(a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises then any 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.

[REPLACED by paragraph 1 of Article 17 of the MLI]

2. [Where a Contracting State includes in the profits of an enterprise of that other Contracting 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 Contracting State shall make an appropriate adjustment to the amount of tax charged thereon on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall, if necessary consult each other.]

The following paragraph 1 of Article 17 of the MLI replaces paragraph 2 of Article 9 of this Convention:

ARTICLE 17 OF THE MLI– CORRESPONDING ADJUSTMENTS

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

Article 10

Dividends

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

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

(a) 10 per cent of the gross amount of the dividends if the recipient is a company which owns directly at least 25 per cent of the capital of the company paying the dividends;

(b) 15 per cent of the gross amount of the dividends in all other cases.

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

3. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

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

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other Contracting State may not impose any tax on the dividends paid by the company, except in so far as such dividends are paid to a resident of that other Contracting State or in so far 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 Contracting State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other Contracting State.

6. Notwithstanding any other provision of this Agreement where a company which is a resident of a Contracting State has a permanent establishment in the other Contracting State, the profits of the permanent establishment may be subjected to an additional tax in that other State in accordance with its law, but the additional tax so charged shall not exceed 10 per cent of the amount of such profits after deducting therefrom income tax and other taxes on income imposed thereon in that 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 Contracting State.

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

3. Notwithstanding the provisions of paragraphs 1 and 2, interest arising in a Contracting State shall be exempt from tax in that State if it is derived and beneficially owned by:

(i) the Government of the other Contracting State or subject to the agreement of the competent authorities, a local authority thereof or any agency or instrumentality of that State;

(ii) the Central Bank of the other Contracting State.

4. The term "interest" as used in this Article means income from debt-claims of every kind including interest on deferred payment sales, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other Contracting State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

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

7. Where by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the

provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 12

Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other 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 15 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, know-how, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

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

5. Royalties shall be deemed to arise in a Contracting State when the payer is the Government of that Contracting State, a local authority thereof or a resident of that Contracting State. Where, the person paying the royalties, whether he is a resident of a Contracting State or not has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

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

Article 13

Fees for Technical Services

1. Fees for technical services arising in a Contracting State and paid to 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 15 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 activities mentioned in sub-para (3) of paragraph 5 or consideration which would be income falling under Article 15 of the Agreement.

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

(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. Fee 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, and the services are rendered for the said payer or the services are rendered in 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, then such fees for technical services shall be deemed to arise in the State in which the permanent establishment 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 Agreement.

Article 14

Capital Gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property as defined in Article 6 or from the alienation of shares in a company the assets of which consist principally of such property, may be taxed in the Contracting State in which the said property is situated.

The following paragraph 4 of Article 9 of the MLI applies and supersedes the provisions 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*].

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 (a lone or together with the whole enterprise) or of such a fixed base, may be taxed in that other Contracting State.

3. Gains derived by a resident of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in that State.

4. Gains derived by a resident of a Contracting State from the alienation of any property other than that referred to in paragraphs 1 to 3 and arising in the other Contracting State may be taxed in that other Contracting State.

Article 15

Independent Personal Services

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

(a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or

(b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 90 days in any twelve-month period; in that case only so much of the income as is derived from his activities performed in that other Contracting State may be taxed in that other Contracting State; 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, in that case, only so much of the remuneration as derived therefrom may be taxed in that other Contracting State.

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

Article 16

Dependent Personal Services

1. Subject to the provisions of Articles 17, 19, 20 and 22, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that Contracting State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Contracting State.

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

(a) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 90 days in any twelve-month period concerned; and

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

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

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated by an enterprise of a Contracting State in international traffic, shall be taxable only in that State.

Article 17

Director's Fees

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

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

Article 18

Artistes and Athletes

1. Notwithstanding the provisions of Articles 15 and 16, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television on artiste, or a musician, or as an athlete, from personal activities as such exercised in the other Contracting State, may be taxed in that other Contracting State.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from activities referred to in paragraph 1 performed under a cultural agreement or arrangement between the Contracting States shall be exempt from tax in the Contracting State in which the activities are exercised if the visit to that State is wholly or substantially supported by funds of the other Contracting State.

Article 19

Pensions and Annuities

1. Any pension, other than a pension referred to in paragraph 2 of Article 20, or any annuity derived by a resident of a Contracting State from sources within the other Contracting State may be taxed only in the first-mentioned Contracting State.

2. Notwithstanding the provisions of paragraph 1, pensions paid out of a pension fund approved by the Government of a Contracting State (or its authorised Agency) to a resident of the other Contracting State in consideration of past employment may be taxed in the first-mentioned State.

3. The term "pension" means a periodic payment made in consideration of past services or by way of compensation for injuries received in the course of performance of services.

4. The term "annuity" 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.

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 subdivision 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 other Contracting state and the individual is a resident of that other Contracting state who:

(i) is a national of that other contracting state; or

(ii) did not become a resident of that other Contracting State solely for the purpose of rendering the services.

2.

(a) Any pension paid by, or out of funds to which contributions are made by, the Government of a Contracting state or a local authority thereof to an individual in respect of services rendered to the Government of that Contracting state or a local authority thereof shall be taxable only in that Contracting state.

(b) However, such pension shall be taxable only in the other Contracting state if the individual is a resident of, and a national of, that other state.

3. The provisions of Articles 16, 17, 18, and 19 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by the Government of a Contracting state or a local authority thereof.

Article 21

Teachers and Researchers

1. An individual who is, or immediately before visiting a contracting state was a resident of the contracting state and is present in the first-mentioned Contracting state for the primary purpose of teaching, giving lectures or conducting research at a university, college, school or educational institution or scientific research institution accredited by the Government of the first-mentioned state shall be exempt from tax in the first-mentioned contracting state, for a period of two years from the date of his first arrival in the first-mentioned contracting state, in respect of remuneration for such teaching,

lectures or research, or income received by him from sources outside the first-mentioned contracting state.

2. This Article shall not apply to income from research if such research is under taken primarily for the private benefit of a specific person or persons.

Article 22

Students and Trainees

A student, business apprentice or trainee who is or was immediately before visiting a contracting state a resident of the other contracting state and who is present in the first-mentioned state solely for the purpose of his education or training shall be exempt from tax for a period or periods aggregating to five years from the date of his arrival in that first-mentioned state on the following payments or income received or derived by him for the purpose of his maintenance education or training:

(a) payment derived from sources outside that contracting state for the purpose of his maintenance education, study, research or training;

(b) grants, scholarships or award supplied by the Government or a scientific educational, cultural or other tax-exempt organization; and

(c) income not exceeding a sum of U.S. $ 1200 per annum or its equivalent in Pakistani or Indonesian currency, as the case may be, derived from personal services performed in that Contracting state.

Article 23

Other Income

1. Items of income of a resident of a contracting state, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that contracting state.

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

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

3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a contracting state not dealt with in the foregoing Articles of this Agreement and arising in the other contracting state may be taxed in that other Contracting state.

Article 24

Methods for Elimination of Double Taxation

1. In Pakistan, double taxation shall be eliminated as follows:--

Subject to the provisions of the laws of Pakistan, regarding the allowance as a credit against Pakistan tax, the amount of Indonesian tax payable, under the laws of Indonesia and in accordance with the provisions of this Agreement, whether directly or by deduction, by a resident of Pakistan, in respect of income from sources within Indonesia which has been subject to a tax both in Pakistan and Indonesia 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 Indonesia, double taxation shall be eliminated as follows:--

Where a resident of Indonesia derives income from Pakistan and such income may be taxed in Pakistan in accordance with the provisions of this Agreement, the amount of Pakistan tax payable in respect of the income shall be allowed as a credit against the Indonesian tax imposed on that resident. The amount of credit, however, shall not exceed that part of the Indonesian tax which is appropriate to such income.

3. Notwithstanding anything contained in the foregoing paragraphs 1 and 2, where any profits, income or chargeable gains are not subject to tax or are taxed at a reduced rate in one of the Contracting States by virtue of any exemption or concession allowed under the laws of that State or in accordance with this Agreement and the same profits, income or chargeable gains are subject to tax in the other Contracting State, credit shall be allowed in the later mentioned State for the whole of the tax, which would have been payable on the said profits, income or chargeable gains had the same profits, income or chargeable gains not been exempted from tax or had it not been taxed at a reduced rate in the first-mentioned State.

Article 25

Non-Discrimination

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

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

3. Except where the provisions of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5. Nothing contained in the preceding paragraphs of this Article shall be construed:--

(i) as obliging either Contracting State, to grant to persons not resident in its territory those personal allowances and reliefs for tax purposes which are by law available only to persons who are so resident;

(ii) as affecting any provisions of the law of either Contracting State regarding the imposition of tax on a non-resident person; or

(iii) as affecting any provision of the law of Pakistan regarding the grant of rebate of tax to companies fulfilling specific requirements regarding the declaration and payment of dividends.

Article 26

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national.

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

[The case must be presented within two years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.]

The following second sentence of paragraph 1 of Article 16 of the MLI replaces the second sentence of paragraph 1 of Article 26 of this Convention:

ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

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 provisions of this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting State.

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

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. The competent authorities shall through consultations develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this Article.

Article 27

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such Information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement, in so far as the taxation thereunder is not contrary to this Agreement, in particular for the prevention of evasion of such taxes. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Agreement. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

(a) to carry out administrative measures at variance with the laws and 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 (order public).

Article 28

Diplomatic Agent and Consular Officer

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

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

Entry Into Force

1. This Agreement shall enter into force on the later of the dates on which the respective Governments may notify each other in writing that the formalities constitutionally required in the respective States have been complied with.

2. This Agreement shall have effect:--

(a) In Pakistan:

(i) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of July of the year in which the Agreement enters into force; and

(ii) in respect of other taxes for assessment years beginning on or after the first day of July in which the Agreement enters into force.

(b) In Indonesia:

(i) in respect of tax withheld at the source on or after the first day of January of the year in which the Agreement enters into force; and

(ii) in respect of other taxes for assessment years beginning on or after the first day of January of the year in which the Agreement enters into force.

Article 30

Termination

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

Done at Islamabad, on the 7th day of October, 1990 in duplicate in the English language.
FOR THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN:
Ahadullah Akmal
Chairman, Central Board of Revenue
FOR THE GOVERNMENT OF THE REPUBLIC OF INDONESIA:
Karjadi Sindunegoro
Ambassador Extraordinary and Plenipotentiary
Sajjad Hassan,
Additional Secretary