

**SYNTHESISED TEXT  
OF THE MLI AND THE CONVENTION BETWEEN  
THE ISLAMIC REPUBLIC OF PAKISTAN AND JAPAN  
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 Japan and the Islamic Republic of Pakistan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed on January 23, 2008 (hereinafter referred to as “the Convention”), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by Japan and Pakistan on June 7, 2017 (hereinafter referred to as “the MLI”).

This document was prepared on the basis of the reservations and notifications submitted to the Depository (the Secretary-General of the Organisation for Economic Co-operation and Development) by Japan on September 26, 2018 and by Pakistan on December 18, 2020 respectively.

The sole purpose of this document is to facilitate the understanding of the application of the MLI to the Convention and the document does not constitute a source of law. The authentic texts of the Convention and the MLI are the only legal texts applicable.

The provisions of the MLI that are applicable with respect to the provisions of the Convention are included in boxes throughout this document in the context of the relevant provisions of the Convention.

In this document, 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 changes from “Covered Tax Agreement” to “Convention” and changes from “Contracting Jurisdiction” to “Contracting State”). Similarly, changes have been made to parts of provisions of the MLI that describe existing provisions of the Convention by replacing such descriptive language with the article and paragraph numbers or language of the existing provisions. These changes are intended to increase the readability of the document and are not intended to change the substance of the provisions of the MLI.

**References**

Unless the context otherwise requires, references made to the provisions of the Convention will be understood as referring to the provisions of the Convention as modified by the provisions of the MLI.

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 Depository upon ratification on 18 December 2020 and of the MLI position of Japan submitted to the Depository upon acceptance on 26 September 2018 can be found on the MLI Depository (OECD) webpage <http://www.oecd.org/tax/treaties/beps-ml-signatories-and-parties.pdf>

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

### Entry into force and entry into effect of the MLI

The MLI enters into force for Japan on January 1, 2019 and for Pakistan on April 1, 2021 and has effect as follows:

- (a) The provisions of the MLI shall have effect in each Contracting State with respect to the Convention:
  - (i) in Japan:
    - (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 Japan, for taxes levied with respect to taxable periods beginning on or after October 1, 2021; and
  - (ii) in Pakistan:
    - (aa) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 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, 2021.
- (b) Notwithstanding (a), Article 16 (Mutual Agreement Procedure) of the MLI shall have effect with respect to the Convention for a case presented to the competent authority of a Contracting State on or after April 1, 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 JAPAN  
FOR THE AVOIDANCE OF DOUBLE TAXATION  
AND THE PREVENTION OF FISCAL EVASION  
WITH RESPECT TO TAXES ON INCOME**

The Government of Japan and the Government of the Islamic Republic of Pakistan,

*The following preamble text described in paragraph 3 of Article 6 of the MLI is included in the preamble of the Convention:*

*Article 6 – Purpose of a Covered Tax Agreement*

Desiring to further develop their economic relationship and to enhance their co-operation in tax matters,

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

*The following preamble text described in paragraph 1 of Article 6 of the MLI replaces the preamble language of the Convention referring to “Desiring to conclude a new Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,”:*

*Article 6 – Purpose of a Covered Tax Agreement*

Intending to eliminate double taxation with respect to the taxes covered by [*the 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  
PERSONS COVERED**

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

**Article 2  
TAXES COVERED**

1. The existing taxes to which this Convention shall apply are:
  - (a) in the case of Japan:
    - (i) the income tax; and
    - (ii) the corporation tax

(hereinafter referred to as “Japanese tax”);

- (b) in the case of Pakistan, the income tax

(hereinafter referred to as “Pakistan tax”).

2. This 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, those referred to in paragraph 1. The competent authorities of the Contracting States shall notify each other of any significant changes that 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 Convention, unless the context otherwise requires:
- (a) the term “Japan”, when used in a geographical sense, means all the territory of Japan, including its territorial sea, in which the laws relating to Japanese tax are in force, and all the area beyond its territorial sea, including the seabed and subsoil thereof, over which Japan has sovereign rights in accordance with international law and in which the laws relating to Japanese tax are in force;
  - (b) the term “Pakistan”, when used in a geographical sense, means the territory 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 water;
  - (c) the terms “a Contracting State” and “the other Contracting State” mean Japan or Pakistan, as the context requires;
  - (d) the term “tax” means Japanese tax or Pakistan 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 that 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 “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;

- (i) the term “national” means:
  - (i) any individual possessing the nationality of a Contracting State; and
  - (ii) any juridical person created or organised under the laws of a Contracting State; and
  - (iii) any organisation without juridical personality treated for the purposes of tax as a juridical person created or organised under the laws of a Contracting State; and
- (j) the term “competent authority” means:
  - (i) in the case of Japan, the Minister of Finance or his authorised representative; and
  - (ii) in the case of Pakistan, the Federal Board of Revenue or its authorised representative.

2. As regards the application of this Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has at that time under the laws of that Contracting State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that Contracting State prevailing over a meaning given to the term under other laws of that Contracting State.

#### **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 Contracting State, is liable to tax therein by reason of his domicile, residence, place of head or main office, place of management or any other criterion of a similar nature, and also includes that Contracting State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that Contracting State in respect only of income from sources in that Contracting 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 only 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 only of the Contracting State with which his personal and economic relations are closer (centre of vital interests);

- (b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he does not have a permanent home available to him in either Contracting State, he shall be deemed to be a resident only of the Contracting State in which he has an habitual abode;
- (c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident only of the Contracting State of which he is a national;
- (d) if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

**[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 the competent authorities of the Contracting States shall determine by mutual agreement the Contracting State of which that person shall be deemed to be a resident for the purposes of this Convention, having regard to the place of its head or main office, its place of effective management and any other relevant factors.]

*The following paragraph 1 (as modified by subparagraph e) of paragraph 3) of Article 4 of the MLI replaces paragraph 3 of Article 4 of the Convention:*

*Article 4 – Dual Resident Entities*

Where by reason of the provisions of *paragraph 1 of Article 4* 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 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;
- (f) a warehouse; and
- (g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site, a construction, assembly or installation project or supervisory activities in connection therewith, constitute a permanent establishment only if it lasts more than six months.

**[MODIFIED by paragraph 2 of Article 13 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;
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.]

*The following paragraph 2 of Article 13 of the MLI replaces paragraph 4 of Article 5 of the Convention:*

*Article 13 – Artificial Avoidance of Permanent Establishment Status through the Specific Activity Exemptions*

Notwithstanding the provisions of [Article 5] of [the Convention], the term “permanent establishment” shall be deemed not to include:

- a)
  - i) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;
  - ii) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;
  - iii) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
  - iv) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- 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 to the Convention:*

*Article 13 – Artificial Avoidance of Permanent Establishment Status through the Specific Activity Exemptions*

[Paragraph 4 of Article 5] of [the 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 the provisions of paragraph 6 apply - is acting in a Contracting State on behalf of an 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, if such a person:

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

- (a) [has, and habitually exercises, in that Contracting State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph;] or

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

*Article 12 – Artificial Avoidance of Permanent Establishment Status through  
Commissionnaire Arrangements and Similar Strategies*

Notwithstanding the provisions of [Article 5] of [the Convention], but subject to 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 [the Convention].

- (b) has no such authority, but habitually maintains in that Contracting State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

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

6. [An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that 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.]

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

*Article 12 – 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 Contracting 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 the Convention:*

*Article 15 – 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 Contracting State.
2. The term "immovable property" shall have the meaning which it has under the laws of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

## **Article 7 BUSINESS PROFITS**

1. The profits of an enterprise of a Contracting State shall be taxable only in that Contracting 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 that other Contracting State but only so much of them as is attributable to 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. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere.

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

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

6. For the purposes of the preceding paragraphs of this Article, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

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

## **Article 8** **INTERNATIONAL TRAFFIC**

1. Profits from the operation of ships or aircraft in international traffic carried on by an enterprise of a Contracting State shall be taxable only in that Contracting State.

2. Notwithstanding the provisions of Article 2 and subparagraph (d) of paragraph 1 of Article 3, provided that no political subdivision or local authority of Pakistan levies a tax similar to the local inhabitant taxes or the enterprise tax in Japan in respect of the operation of ships or aircraft in international traffic carried on by an enterprise of Japan, an enterprise of Pakistan shall be exempt from the local inhabitant taxes and the enterprise tax in Japan in respect of the operation of ships or aircraft in international traffic.

3. The provisions of the preceding 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 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 accordance with the provisions of paragraph 1, 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 where the competent authorities of the Contracting States agree, upon consultation, that all or part of 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 agreed profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention.]

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

*Article 17 – 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 beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:

- (a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company that has owned directly, for the period of six months ending on the date on which entitlement to the dividends is determined, at least 50 per cent of the voting shares of the company paying the dividends;
- (b) 7.5 per cent of the gross amount of the dividends if the beneficial owner is a company that has owned directly, for the period of six months ending on the date on which entitlement to the dividends is determined, at least 25 per cent of the voting shares of the company paying the dividends;
- (c) 10 per cent of the gross amount of the dividends in all other cases.

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

3. The provisions of subparagraphs (a) and (b) of paragraph 2 shall not apply in the case of dividends paid by a company which is entitled to a deduction for dividends paid to its beneficiaries in computing its taxable income in Japan.

4. 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 which is subjected to the same taxation treatment as income from shares by the tax laws of the Contracting State of which the company making the distribution is a resident.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other Contracting State independent personal services from a fixed base situated therein, and the holding in

respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or 15, as the case may be, shall apply.

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

## **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 beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be taxable only in the other Contracting State if:

- (a) the interest is beneficially owned by the Government of that other Contracting State, a political subdivision or local authority thereof, or the central bank of that other Contracting State or any institution wholly owned by the Government of that other Contracting State; or
- (b) the interest is beneficially owned by a resident of that other Contracting State with respect to debt-claims guaranteed or insured by any institution wholly owned by the Government of that other Contracting State.

4. For the purposes of paragraph 3, the terms "the central bank" and "institution wholly owned by the Government" mean:

- (a) in the case of Japan:
  - (i) the Bank of Japan;
  - (ii) the Japan Bank for International Cooperation;
  - (iii) the Japan International Cooperation Agency;
  - (iv) the Nippon Export and Investment Insurance; and

(v) any other institution the capital of which is wholly owned by the Government of Japan as may be agreed upon from time to time between the Governments of the Contracting States through an exchange of diplomatic notes.

(b) in the case of Pakistan:

(i) the State Bank of Pakistan; and

(ii) any other institution the capital of which is wholly owned by the Government of Pakistan as may be agreed upon from time to time between the Governments of the Contracting States through an exchange of diplomatic notes.

5. 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, and all other income that is subjected to the same taxation treatment as income from money lent by the tax laws of the Contracting State in which the income arises.

6. The provisions of paragraphs 1 and 2 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 15, as the case may be, shall apply.

7. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that Contracting State. here, 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 that Contracting State in which the permanent establishment or fixed base is situated.

8. 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 Contracting State.
2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that Contracting State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 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, trademark, 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 15, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that Contracting State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

**Article 13**  
**FEEES FOR TECHNICAL SERVICES**

1. Fees for technical services arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State.

2. However, such fees for technical services may also be taxed in the Contracting State in which they arise and according to the laws of that Contracting State, but if the beneficial owner of the fees for technical services is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the fees for technical services.

3. The term “fees for technical services” as used in this Article means payments of any kind received as a consideration for the rendering of any managerial, technical or consultancy services including the services of technical or other personnel, but does not include payments of any kind received as:

- (a) a consideration for any construction, assembly, installation or any other similar project, or supervisory activities in connection therewith;
- (b) a consideration for the rendering of independent personal services referred to in Article 15; or
- (c) a consideration of an employment referred to in Article 16.

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 and the contracts in respect of which the fees for technical services are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

5. Fees for technical services shall be deemed to arise in a Contracting State when the payer is a resident of that Contracting 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 liability to pay the fees for technical services was incurred, and such fees for technical services are borne by such permanent establishment or fixed base, then such fees for technical services 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 fees for technical services, having regard to the contracts 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 14 CAPITAL GAINS**

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

**[REPLACED by paragraph 4 of Article 9 of the MLI]**

2. [Gains derived by a resident of a Contracting State from the alienation of shares in a company or of interests in a partnership or trust may be taxed in the other Contracting State where the shares or the interests derive at least 50 per cent of their value directly or indirectly from immovable property referred to in Article 6 and situated in that other Contracting State.]

*The following paragraph 4 of Article 9 of the MLI replaces paragraph 2 of Article 14 of the Convention:*

*Article 9 – Capital Gains from Alienation of Shares or Interests of Entities  
Deriving their Value Principally from Immovable Property*

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

3. Unless the provisions of paragraph 2 are applicable, gains derived by a resident of a Contracting State from the alienation of shares issued by a company being a resident of the other Contracting State may be taxed in that other Contracting State, if shares owned by the alienator (together with such shares owned by any other related or connected persons as may be aggregated therewith) amount to at least 25 per cent of the total issued shares of such company at any time during the tax year or taxable year in which the alienation takes place.

4. 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 a fixed

base, may be taxed in that other Contracting State.

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

6. Gains from the alienation of any property other than that referred to in the preceding paragraphs of this Article 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 Contracting State unless:

- (a) he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; or
- (b) he is present in that other Contracting State for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve month period commencing or ending in the tax year or taxable year concerned.

If he has such a fixed base or remains in that other Contracting State for the aforesaid period or periods, the income may be taxed in that other Contracting State but only so much of it as is attributable to that fixed base or is derived in that other Contracting State during the aforesaid period or periods.

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

#### **Article 16 DEPENDENT PERSONAL SERVICES**

1. Subject to the provisions of Articles 17, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that Contracting State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Contracting State.

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

- (a) the recipient is present in that other Contracting State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the tax year or taxable year concerned;
  - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of that other Contracting State; and
  - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in that other Contracting 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 by an enterprise of a Contracting State may be taxed in that Contracting State.

### **Article 17 DIRECTORS' FEES**

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

### **Article 18 ARTISTES AND SPORTSPERSONS**

1. Notwithstanding the provisions of Articles 15 and 16, income derived by an individual who is a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other Contracting State, may be taxed in that other Contracting State.
2. Where income in respect of personal activities exercised in a Contracting State by an individual in his capacity as an entertainer or a sportsperson accrues not to the individual himself but to another person who is a resident of the other Contracting State, that income may, notwithstanding the provisions of Articles 7, 15 and 16, be taxed in the Contracting State in which the activities of the individual are exercised.

### **Article 19 PENSIONS**

Subject to the provisions of paragraph 2 of Article 20, pensions and other similar remuneration paid to a resident of a Contracting State shall be taxable only in that Contracting State.

**Article 20**  
**GOVERNMENT SERVICE**

1. (a) Salaries, wages and other similar remuneration paid by a Contracting State or a political subdivision or local authority thereof to an individual in respect of services rendered to that Contracting State or political subdivision or local authority, in the discharge of functions of a governmental nature, shall be taxable only in that Contracting State.
- (b) However, such salaries, wages and other similar 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) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds to which contributions are made or created by, a Contracting State or a political subdivision or local authority thereof to an individual in respect of services rendered to that Contracting State or political subdivision or local authority shall be taxable only in that Contracting State.
- (b) However, such pensions and other similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that other Contracting State.
3. The provisions of Articles 16, 17, 18 and 19 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or local authority thereof.

**Article 21**  
**STUDENTS**

1. (a) Payments which a student 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 Contracting State solely for the purpose of his education receives for the purpose of his maintenance, education, study or research shall not be taxed in that Contracting State, provided that:
  - (i) such payments arise from sources outside that Contracting State;  
or

- (ii) such payments are made as grants, scholarships, allowances or awards to him by a governmental entity of that Contracting State or any other entity which is operated for a religious, charitable, educational, scientific, artistic, cultural or public purpose and all or part of whose income is exempt from tax under the domestic laws of that Contracting State.
  - (b) Remuneration which a student described in subparagraph (a) derives in respect of an employment which he exercises in that Contracting State shall not be taxed in that Contracting State if the total of such remuneration does not exceed 1,500,000 Japanese Yen or its equivalent in Pakistan Rupees for a calendar year concerned.
  - (c) The provisions of subparagraph (b) shall apply to that student only for a period not exceeding three years from the date he first begins his education in that Contracting State.
2. (a) Payments which a business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting State solely for the purpose of his training receives for the purpose of his maintenance or training shall not be taxed in that Contracting State, provided that such payments arise from sources outside that Contracting State.
- (b) Remuneration which a business apprentice described in subparagraph (a) derives in respect of an employment which he exercises in that Contracting State shall not be taxed in that Contracting State if the total of such remuneration does not exceed 1,500,000 Japanese Yen or its equivalent in Pakistan Rupees for a calendar year concerned.
  - (c) The provisions of subparagraph (a) or (b) shall apply to that business apprentice only for a period not exceeding one year from the date he first begins his training in that Contracting State.

## **Article 22 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 (hereinafter referred to as "other income") shall be taxable only in that Contracting State.
2. The provisions of paragraph 1 shall not apply to other income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such other 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 other income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or 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 Contracting State in accordance with its domestic laws.

### **Article 23 ELIMINATION OF DOUBLE TAXATION**

1. Subject to the provisions of the laws of Japan regarding the allowance as a credit against Japanese tax of tax payable in any country other than Japan:

- (a) Where a resident of Japan derives income from Pakistan which may be taxed in Pakistan in accordance with the provisions of this Convention, the amount of Pakistan tax payable in respect of that income shall be allowed as a credit against the Japanese tax imposed on that resident. The amount of credit, however, shall not exceed that part of the Japanese tax which is appropriate to that income.
- (b) Where the income derived from Pakistan is dividends paid by a company which is a resident of Pakistan to a company which is a resident of Japan and which has owned at least 25 per cent either of the voting shares or of the total issued shares of the company paying the dividends during the period of six months immediately before the day when the obligation to pay dividends is confirmed, the credit shall take into account Pakistan tax payable by the company paying the dividends in respect of its income.

2. In the case of Pakistan double taxation shall be avoided as follows:

- (a) Where a resident of Pakistan derives income which, in accordance with the provisions of this Convention, may be taxed in Japan whether directly or by deduction, Pakistan shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in Japan. The amount of the tax to be deducted pursuant to the above provision shall not exceed the lesser of the tax which would have been charged on the same income in Pakistan under the rates applicable therein.
- (b) Where a resident of Pakistan derives income which, in accordance with the provisions of this Convention, shall be taxable only in Japan, Pakistan may include this income in the tax base but only for purposes of determining the rate of tax on such other income as is taxable in Pakistan.



**Article 24**  
**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, in particular with respect to residence, 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 paragraph 1 of Article 9, paragraph 8 of Article 11, paragraph 6 of Article 12 or paragraph 6 of Article 13 apply, interest, royalties, fees for technical services and other disbursements paid by a resident of a Contracting State to a resident of the other Contracting State shall, for the purposes of determining the taxable profits of the first-mentioned resident, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned Contracting 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 Contracting 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 Contracting State are or may be subjected.

**Article 25**  
**MUTUAL AGREEMENT PROCEDURE**

**[REPLACED by first sentence of 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 Contracting 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.]

*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 – 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 provisions of this Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

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

**Article 26**  
**EXCHANGE OF INFORMATION**

1. The competent authorities of the Contracting States shall exchange such information as is relevant 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 provisions of the Convention. The exchange of information is not restricted by Article 1.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that Contracting State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to the taxes referred to in paragraph 1. 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.

3. In no case shall the provisions of paragraphs 1 and 2 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.

**Article 27**  
**MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS**

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

*The following paragraphs 1 through 3 of Article 10 of the MLI apply and supersede the provision of this Convention:*

*Article 10 – Anti-abuse Rule for Permanent Establishments Situated in Third Jurisdictions*

1. Where:

- a) an enterprise of a [Contracting State] derives income from the other [Contracting State] and the first-mentioned [Contracting State] treats such income as attributable to a permanent establishment of the enterprise situated in a third jurisdiction; and
- b) the profits attributable to that permanent establishment are exempt from tax in the first-mentioned [Contracting State],

the benefits of [the Convention] shall not apply to any item of income on which the tax in the third jurisdiction is less than 60 per cent of the tax that would be imposed in the first-mentioned [Contracting State] on that item of income if that permanent establishment were situated in the first-mentioned [Contracting State]. In such a case, any income to which the provisions of this paragraph apply shall remain taxable according to the domestic law of the other [Contracting State], notwithstanding any

other provisions of [*the Convention*].

2. Paragraph 1 shall not apply if the income derived from the other [*Contracting State*] described in paragraph 1 is derived in connection with or is incidental to the active conduct of a business carried on through the permanent establishment (other than the business of making, managing or simply holding investments for the enterprise's own account, unless these activities are banking, insurance or securities activities carried on by a bank, insurance enterprise or registered securities dealer, respectively).

3. If benefits under [*the Convention*] are denied pursuant to paragraph 1 with respect to an item of income derived by a resident of a [*Contracting State*], the competent authority of the other [*Contracting State*] may, nevertheless, grant these benefits with respect to that item of income if, in response to a request by such resident, such competent authority determines that granting such benefits is justified in light of the reasons such resident did not satisfy the requirements of paragraphs 1 and 2. The competent authority of the [*Contracting State*] to which a request has been made under the preceding sentence by a resident of the other [*Contracting State*] shall consult with the competent authority of that other [*Contracting State*] before either granting or denying the request.

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

*Article 7 – Prevention of Treaty Abuse*

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

**Article 28  
HEADINGS**

The headings of the Articles of this Convention are inserted for convenience of reference only and shall not affect the interpretation of the Convention.

**Article 29  
ENTRY INTO FORCE**

1. This Convention shall be approved in accordance with the legal procedures of each of the Contracting States and shall enter into force on the thirtieth day after the date

of exchange of diplomatic notes indicating such approval.

2. This Convention shall be applicable:

(a) in Japan:

- (i) with respect to taxes withheld at source, for amounts taxable on or after 1st January of the calendar year next following that in which the Convention enters into force; and
- (ii) with respect to taxes on income which are not withheld at source and the enterprise tax, as regards income for any taxable year beginning on or after 1st January of the calendar year next following that in which the Convention enters into force; and

(b) in Pakistan:

- (i) with respect to taxes withheld at source, for amounts taxable on or after 1st January of the calendar year next following that in which the Convention enters into force; and
- (ii) with respect to all other taxes, for the tax year beginning on or after 1st July of the calendar year next following that in which the Convention enters into force.

3. The Convention between Japan and Pakistan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed at Tokyo on 17th February, 1959 (hereinafter referred to as “the prior Convention”) shall cease to be effective from the date upon which this Convention has effect in respect of the taxes to which the Convention applies in accordance with the provisions of paragraph 2 of this Article.

4. The prior Convention shall terminate on the last date on which it has effect in accordance with this Article.

5. Notwithstanding the entry into force of this Convention, an individual who is entitled to the benefits of Article 11 of the prior Convention at the time of the entry into force of the Convention shall continue to be entitled to such benefits until such time as the individual would have ceased to be entitled to such benefits if the prior Convention had remained in force.

### **Article 30 TERMINATION**

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

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

- (a) in Japan:
  - (i) with respect to taxes withheld at source, for amounts taxable on or after 1st January of the calendar year next following that in which the notice is given; and
  - (ii) with respect to taxes on income which are not withheld at source and the enterprise tax, as regards income for any taxable year beginning on or after 1st January of the calendar year next following that in which the notice is given; and
- (b) in Pakistan:
  - (i) with respect to taxes withheld at source, for amounts taxable on or after 1st January of the calendar year next following that in which the notice is given; and
  - (ii) with respect to all other taxes, for the tax year beginning on or after 1st July of the calendar year next following that in which the notice is given.

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

DONE in duplicate at Islamabad this twenty-third day of January, 2008, in the English language.

For the Government  
of Japan :

Seiji Kojima

For the Government  
of the Islamic Republic  
of Pakistan:

Abdullah Yusuf

## Protocol

At the signing of the Convention between Japan and the Islamic Republic of Pakistan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (hereinafter referred to as “the Convention”), the Government of Japan and the Government of the Islamic Republic of Pakistan have agreed upon the following provisions, which shall form an integral part of the Convention.

1. With reference to paragraph 3 of Article 7 of the Convention:

It is understood that no deduction shall be allowed in respect of amounts paid or charged (other than reimbursement of actual expenses) by a permanent establishment of an enterprise to the head office of the enterprise or any other offices thereof, by way of:

- (a) royalties, fees or other similar payments in return for the use of patents or other rights;
- (b) commission, for specific services performed or for management; and
- (c) interest on money lent to the permanent establishment; except where the enterprise is a banking institution.

2. With reference to paragraph 2 of Article 8 of the Convention:

It is understood that the provisions of the paragraph shall not be interpreted as restricting the powers of taxation of the Provincial Governments in Pakistan.

3. Where, pursuant to any provision of the Convention, a Contracting State reduces the rate of tax on, or exempts from tax, income of an individual who is a resident of the other Contracting State and under the laws in force in that other Contracting State that individual is subjected to tax by that other Contracting State only on that part of such income which is remitted to or received in that other Contracting State, then the reduction or exemption shall apply only to so much of such income as is remitted to or received in that other Contracting State.

4. Nothing in the Convention shall prevent Japan from imposing tax at source, in accordance with its domestic law, on any income and gains derived by a person pursuant to a sleeping partnership (Tokumei Kumiai) contract or other similar contract.

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

DONE in duplicate at Islamabad this twenty-third day of January, 2008, in the English language.

For the Government  
of Japan: Seiji Kojima

For the Government of the Islamic  
Republic of Pakistan:

Abdullah Yusuf