

**SYNTHESISED TEXT
OF THE MLI AND THE CONVENTION BETWEEN
THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF
PAKISTAN AND THE GOVERNMENT OF THE REPUBLIC OF
KAZAKHSTAN 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 Kazakhstan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed on 23 August 1995 (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 on 7 June 2017 and by the Republic of Kazakhstan on 25 June 2018 (the “MLI”).

The document was prepared on the basis of 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 the Republic of Kazakhstan submitted to the Depository upon ratification on 24 June 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made to parts of provisions of the MLI that describe existing provisions of the Convention: descriptive language has been replaced by legal references of the existing provisions to ease the readability.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 Depository upon ratification on 18 December 2020 and of the MLI position of the Republic of Kazakhstan submitted to the Depository upon ratification on 24 June 2020 can be found on the MLI Depository (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 Kazakhstan 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 24 June 2020 for the Republic of Kazakhstan.

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

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

(i) in 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; and

(ii) in Kazakhstan:

- (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 Kazakhstan, for taxes levied with respect to taxable periods beginning on or after October 1, 2021.

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

**CONVENTION BETWEEN THE GOVERNMENT OF THE ISLAMIC
REPUBLIC OF PAKISTAN AND THE GOVERNMENT OF THE
REPUBLIC OF KAZAKHSTAN FOR THE AVOIDANCE OF
DOUBLE TAXATION AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES ON INCOME**

The Government of the Islamic Republic of Pakistan and the Government of the Republic of Kazakhstan

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

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

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

ARTICLE 6 OF THE MLI - PURPOSE OF A COVERED TAX AGREEMENT

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

Have agreed as follows:

Article 1

Personal Scope

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

Article 2

Taxes Covered

1. This Convention shall apply to taxes on income imposed by or on behalf of a Contracting State or its subdivisions 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 or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which the Convention shall apply are in particular:

a) in the Islamic Republic of Pakistan:

- (i) the income tax;
 - (ii) the super tax; and
 - (iii) the surcharge;
- (hereafter referred to as "Pakistan tax");

b) in the Republic of Kazakhstan:

- (i) the tax on income of legal persons and individuals;
 - (ii) the tax on the property of legal persons and individuals;
- (hereafter referred to as "Kazakhstan tax").

4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes.

The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws.

Article 3

General Definitions

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

- a) the term:
 - (i) "Pakistan" used in the geographical sense means Pakistan as defined in the Constitution of the Islamic Republic of Pakistan and includes any area outside the territorial waters of Pakistan which under the laws of Pakistan and international law is an area within which Pakistan exercises sovereign rights and exclusive jurisdiction with respect to the natural resources of the seabed, subsoil and superjacent waters;
 - (ii) "Kazakhstan" means the Republic of Kazakhstan. When used in a geographical sense, the term "Kazakhstan" includes the territorial waters, and also the exclusive economic zone and continental shelf in which Kazakhstan, for certain purposes, may exercise sovereign rights and jurisdiction in accordance with international law and in which the law relating to Kazakhstan tax are applicable;
- b) the term "person" includes an individual, a company and any other body of persons;
- c) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- d) the terms a "Contracting State" and "the other Contracting State" mean Pakistan or Kazakhstan, as the context requires;

- e) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- f) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship, aircraft or motor vehicles and railway is operated solely between places in the other Contracting State;
- g) the term "competent authority" means:
 - (i) in Pakistan: the Central Board of Revenue or its authorized representative;
 - (ii) in Kazakhstan: the Ministry of Finance or its authorized representative;
- h) the term "national" means:
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person, partnership or any other association deriving its status as such from the laws in force in a Contracting State.

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

Article 4

Resident

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

But this term does not include any person of a country other than the Contracting States 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 State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
- b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
- c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;

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

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

3. [Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavor to settle the question by mutual agreement, but if the competent authorities are unable to reach such an agreement, a person shall be treated as a resident of neither Contracting State for the purposes of deriving benefits under this Convention.]

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

ARTICLE 4 OF THE MLI – DUAL RESIDENT ENTITIES

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

Article 5

Permanent Establishment

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
 - a) a place of management;
 - b) a branch;
 - c) an office;
 - d) a factory;
 - e) a workshop;
 - f) warehouse maintained for rental purposes;

- g) premises for receiving or soliciting orders;
- h) permanent sales exhibition;
- i) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. The term "permanent establishment" also includes:

- a) a building site or construction or installation or assembly project, or supervisory services connected therewith, only if such site or project lasts for more than 6 months, or such services continue for more than 6 months; and
- b) an installation or structure used for the exploration of natural resources, or supervisory services connected therewith, or a drilling rig or ship used for the exploration of natural resources, only if such use last for more than 6 months, or such services continue for more than 6 months; and
- c) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the resident for such purpose, but only where the activities of that nature continue (for the same or connected project) within the country for more than 6 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 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, display or delivery of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or 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 sub-paragraphs 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 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 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 this Convention*]; or
- b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

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

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

5. [Notwithstanding the provisions of paragraphs 1 and 2, where a person other than an agent of an independent status to whom paragraph 6 applies is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.]

The following paragraph 1 of Article 12 of the MLI replaces 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 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*].

[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 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 this Convention:

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

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

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

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

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

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

Article 6

Income From Immovable Property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
2. The term "immovable property" shall have the meaning which it has under the 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, boats, aircraft, motor vehicles and rail road rolling stock shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on or has carried on business in the other Contracting State through a permanent establishment situated therein.

If the enterprise carries on or has carried 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 or has carried 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 State in which the permanent establishment is situated or elsewhere.

The permanent establishment shall not be allowed a deduction for amounts paid to its head office or any of the other office of the resident by way of royalties, fees or other similar payment in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or by way of interest on moneys lent to the permanent establishment.

4. 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.

5. Where the information available to or readily obtainable by the competent authority of a Contracting State is not adequate to determine the profit or expenses of permanent establishment, profits may be calculated in accordance with the tax laws of that State. For purposes of this paragraph 5, information will be considered to be readily obtainable if the taxpayer provides the information to the requesting competent authority within 91 days of a written request by the competent authority for such information.

6. Where profits include items of income or capital gains 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.

7. 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.

Article 8

Shipping, Air, Road and Railway Transport

1. Profits derived by a resident of Contracting State from the operation of ships, aircraft or motor vehicles and railway in international traffic shall be taxable only in that State.
2. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

Associated Enterprises

1. Where

- a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

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

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

Article 10

Dividends

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

[MODIFIED by paragraph 1 of Article 8 of the MLI]

- a) [12.5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly or indirectly at least 10 per cent of the capital of the company paying the dividends;]

The following paragraph 1 of Article 8 of the MLI applies with respect to paragraph 2(a) of Article 10 of this Convention:

ARTICLE 8 OF THE MLI – DIVIDEND TRANSFER TRANSACTIONS

[Paragraph 2(a) of Article 10 of the Convention] shall apply only if the ownership conditions described in those provisions are met throughout a 365 day period that includes the day of the payment of the dividends (for the purpose of computing that period, no account shall be taken of changes of ownership that would directly result from a corporate reorganisation, such as a merger or divisive reorganisation, of the company that holds the shares or that pays the dividends).

- b) 15 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 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 14 as the case may be, shall apply.

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

Article 11

Interest

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

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 12.5 per cent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2 of this Article, interest arising in a Contracting State shall be exempt from tax in that State if it derived and beneficially owned by the Government of the other Contracting State or a local authority thereof or any agency of that Government or local authority.
4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other 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 14, as the case may be, shall apply.
6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, its subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.
8. The provision of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment.

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 and the beneficial owner of the royalties is a resident of the other Contracting State, 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 computer programs, cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information (know-how) concerning industrial, commercial or scientific experience, and payments for the use of, or the right to use, industrial, commercial or scientific equipment, or for any services of a technical, managerial or consultancy nature.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when paid for the use of or the right to use the right or property in that State.

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.

7. The provisions of this Article shall not apply if it is the main purpose or one of the main purposes of any person concerned with the creation or assignment of the rights in respect of which the royalties are paid to take advantage of this Article by means of that creation or assignment.

Article 13

Capital Gains

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

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

2. [Gains derived by a resident of a Contracting State from the alienation of:

- a) shares, other than shares in which there is substantial and regular trading on an approved Stock Exchange, deriving their value or the greater part of their value directly or indirectly from immovable property situated in the other Contracting State, or
- b) an interest in a partnership or trust the assets of which consist principally of immovable property situated in the other Contracting State, or of shares referred to in sub-paragraph (a) above,

may be taxed in that other State.]

The following paragraph 4 of Article 9 of the MLI replaces paragraph 2 of Article 13 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].

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

4. Gains derived by a resident of a Contracting State from the alienation of ships, boats, aircraft or motor vehicles and railway operated in international traffic, or movable property pertaining to the operation of such ships, aircraft, shall be taxable only in that Contracting State.

5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

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 unless such services are performed or were performed in the other Contracting State; and

- a) the income is attributable to a fixed base which the individual has or had regularly available to him in that other State; or
- b) such individual is present or was present in that other State for a period or periods exceeding in the aggregate 183 days in any twelve month period.

In such a case the income attributable to the services may be taxed in that other State in accordance with principles similar to those of Article 7 for determining the amount of business profits and attributing business profits to a permanent establishment.

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

Article 15

Dependent Personal Services

1. Subject to the provisions of Articles 16, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

- a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period, and
- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship, boat, aircraft or motor vehicle and railway operated in international traffic, may be taxed in the Contracting State in which the operating enterprise is a resident.

Article 16

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 or similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17

Artistes and Sportsmen

1. Notwithstanding the provisions of Articles 14 and 15 income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. Notwithstanding the provisions of paragraph 1, income derived by an entertainer or an athlete who is a resident of a Contracting State from his personal activities as such exercised in the other Contracting State, shall be taxable only in the first-mentioned Contracting State if the activities in the other State are supported wholly or substantially from the public funds of the first-mentioned Contracting State, including any of its subdivisions or local authorities.

Article 18

Pensions and Other Payments

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment and any annuity paid to such a resident shall be taxable only in that State.

2. The term " annuity" means a stated sum payable to an individual periodically at stated times during his 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.

3. Alimony and other similar amounts (including child support payments) arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State.

Article 19

Government Service

1.
 - a) Remuneration, other than a pension, paid by a Contracting State or a subdivision 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 State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2.
 - a) Any pension paid by, or out of funds created by, a Contracting State or a subdivision 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 pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or its subdivision or a local authority thereof.

Article 20

Students, Apprentices and Trainees

1. A student or trainee or business apprentice who is or was resident of one of the Contracting States immediately before visiting the other State solely for the purpose of his education or training, shall be exempt from tax in that other State on:
 - (a) payments made to him by persons residing outside that other State for the purposes of his maintenance, education or training; and
 - (b) remuneration from employment in that State in an amount not exceeding 500 dollars USA during any "fiscal year", provided that such employment is directly related to his studies or is undertaken for the purpose of his maintenance.

2. The benefits of this Article shall extend only for such period or time as may be reasonable or academically or customarily required to complete the education or training undertaken; but in no event shall any individual have the benefits of this Article for more than five consecutive years from the date of his first arrival in that other Contracting State.

Article 21

Professors, Teachers and Research Scholars

1. A professor or teacher who is or was a resident of one of the Contracting States immediately before visiting the other Contracting State for the purpose of teaching or engaging in approved institution in that other Contracting State shall be exempt from tax in that other State on any remuneration for such teaching or research for a period not exceeding five years from the date of his arrival in that other State.

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

3. For the purpose of this Article an individual shall be deemed to be a resident of a Contracting State in the "income year" in which he visits the other Contracting State or in the immediately preceding "income year".

4. For the purpose of paragraph 1, "approved institution" means an institution which has been approved in this regard by the competent authority of the concerned Contracting State.

Article 22

Other Income

Items of income of a resident of a Contracting State, arising in the other Contracting State and not dealt with in the foregoing Articles of this Convention, may be taxed in that other State.

Article 23

Elimination of Double Taxation

1. 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 Kazakhstan, Pakistan shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in Kazakhstan;

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 Kazakhstan. 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.

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

- a) Where a resident of Kazakhstan derives income which, in accordance with the provisions of this Convention, may be taxed in Pakistan, Kazakhstan shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in Pakistan;

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 Kazakhstan under the rates applicable therein.

- b) Where a resident of Kazakhstan derives income capital, which in accordance with the provisions of this Convention, shall be taxable only in Pakistan, Kazakhstan 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 Kazakhstan.

3. For the purposes of paragraphs 1 and 2 of this Article, tax payable in a Contracting State shall be deemed to include any amount which would have been payable but for an exemption or privilege according to which such amount is not payable under the incentive laws of the respective Contracting State.

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 State in the same circumstances, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

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

Provided that the competent authorities of the Contracting States shall certify that such stateless persons are not nationals of any other State and qualify for the purpose of benefits of paragraphs 1 and 2 of this Article.

3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.
4. Except where the provisions of paragraph 1 of Article 9, paragraph 6 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.
5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first mentioned State are or may be subjected.
6. Nothing contained in this Article shall be construed as obliging either Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for tax purposes which are granted to its residents.
7. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

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 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 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

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

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

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. 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 may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States. Notwithstanding, the competent authorities of the Contracting States shall meet at least once in two years at the respective capital, alternatively, to discuss matters relating to the implementation of this Convention.]

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

ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

The competent authorities of the [*Contracting States*] shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of [*the Convention*]

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

ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

They may also consult together for the elimination of double taxation in cases not provided for in [*the Convention*].

4. If any difficulty or doubt arising as to the interpretation or application of this Convention cannot be resolved by the competent authorities pursuant to the previous paragraphs of this Article, the case may, if both competent authorities and the taxpayer(s) agree, be submitted for arbitration, provided that the taxpayer agrees in writing to be bound by the decision of the arbitration board. The decision of the arbitration board in a particular case shall be binding on both States with respect to that case. The procedures shall be established between the States by notes to be exchanged through diplomatic channels. After a period of three years after the entry into force of this Convention, the competent authorities shall consult in order to determine whether it is appropriate to make the exchange of diplomatic

notes. The provisions of this paragraph shall have effect after the States have so agreed through the exchange of diplomatic notes.

Article 26

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State 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 Convention. 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 on which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State,
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 27

Diplomatic Agents and Consular Officers

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

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

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

Paragraph 8 of Article 7 of the MLI

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

Paragraph 9 of Article 7 of the MLI

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

- a) an individual;
- b) that [*Contracting State*], or a political subdivision or local authority thereof, or an agency or instrumentality of any such [*Contracting State*], political subdivision or local authority;
- c) a company or other entity, if the principal class of its shares is regularly traded on one or more recognised stock exchanges;
- d) a person, other than an individual, that:
 - (i) is a non-profit organisation of a type that is agreed to by the [*Contracting States*] through an exchange of diplomatic notes; or
 - (ii) is an entity or arrangement established in that [*Contracting State*] that is treated as a separate person under the taxation laws of that [*Contracting State*] and:
 - A) that is established and operated exclusively or almost exclusively to administer or provide retirement benefits and ancillary or incidental benefits to individuals and that is regulated as such by that [*Contracting State*] or one of its political subdivisions or local authorities; or
 - B) that is established and operated exclusively or almost exclusively to invest funds for the benefit of entities or arrangements referred to in subdivision A);
- e) a person other than an individual, if, on at least half the days of a twelve-month period that includes the time when the benefit would otherwise be accorded, persons who are residents of that [*Contracting State*] and that are entitled to benefits of the Convention under subparagraphs a) to d) own, directly or indirectly, at least 50 per cent of the shares of the person.

Paragraph 10 of Article 7 of the MLI

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

- iii) providing group financing (including cash pooling); or
 - iv) making or managing investments, unless these activities are carried on by a bank, insurance company or registered securities dealer in the ordinary course of its business as such.
- b) If a resident of a [*Contracting State*] derives an item of income from a business activity conducted by that resident in the other [*Contracting State*], or derives an item of income arising in the other [*Contracting State*] from a connected person, the conditions described in subparagraph a) shall be considered to be satisfied with respect to such item only if the business activity carried on by the resident in the first-mentioned [*Contracting State*] to which the item is related is substantial in relation to the same activity or a complementary business activity carried on by the resident or such connected person in the other [*Contracting State*]. Whether a business activity is substantial for the purposes of this subparagraph shall be determined based on all the facts and circumstances.
- c) For purposes of applying this paragraph, activities conducted by connected persons with respect to a resident of a [*Contracting State*] shall be deemed to be conducted by such resident.

Paragraph 11 of Article 7 of the MLI

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

Paragraph 12 of Article 7 of the MLI

If a resident of a [*Contracting State*] is neither a qualified person pursuant to the provisions of paragraph 9 [*of Article 7 of the MLI*], nor entitled to benefits under paragraph 10 or 11 [*of Article 7 of the MLI*], the competent authority of the other [*Contracting State*] may, nevertheless, grant the benefits of [*the Convention*], or benefits with respect to a specific item of income, taking into account the object and purpose of [*the Convention*], but only if such resident demonstrates to the satisfaction of such competent authority that neither its establishment, acquisition or maintenance, nor the conduct of its operations, had as one of its principal purposes the obtaining of benefits under [*the Convention*]. Before either granting or denying a request made under this paragraph by a resident of a [*Contracting State*], the competent authority of the other [*Contracting State*] to which the request has been made shall consult with the competent authority of the first-mentioned [*Contracting State*].

Paragraph 13 of Article 7 of the MLI

For the purposes of the Simplified Limitation on Benefits Provision:

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

- b) the term “principal class of shares” means the class or classes of shares of a company which represents the majority of the aggregate vote and value of the company or the class or classes of beneficial interests of an entity which represents in the aggregate a majority of the aggregate vote and value of the entity;
- c) the term “equivalent beneficiary” means any person who would be entitled to benefits with respect to an item of income accorded by a [*Contracting State*] under the domestic law of that [*Contracting State*], [*the Convention*] or any other international instrument which are equivalent to, or more favourable than, benefits to be accorded to that item of income under [*the Convention*]; for the purposes of determining whether a person is an equivalent beneficiary with respect to dividends, the person shall be deemed to hold the same capital of the company paying the dividends as such capital the company claiming the benefit with respect to the dividends holds;
- d) with respect to entities that are not companies, the term “shares” means interests that are comparable to shares;
- e) two persons shall be “connected persons” if one owns, directly or indirectly, at least 50 per cent of the beneficial interest in the other (or, in the case of a company, at least 50 per cent of the aggregate vote and value of the company's shares) or another person owns, directly or indirectly, at least 50 per cent of the beneficial interest (or, in the case of a company, at least 50 per cent of the aggregate vote and value of the company's shares) in each person; in any case, a person shall be connected to another if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same person or persons.

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

ARTICLE 10 OF THE MLI – ANTI-ABUSE RULE FOR PERMANENT ESTABLISHMENTS SITUATED IN THIRD JURISDICTIONS

Paragraph 1 of Article 10 of the MLI

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*].

Paragraph 2 of Article 10 of the MLI

2. Paragraph 1 [of Article 10 of the MLI] shall not apply if the income derived from the other [Contracting State] described in paragraph 1 [of Article 10 of the MLI] 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).

Paragraph 3 of Article 10 of the MLI

3. If benefits under [the Convention] are denied pursuant to paragraph 1 [of Article 10 of the MLI] 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 [of Article 10 of the MLI]. 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 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 28

Entry Into Force

1. This Convention shall be subject to ratification in each Contracting State and the instruments of ratification shall be exchanged at as soon as possible.

2. The Convention shall enter into force on the date of the exchange of instruments of ratification and its provisions shall have effect on the first day of January, 1996.

Article 29

Termination

This Convention shall remain in force until terminated by one of the 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 after the 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 respect of taxes withheld at source, for amounts paid or credited on or after first January in the year next following the expiration of the six month period; and
- b) in respect of other taxes, for taxable periods beginning on or after first January in the year next following the expiration of the six month period.

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

DONE in duplicate at Almaty this 23rd day of August, 1995, in the English, Kazakh, Russian languages, all texts being equally authentic. In case of divergence between the texts, the English text shall prevail.

FOR THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN:

FOR THE GOVERNMENT OF THE REPUBLIC OF KAZAKHSTAN:

PROTOCOL

At the signing today of the Convention between the Government of the Republic of Kazakhstan and the Government of the Islamic Republic of Pakistan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, the undersigned have agreed upon the following provisions , which shall form an integral part of the Convention

1. With regard to Article 7:

it is understood that

- in case of Pakistan income tax levied on presumptive basis, as a percentage of the gross payments or receipts shall be considered applicable irrespective of any provisions to the contrary contained in paragraphs 2 and 3 of this Article, or any provision of Article 24;

- similarly, such taxation shall be allowed in case of Kazakhstan, as and when it is levied,

2. With regard to Article 10:

in the event that the Government of the Islamic Republic of Pakistan enacts a law imposing a Branch Profits Tax, the Republic of Kazakhstan agrees to enter into negotiations with a view to amending the provisions of the Convention signed on August 23, 1995, through a supplementary protocol to reflect such provision.

3. With regard to Article 25:

notwithstanding the legislation of the Contracting States, the information to be exchanged in accordance with this Article shall include banking information, including the information in respect of a third party, dealing with the taxpayer(s) of the two Contracting States, and would be easily accessible.

4. With regard to Article 27:

the Convention shall take effect in respect of taxation of income of air transport enterprises as derived from their international operation as from the date such enterprises had started their flight operations in the other State.

DONE in duplicate at Almaty this 23rd day of August, 1995, in the English and Russian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE REPUBLIC OF KAZAKHSTAN:

FOR THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN:

The texts of the boxes in [Square brackets] and in italics indicate minor terminology changes made to the text of the MLI.