

France - Pakistan

Income Tax Treaties

1994 Income Tax Convention and Final Protocol

Signatories: France; Pakistan

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**CONVENTION BETWEEN THE GOVERNMENT OF THE FRENCH
REPUBLIC 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 Government of the French Republic and the Government of the Islamic Republic of Pakistan, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

Article 1

Personal Scope

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

Article 2

Taxes Covered

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political 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 amount of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

- a) in the case of France:
 - (i) the income tax (l'impôt sur le revenu);
 - (ii) the corporation tax (l'impôt sur les sociétés);

including any withholding tax, prepayment (precompte) or advance payment with respect to the aforesaid taxes;
(hereinafter referred to as "French tax");

- b) in the case of Pakistan:
 - (i) the income tax;
 - (ii) the super tax;
 - (iii) the surcharge tax;

including any withholding tax, prepayment or advance payment with respect to the aforesaid taxes;
(hereinafter referred to as "Pakistan 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 terms "a Contracting State" and "the other Contracting State" mean France or Pakistan as the context requires;
- b) the term "France" means the European and overseas departments of the French Republic including the territorial sea, and any area outside the territorial sea within which, in accordance with international law, the French Republic has sovereign rights for the purpose of exploring and exploiting the natural resources of the sea-bed and its sub-soil;
- c) the term "Pakistan" used in the geographical sense means Pakistan as defined in the Constitution of the Islamic Republic of Pakistan and includes any area outside the territorial waters of Pakistan which under the laws of Pakistan and international law is an area within which the rights of Pakistan with respect to the sea-bed and sub-soil and their natural resources may be exercised;
- d) the term "person" includes an individual, a company and any other body of persons;

- e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
 - g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
 - h) the term "competent authority" means:
 - (i) in France: the Minister in charge of the Budget or his authorised representative;
 - (ii) in Pakistan: the Central Board of Revenue or its authorised representative.
2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies. The meaning of a term under the taxation law of that State shall have priority over the meaning provided for such term under other branches of law of that 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 State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:
 - a) he shall be deemed to be a resident of the 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.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

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, but only where such warehouse is operated by the enterprise for a period or periods exceeding in the aggregate 183 days in the fiscal year concerned;
 - g) a premises used as a sales outlet; and
 - h) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. The term "permanent establishment" likewise encompasses a building site or a construction, assembly or installation project but only where such site or project continues for a period of more than 183 days.
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 sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of preparatory or auxiliary character.
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 in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned State in respect of any activities which that person undertakes for the enterprise, if such a person:
- a) has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or
 - b) has no such authority, but habitually maintains in that State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.
6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly on behalf of that enterprise, he shall be considered an agent of an independent status within the meaning of this paragraph only if the transactions between the agent and the enterprise are clearly, made at arm's length conditions.
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.

Article 6

Income From Immovable Property

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

Article 7

Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3.
 - (a) In 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.

(b) However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken in the determination of the profits of a permanent establishment for amounts charged (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

4. 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 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 the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributable to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise. Similarly, no expenses incurred relating to the mere purchase shall be allowed in determining the taxable profits of the permanent establishment.

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

Shipping and Air Transport

1. Profits from the operation of aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

3. Profits from the operation of ships in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated. However, such profits derived from sources within the other Contracting State may also be taxed in that other State in accordance with its domestic law.

Article 9

Associated Enterprises

Where

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

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

Article 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 law of that State, but if the recipient is the beneficial owner of the dividends, the tax so charged shall not exceed:
 - a) 10 per cent of the gross amount of the dividends if the recipient is a company which holds directly or indirectly at least 10 per cent of the capital of the company paying the dividends;
 - b) 15 per cent of the gross amount of the dividends in all other cases.

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

3.
 - a) A resident of Pakistan who receives from a company which is a resident of France and beneficially owns dividends which, if received by a resident of France, would

entitle such resident to a tax credit ("avoir fiscal"), shall be entitled from the French Treasury to a payment equal to such tax credit ("avoir fiscal"), subject to the deduction of tax as provided for under subparagraph b) of paragraph 2.

- b) The provisions of subparagraph a) shall apply only to a resident of Pakistan who is:
 - (i) an individual; or
 - (ii) a company which holds directly or indirectly less than 10 per cent of the company paying the dividends.
 - c) The provisions of subparagraph a) shall apply only if the beneficial owner of the dividends:
 - (i) is subject to Pakistan tax at regular rate in respect of such dividends and of the payment from the French Treasury; and
 - (ii) shows, where required to do so by the French tax administration, that he is the owner of the shareholding in respect of which the dividends are paid and that such shareholding has not as its principal purpose or as one of its principal purposes the purpose of taking advantage, for himself or for another person, of the provisions of subparagraph a).
 - d) The gross amount of the payment from the French Treasury provided for under subparagraph a) shall be deemed to be a dividend for the purposes of this Convention.
3. Where not entitled to the payment from the French Treasury referred to in paragraph 3, a resident of Pakistan who receives dividends paid by a company which is a resident of France may obtain the refund of the prepayment (precompte) relating to such dividends, in the event it has been paid by such company. Such refund shall be taxable in France according to the provisions of paragraph 2. The gross amount of the prepayment (precompte) refunded shall be deemed to be a dividend for the purposes of the provisions of the Convention.
4. The term "dividend" 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 same taxation treatment as a distribution by the taxation laws of the Contracting State of which the company making the distribution is a resident.
5. The provisions of paragraphs 1, 2, 3 and 4 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 a case, the provisions of Article 7 or Article 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 State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on 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 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 10 per cent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2:
 - a) interest arising in a Contracting State shall be exempt from tax in that State if it is derived and beneficially owned by:
 - (i) the Government of the other Contracting State or a local authority thereof, or subject to the agreement of the competent authorities, any agency or instrumentality of that State or local authority;
 - (ii) the Central Bank of the other Contracting State;
 - b) interest arising in a Contracting State shall be exempt from tax in that State if it is beneficially owned by a resident of the other Contracting State and is derived in connection with a loan or credit extended, endorsed or guaranteed by the "Compagnie Francaise d'Assurance pour le Commerce Exterieur" (COFACE), or, subject to the agreement of the competent authorities, by any institution of a Contracting State with responsibility for public financing of external trade.
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 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 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 cases the provisions of Article 7 or Article 15, as the case may be, shall apply.
6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or another resident of that State. Where, however the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12

Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 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, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other

Contracting State in which the royalties arise through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.

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

Article 13

Fees for Technical Services

1. Fees for technical services arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such fees for technical services may also be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the 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 any consideration (including any lump sum consideration) for the provision or rendering of any managerial, technical or consultancy services by a resident of a Contracting State in the other Contracting State but does not include consideration for any activities mentioned in paragraph 3 of Article 5, in Article 15 or 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, or performs in that other State independent personal services from a fixed base situated therein, and the contract in respect of

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

5. Fees for technical services shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or another resident of that State. Where, however, the person paying the fees for technical services, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay the fees for technical services was incurred, and such fees for technical services are borne by that permanent establishment or fixed base, then such fees for technical services shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the fees for technical services paid exceeds, for whatever reason, 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 State.
2. Gains from the alienation of shares or rights in a company the property of which consists directly or indirectly principally of immovable property situated in a Contracting State may be taxed in that State.
3. Gains from the alienation of shares or rights, other than those mentioned in paragraph 2, representing a participation of 25 per cent or more in a company which is a resident of a Contracting State may be taxed in that State.
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 fixed base, may be taxed in that other State.

5. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
6. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3, 4 and 5 shall be taxable only in the Contracting State of which the alienator is a resident.

Article 15

Independent Personal Services

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances when such income may also be taxed in the other Contracting State:
 - a) if he has a fixed base regularly available to him in that other State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other State; or
 - b) if his stay in that other State is for a period or periods amounting to or exceeding in the aggregate 183 days in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed therein.
2. The term "professional service" 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, 21 and 22, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
 - a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned; and

- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
 - c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 17

Directors' Fees

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

Article 18

Entertainers and Athletes

- 1. Notwithstanding the provisions of Articles 15 and 16, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
- 2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income, may, notwithstanding the provisions of Articles 7, 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.
- 3. Notwithstanding the provisions of paragraphs 1 and 2, income in respect of such personal activities as defined in paragraphs 1 and 2, which are exercised in a Contracting State by a resident of the other Contracting State shall be taxable only in that other State if those activities are mainly supported by public funds of that other State, its political subdivisions or local authorities, or of statutory bodies thereof.

Article 19

Pensions and Social Security Payments

1. Subject to the provisions of paragraph 2 of Article 20, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.
2. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under a public scheme which is a part of the social security system of a Contracting State or a political subdivision or a local authority thereof may be taxed in that State.

Article 20

Public Remuneration and Pensions

1.
 - a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof, or by one of their statutory bodies, to an individual in respect of services rendered to that State, subdivision, authority or statutory body shall be taxable only in that State.
 - b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the individual is a resident of, and a national of, that State without being also a national of the first-mentioned State.
2.
 - a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof, or by one of their statutory bodies, to an individual in respect of services rendered to that State, subdivision, authority or statutory body 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 other State without being also a national of the first-mentioned State.
3. The provisions of Articles 16, 17 and 19 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof, or by one of their statutory bodies.

Article 21

Teachers and Researchers

1. An individual who, at the invitation of a university, college, school or other similar officially recognised educational institution in a Contracting State, visits that State for

a period not exceeding 2 years solely for purpose of teaching or conducting research or both at such educational institution and who is, or was immediately before that visit, a resident of the other Contracting State shall be taxable only in that other State on any remuneration for such teaching or research.

2. The provisions of paragraph 1 shall not apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.

Article 22

Students and Apprentices

1. An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State and is temporarily present in that other State solely as a student at an officially recognised university, college, school or other similar officially recognised educational institution in that other State or as a business or technical apprentice therein shall be exempt from tax in that other State on:
 - a) all remittances from abroad for the purposes of his maintenance, education or training; and
 - b) any remuneration for personal services rendered in that other State with a view to supplementing the resources available to him for the purposes of his maintenance, education or training.
2. An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State and is temporarily present in that other State for the purposes of study, research or training solely as a recipient of a grant, allowance or award from the Government of either Contracting State or from a scientific, educational, religious or charitable organization or under a technical assistance programme entered into by the Government of either State for a period not exceeding 5 years from the date of his first arrival in the other State in connection with that visit shall be exempt from tax in that other State on:
 - a) the amount of such grant, allowance or award;
 - b) all remittances from abroad for the purposes of his maintenance, education or training; and
 - c) any remuneration in respect of personal services rendered in that other State provided that such services are performed in connection with his study, research or training or are incidental thereto.
3. An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State and is temporarily present in that other State as an employee of, or under contract with, the Government or an enterprise of the first-mentioned State solely for the purpose of acquiring technical, professional or business

experience for a period not exceeding 12 months from the date of his first arrival in the other State in connection with that visit shall be exempt from tax in that other State on:

- a) all remittances from abroad for the purposes of his maintenance, education or training; and
- b) any remuneration in respect of personal services rendered in that other State provided that such services are performed in connection with his studies or training or are incidental thereto.

Article 23

Other Income

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.
3. Notwithstanding the provisions of paragraph 1, if a resident of a Contracting State derives income from sources within the other Contracting State in the form of lottery prizes and awards, such income may be taxed in that other State.

Article 24

Elimination of Double Taxation

1. In the case of France, double taxation shall be avoided in the following manner:
 - a) Income arising in Pakistan, which may be taxed or shall be taxable only in that State in accordance with the provisions of this Convention, shall be taken into account for the computation of the French tax where the beneficiary of such income is a resident of France and where such income is not exempted from the corporation tax according to French domestic law. In that case, the Pakistan tax shall not be deductible from such income, but the beneficiary shall be entitled to a tax credit against French tax. Such tax credit shall be equal:
 - (i) in the case of income other than income mentioned in subparagraph (ii), to the amount of French tax attributable to such income;

- (ii) in the case of income referred to in paragraph 3 of Article 8, Articles 10, 11, 12, 13, paragraphs 1, 2 and 3 of Article 14, paragraph 3 of Article 16, Article 17, paragraphs 1 and 2 of Article 18, and paragraph 2 of Article 19, to the amount of tax paid in Pakistan in accordance with the provisions of those Articles; however, such tax credit shall not exceed the amount of French tax attributable to such income.
 - b) In respect of the provisions of this paragraph, it is understood that:
 - (i) the term "amount of French tax attributable to such income" means:
 - where the tax on such income is computed by applying a proportional rate, the amount of the net income concerned multiplied by the rate which actually applies to that income;
 - where the tax on such income is computed by applying a progressive scale, the amount of the net income concerned multiplied by the rate resulting from the ratio of the tax actually payable on the total net income taxable in accordance with French law to the amount of that total net income;
 - (ii) the term "amount of tax paid in Pakistan" means the amount of Pakistan tax effectively and definitively borne in respect of the income concerned, in accordance with the provisions of the Convention, by the beneficiary who is a resident of France.
 - c) As regards the application of subparagraph a) to income referred to in Articles 11, 12 and 13, where the amount of tax paid in Pakistan in accordance with the provisions of those Articles exceeds the amount of French tax attributable to such income, the resident of France who is the beneficiary of such income may present his case to the French competent authority. Insofar as it appears to it that such a situation results in taxation which is not comparable to taxation on net income, that competent authority may, under the condition it determines, allow the non credited amount of tax paid in Pakistan as a deduction from the French tax levied on other income from foreign sources derived by that resident.
 - d) Where, in accordance with its domestic legislation regarding corporation tax, France in determining the taxable profits of its residents takes into account the profits of associated enterprises in the meaning of subparagraphs a) and b) of Article 9 which are enterprises of Pakistan or of permanent establishments situated in Pakistan, the provisions of the Convention shall not prevent the application of that legislation.
2. In the case of Pakistan, subject to the provisions of the laws of Pakistan (which shall not affect the general principle hereof) regarding the allowance as a credit against Pakistan tax, the amount of French tax payable under the laws of France and in accordance with the provisions of the Convention, whether directly or by deduction,

by a resident of Pakistan in respect of income from sources within France which has been subjected to tax both in Pakistan and France, shall be allowed as a credit against the Pakistan tax payable in respect of such income but in an amount not exceeding that proportion of Pakistan tax which such income bears to the entire income chargeable to Pakistan tax.

Article 25

Non-Discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.
2. The term "nationals" means:
 - a) all individuals possessing the nationality of a Contracting State;
 - b) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State.
3. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances are or may be subjected.
4. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities under the same conditions. It is understood that the conditions under which the activities are carried on shall not be considered as different for the reason that such activities are carried on by a permanent establishment of an enterprise of the first-mentioned State and not by an enterprise of the other State.
5. Except where the provisions of Article 9, paragraph 7 of Article 11, paragraph 6 of Article 12, or paragraph 6 of Article 13 apply, interest, royalties, fees for technical services and other 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.
6. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the

taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

7. Nothing contained in this Article shall be construed:
 - a) as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes which it grants to its own residents; or
 - b) as affecting the domestic provisions of a Contracting State regarding the imposition of tax on a non-resident person, other than a company.
8. It is understood that the provisions of Article 4 of the agreement between the Government of the French Republic and the Government of the Islamic Republic of Pakistan on the reciprocal promotion and protection of investments, signed on 1 June 1983, shall not apply in tax matters.

Article 26

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the taxation law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to the Contracting State of which he is a national. The case must be presented within two years from the first notification of the action resulting in taxation not in accordance with the provisions of the 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 shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Convention. In particular, they may consult together to endeavour to agree to the same allocation of income between associated enterprises mentioned in Article 9. 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 giving effect to the provisions of the Convention or 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.

5. The competent authorities of the Contracting States shall, if necessary, by mutual agreement settle the mode of application of the Convention and, especially, the appropriate conditions, methods and techniques of implementation of the exchange of information under Article 27, as well as the requirements to which the residents of a Contracting State shall be subjected in order to obtain, in the other Contracting State, the tax reliefs or exemptions or other benefits provided for by the Convention.

Article 27

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention in so far as the taxation thereunder is not contrary to the Convention, in particular for the prevention of evasion of such taxes. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret 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 which are the subject of 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. The competent authorities shall, through consultation, develop appropriate conditions, methods and techniques concerning the matters in respect of which such exchanges of information shall be made, including, where appropriate, exchanges of information regarding tax avoidance.
2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:
 - a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
 - b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
 - c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).
3. For the purposes of this Article, taxes on total capital or on elements of capital shall be considered as taxes covered by the Convention.

Article 28

Diplomatic Agents and Consular Officers

1. Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions and their personal domestics, of members of consular missions, or of members of permanent missions to international organizations under the general rules of international law or under the provisions of special agreements.
2. Notwithstanding the provisions of Article 4, an individual who is a member of a diplomatic mission, consular post or permanent mission of a Contracting State which is situated in the other Contracting State or in a third State shall be deemed for the purposes of the Convention to be a resident of the sending State if:
 - a) in accordance with international law he is not liable to tax in the receiving State in respect of income from sources outside that State; and
 - b) he is liable in the sending State to the same obligations in relation to tax on his total world wide income as are residents of that State.
3. The Convention shall not apply to international organizations, to organs or officials thereof and to persons who are members of a diplomatic mission, consular post or permanent mission of a third State, being present in a State and not liable in either Contracting State to the same obligations in relation to tax on their total income as are residents of that State.

Article 29

Entry Into Force

1. The Contracting States shall notify to each other that the constitutional requirements for the entry into force of this Convention have been complied with.
2. The Convention shall enter into force the first day of the second month following the day when the later of the notifications referred to in paragraph 1 has been received and its provisions shall have effect:
 - a) in France:
 - (i) in respect of taxes withheld at the source, on amounts paid or remitted on or after the first day of January in the calendar year next following that in which the Convention enters into force, and
 - (ii) in respect of all other taxes, for taxation relating to any calendar year or accounting period, as the case may be, beginning on or after the first day of January of the calendar year next following the calendar year in which the Convention enters into force;

- b) in Pakistan:
- (i) in respect of taxes withheld at the source, on amounts paid or remitted on or after the first day of January in the calendar year next following that in which the Convention enters into force, and
 - (ii) in respect of all other taxes, for the assessment years beginning on or after the first day of July of the calendar year next following the calendar year in which the Convention enters into force.
3. Upon the entry into force of this Convention, the Convention between the French Republic and the Republic of Pakistan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed at Paris on 22nd July, 1966, as well as Article IX of the Agreement of scientific and technical cooperation between the Government of the French Republic and the Government of the Islamic Republic of Pakistan signed in Islamabad on 5th June 1970, shall cease to have effect as from the dates on which the provisions of this Convention commence to have effect.

Article 30

Termination

This Convention shall remain in force indefinitely. However, 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 5 years after the year in which the Convention enters into force. In such event, the Convention shall cease to have effect:

- a) in France, for taxation relating to any calendar year or accounting period, as the case may be, beginning on or after the first day of January of the calendar year next following the calendar year in which the notice of termination is given;
- b) in Pakistan, in respect of income derived in any year of assessment beginning on or after the first day of July of the calendar year next following the calendar year in which the notice of termination is given.

In witness whereof the undersigned, duly authorized thereto, have signed this Convention Done at _____, this 15th day of June, 1994, in duplicate in the French and English languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN:

FOR THE GOVERNMENT OF THE FRENCH REPUBLIC:

PROTOCOL

At the time of proceeding to the signature of the Convention between the Government of the Islamic Republic of Pakistan and the Government of the French Republic 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 undersigned have agreed on the following provisions which shall form an integral part of the Convention.

1. For the purposes of the Convention, it is understood that the term "political subdivision" wherever it occurs means political subdivision of Pakistan.
2. In respect of paragraph 1 of Article 4, it is understood that the term "resident of a Contracting State" includes:
 - a) that State and its political subdivisions and local authorities;
 - b) where that State is France, any partnership or other group of persons the place of effective management of which is situated in France and all the shareholders, associates or other members of which are personally liable to tax therein in respect of their part of the profits according to French domestic law.
3. In respect of Article 6, where the ownership of shares or other rights in a company or legal person entitles the owner to the enjoyment of immovable property situated in France and held by that company or legal person, income derived by the owner from the direct use, letting or use in any other form of his right of enjoyment may be taxed in France notwithstanding the provisions of Articles 7 and 15.
4. In respect of paragraph 1 of Article 7, profits derived from the sale of goods or merchandise of the same or similar kind as those sold, or from other business activities of the same or similar kind as those effected, through a permanent establishment, may be considered attributable to that permanent establishment if:
 - a) this transaction has been resorted to for the purpose of avoiding taxation in the Contracting State where the permanent establishment is situated; or
 - b) the permanent establishment has signed the contract, irrespective of the fact that the delivery is partly undertaken by its enterprise.
5. In respect of paragraphs 1 and 2 of Article 7:
 - a) in the Contracting State in which the permanent establishment is situated, no profits shall be attributed to a building site or construction or installation project except those which are the result of such activities themselves. Profits derived from the supply of goods connected with, or independent of, such activities and effected by the principal permanent establishment or any other permanent establishment of the enterprise or by a third party shall not be attributed to the building site or construction or installation project, provided that the said profits reflect normal open-market commercial terms at arm's length conditions;
 - b) income derived from design, planning, engineering or research or from technical services which a resident of a Contracting State performs in that State and which are

connected with a permanent establishment in the other Contracting State shall not be attributed to that permanent establishment.

6. In respect of Articles 10 and 25, it is understood that the provisions of Article 115 quinquies of the French tax code shall not apply to permanent establishments of enterprises of Pakistan in France, and that similar provisions, if any, of the Pakistan domestic law shall not apply to permanent establishments of enterprises of France in Pakistan.
7. In respect of paragraph 2 of Article 14, immovable property pertaining to the industrial, commercial or agricultural operation of such company or to the performance of its independent personal services shall not be taken into account for the purposes of the provisions of that paragraph.
8. In respect of subparagraph a (ii) of paragraph 1 of Article 24, notwithstanding the provisions of subparagraph b (ii) of the same paragraph, where Pakistan tax on dividends, interest (other than interest mentioned in paragraph 3 of Article 11) or royalties is wholly waived or reduced below the rates provided for in Articles 10, 11 or 12, by special incentive measures in force at the date of signature of the Convention under Pakistan law designed to promote economic development in Pakistan, and where those items of income are received from a company which, being a resident of Pakistan, carries on an industrial activity therein, and does not control directly or indirectly any company which is not a resident of Pakistan, then the term "amount of tax paid in Pakistan" means, in respect of those items of income, the amount corresponding to the rate of tax provided for in Articles 10, 11 or 12 respectively. However, that amount shall not exceed the amount of Pakistan tax which would have been payable according to the general tax law of Pakistan but for such exemption or reduction. The provisions of this paragraph shall be applicable only for a period of ten years after the date of entry into force of the Convention.
9. In respect of paragraphs 1 and 3 of Article 25, it is understood that an individual, legal person, partnership or association which is a resident of a Contracting State is not placed in the same circumstances as an individual, legal person, partnership or association which is not a resident of that State. This shall apply whatever the definition of nationality, even if legal persons, partnerships or associations are, in applying the provisions of paragraph 2 of Article 25, deemed to be nationals of the Contracting State of which they are residents.
10. Contributions borne by an individual who renders dependent personal services in a Contracting State to a pension scheme established in and recognised for tax purposes in the other Contracting State shall be treated, in the first-mentioned State, in determining the individual's taxable income, in the same way and subject to the same conditions and limitations as contributions made to a pension scheme that is recognised for tax purposes in that first-mentioned State, provided that the pension scheme is accepted by the competent authority of that State as generally corresponding to a pension scheme recognised as such for tax purposes by that State.

A pension scheme is recognised for tax purposes in a Contracting State if the contributions to the scheme would qualify for tax relief in that State.

11. Nothing in the Convention shall prevent France from applying the provisions of Article 212 of its general tax code or of any substantially similar provisions which may amend or replace the provisions of that Article.

Done at _____, this 15th day of June, 1994, in duplicate in the French and English languages, both text being equally authentic.

FOR THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN:

FOR THE GOVERNMENT OF THE FRENCH REPUBLIC:
