

Pakistan - Thailand

Income Tax Treaties

1980 Income Tax Convention and Memorandum

Signatories: Pakistan; Thailand

Citations: 92 TNI 56-32; Doc 92-30167

Signed: August 14, 1980

In Force: January 7, 1981

Effective: January 1, 1979. See Article 28.

Status: In Force

Tax Analysts Classification: Income Tax Treaties

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

The Royal Government of Thailand 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:

Chapter I. Scope of the Convention

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 on behalf of each Contracting State, 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 and taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

(a) In the case of Thailand:

-the income tax; and
-the petroleum income tax
(hereinafter referred to as "Thai tax");

(b) In the case of Pakistan:

-the income tax;
-the super tax; and
-surcharge
(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 this Convention in addition to, or in place of, the existing taxes. At the end of each year, the competent authorities of the Contracting States shall notify each other of significant changes which have been made in their respective taxation laws.

Chapter II. Definitions

Article 3

General Definitions

1. In this Convention, unless the context otherwise requires:

- (a) the term "Thailand" means the Kingdom of Thailand and includes any area adjacent to the territorial waters of the Kingdom of Thailand which by Thai legislation has been or may hereafter be designated as an area within which the rights of the Kingdom of Thailand with respect to the seabed and subsoil and their natural resources may be exercised;
- (b) the term "Pakistan" used in a geographical sense means Pakistan as defined in the Constitution of the Islamic Republic of Pakistan and also includes any area outside the territorial waters of Pakistan which under the laws of Pakistan is an area within which the rights of Pakistan with respect to the seabed and subsoil and their natural resources may be exercised;
- (c) the terms "a Contracting State" and "the other Contracting State" mean Thailand or Pakistan as the context requires;
- (d) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (e) the term "competent authority" means:
 - (i) in Thailand: the Minister of Finance or his authorised representative;
 - (ii) in Pakistan: The Central Board of Revenue;

- (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 "national" means:
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person, partnership and association deriving its status as such from the law in force in a Contracting State;
- (h) the term "person" includes an individual, a company, a partnership, a trust and any other entity treated as taxable unit;
- (i) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except where such ship or aircraft is operated solely between places in the other Contracting State.

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

Article 4

Resident

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management, place of incorporation, or any other criterion of a similar nature.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States then his status shall be determined as follows:
 - (a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
 - (b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
 - (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
 - (d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then its status shall be determined in accordance with the following rules:

- (a) it shall be deemed to be a resident of the Contracting State of which it is a national;
- (b) if it is a national of neither of the Contracting States, it shall be deemed to be a resident of the Contracting 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 in which the business of the enterprise is wholly or partly carried on.

2. The term "permanent establishment" shall include especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a warehouse;
- (g) a farm or plantation;

- (h) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;

- (i) a building site or construction or assembly project or supervisory activities in connection therewith, where such site, project or activity continues for a period of more than 183 days;

- (j) the furnishing of services including consultancy services by a resident of one of the Contracting States through employees or other personnel, where activities of that nature continue for the same or connected project within the other Contracting State for a period or periods aggregating more than 183 days;

- (k) a permanent sales exhibition.

3. The term "permanent establishment" shall not be deemed 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 for collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise;
- (f) the maintenance of an office or like establishment by a news-agency or a news-paper or journal, being an enterprise of one of the Contracting States, exclusively for the collection and transmission to that State of information on behalf of that enterprise.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State-other than a broker, general commission agent or any other agent of an independent status to whom paragraph 5 applies-shall be deemed to be a permanent establishment in the first-mentioned State, but only if:

- (a) he has and habitually exercises in the first-mentioned State an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or
- (b) he habitually maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders or makes deliveries on behalf of the enterprise; or
- (c) he habitually secures orders for the sale of goods or merchandise in the first-mentioned State wholly or almost wholly on behalf of the enterprise itself or on behalf of the enterprise and other enterprises controlled by it or which have a controlling interest in it.

5. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carried on business in that other State through a broker, a 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 duties of such a general commission agent or broker are devoted wholly or almost wholly on behalf of that enterprise, or a group of enterprises controlled by that enterprise, he would not be considered an agent of an independent status within the meaning of this paragraph.

6. 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.

Chapter III. Taxation of Income

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. In the determination of the profits of a permanent establishment, there shall be allowed as deduction 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.

4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts or, in the case of a person who does not claim taxation on the basis of the actual net profits of the permanent establishment, on the basis of a certain reasonable percentage of the gross receipts of the permanent establishment, nothing in paragraph 2 shall preclude such State from determining the profits to be taxed by such a method. The method adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.

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

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

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

Article 8

Shipping and Air Transport

1. Income derived by an enterprise of a Contracting State from the operation of aircraft in international traffic shall be taxable only in that Contracting State.

2. Income derived by an enterprise of a Contracting State from the operation of ships in international traffic may be taxed in the other Contracting State, but the tax imposed in that other Contracting State shall be reduced by an amount equal to 50 per cent thereof.

3. The provisions of paragraphs 1 and 2 shall likewise apply in respect of participations 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 shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall, if necessary, consult each other.

3. In any case, the adjustment to the amount of tax as mentioned in paragraph 2 shall not be made after five years from the date on which the tax return of the profit in question is due to be filed.

Article 10

Dividends

1. Dividends paid by a company which is 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 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 company is the beneficial owner of the dividends the tax so charged shall not exceed:

- (a) 15 per cent of the gross amount of the dividends, if the recipient company holds directly at least 25 per cent of the capital of the company paying the dividends and the latter company is engaged in an industrial undertaking;
- (b) 25 per cent of the gross amount of the dividends in all other cases.

3.

- (a) The term "dividends" as used in this Article means income from shares, mining shares, founder's 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 taxation law of the State in which the company making the distribution is a resident.

- (b) The term "industrial undertaking" as used in this Article means an undertaking engaged in
- (i) the manufacture of goods or materials or the subjection of goods or materials to any process which results in substantially changing their original condition;
 - (ii) ship-building;
 - (iii) electricity, hydraulic power, gas and water supply; and
 - (iv) any other undertaking, which may be declared to be an industrial undertaking for the purposes of this Article by the competent authority of the Contracting State in which the undertaking is situated.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient 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 14, as the case may be, shall apply.

5. Where a company which is 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 to persons who are not residents of the other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

Interest

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

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

- (a) 10 per cent of the gross amount of the interest if it is received by any financial institution (including an insurance company) which is a resident of the other State;

(b) in all other cases, 25 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2:

(a) the State Bank of Pakistan shall be exempt from Thai tax with respect to interest from sources within Thailand;

(b) the Bank of Thailand shall be exempt from Pakistan tax with respect to interest from sources within Pakistan; and

(c) the Government of a Contracting State shall be exempt from the tax of the other Contracting State with respect to interest on loans derived by that Government from sources within that other Contracting State.

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 recipient 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 professional 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 a case the provisions of Article 7 or 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, a political sub-division, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

7. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law 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 shall be taxable in the other State.

2. However, such royalties may be taxed in the Contracting State in which they arise, but the tax so charged shall not exceed:

(a) 10 per cent of the gross amount of royalties if they are made as a consideration for the alienation or the use of, or the right to use, any copyright of literary, artistic or scientific work;

(b) 20 per cent of the gross amount of other royalties.

3. Notwithstanding the provisions of paragraph 2 royalties or other like payments payable to a Contracting State or a State owned company in respect of films or tapes shall be exempt from tax in the other Contracting State.

4. The term "royalties" as used in this Article means payments of any kind received as a consideration for the alienation or the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, 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.

5. 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.

6. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment with which the right or property giving rise to the royalties is effectively connected and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

7. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

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.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal service, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State of which the alienator is a resident.
4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3, and paragraph 4 of Article 12 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 independent activities of a similar character shall be taxable only in that State unless such activities were performed in the other Contracting State. Income in respect of professional services or independent activities performed within that other State may be taxed by that other State.
2. Notwithstanding the provisions of paragraph 1, income derived by a resident of a Contracting State in respect of professional services or other independent activities performed in the other Contracting State may be taxed in the other State if:
 - (a) the recipient is present in the other State for a period or periods exceeding in the aggregate 183 days in the tax year concerned, or
 - (b) the recipient maintains a fixed base in the other State, or
 - (c) the income is borne by an enterprise or a permanent establishment in that other State.

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

Article 15

Dependent Personal Services

1. Subject to the provisions of Articles 16, 18 and 19, 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 tax 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 in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State, shall be taxable only in that State.

Article 16

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

2. The provisions of paragraph 1 shall likewise apply to payments received by an official of a company in a top level managerial position who in fact carries out functions which are of a similar nature as those performed by a person as referred to in that paragraph 1.

Article 17

Artistes and Athletes

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 an athlete, including a boxer or a wrestler, from his personal activities as such are 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, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. Notwithstanding the provisions of Article 7, where the activities mentioned in paragraphs 1 and 2 of this Article are provided in a Contracting State by an enterprise of the other Contracting State the profits derived from providing these activities by such an enterprise may be taxed in the first-mentioned Contracting State unless the enterprise is supported from the public funds of the other Contracting State, including any political sub-division, local authority or statutory body thereof, in connection with the provisions of such activities.

4. The provisions of paragraph 1 shall not apply in the case of cultural and sports programmes sponsored by or on behalf of any of the Contracting States.

Article 18

Pensions

1. Pensions, annuities and other similar remuneration arising in a Contracting State may be taxed in that State.

2. Pensions, annuities and other similar remuneration shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, a local authority or a resident of that State.

3. The term "pensions, annuities and other similar remuneration", as used in this Article, means periodic payments made after retirement in consideration of past employment or by way of compensation for injuries received in connection with past employment.

Article 19

Governmental Functions

1.

- (a) Remuneration, other than a pension, paid by a Contracting State or a political sub-division or a local authority thereof to an individual in respect of services rendered to that State or sub-division or authority shall be taxable only in that State
 - (b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become resident of that State solely for the purpose of rendering the services.
2. The provisions of paragraph 1 shall not apply to remuneration in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or a political sub-division or a local authority thereof.

Article 20

Teachers, Students and Trainees

1. A resident of one of the Contracting States who is temporarily present in the other Contracting State solely:

- (a) as a student at a recognised university, college, or school in the other Contracting State;
- (b) as an apprentice to acquire technical, professional or business experience from a person other than his employer or an organisation referred to in (c) below;
- (c) as the recipient of a grant, allowance or award for the primary purpose of study or research from religious charitable, scientific or educational organisation of the former State; or
- (d) as a trainee under arrangements with the Government of the other Contracting State or any agency or instrumentality thereof for the purpose of training, study or orientation,

shall not be taxed in the other Contracting State in respect of remittances from abroad for the purpose of his maintenance, education or training or in respect of a scholarship grant.

2. A resident of a Contracting State who visits the other Contracting State for a period not exceeding two years, for the purpose of teaching or research at a research institute, college, school or other educational establishment in that other Contracting State, shall be exempt from tax in both the Contracting States in respect of any payments which he receives for such activity.

Article 21

Income Not Expressly Mentioned

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of the Convention may be taxed in the State where the income arises.

Chapter IV. Methods for elimination of double taxation

Article 22

Elimination of Double Taxation

Double taxation shall be avoided in the following manner:

1. In the case of Thailand-Pakistan tax payable in respect of income from sources within Pakistan shall be allowed as credit against Thai tax payable in respect of that income. The credit shall now, however, exceed that part of the Thai tax as computed before the credit is given which is appropriate to such item of income.
2. In the case of Pakistan-Subject to the provisions of the tax laws in Pakistan regarding the allowance as a credit against Pakistan tax of tax payable in a country outside Pakistan, Thai tax payable, whether directly or by deduction, by a person resident in Pakistan, in respect of income from sources within Thailand (including income which accrues or arises in Thailand but is deemed under the provisions of the law of Pakistan to accrue or arise in Pakistan), shall be allowed as a credit against any Pakistan tax payable in respect of that income.
3. For the purposes of paragraphs 1 and 2, the term "Thai tax payable" or "Pakistan tax payable" shall be deemed to include the amount of Thai tax or Pakistan tax which would have been paid if the Thai tax or Pakistan tax had not been exempted or reduced in accordance with the special incentive laws designed to promote economic development in Thailand or in Pakistan, effective on the date of signature of this Convention, or which may be introduced hereafter in modification of, or in addition to, the existing laws.
4. For the purposes of this Article, profits, income or gains of a resident of a Contracting State which are taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources in that other State.

Chapter V. Special Provisions

Article 23

Non-discrimination

1. The 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. Stateless persons resident in one of the Contracting States 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 State in the same circumstances are or may be subjected.

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

5. Nothing 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, rebates and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents;

(b) as affecting any provision in law of Pakistan which grants rebates of tax to companies which fulfil specific requirements regarding the declaration and payments of dividends.

6. In this Article, the term "taxation" means taxes which are the subject of this Convention.

Article 24

Mutual Agreement Procedure

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws 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 or Article 23, to that of the Contracting State of which he is a national. This case must be presented within two years from the first notification of the action giving rise to taxation not in accordance with 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 an appropriate 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 national laws 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 the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

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

Article 25

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 one of the Contracting States the obligation:

- (a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;
- (b) to supply particulars which are 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;

- (d) to supply information, the disclosure of which would be contrary to its sovereignty, security or public policy.

Article 26

Diplomatic and Consular Officials

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

Article 27

Territorial Extension

1. This Convention may be extended, either in its entirety or with any necessary modifications, to any State or territory for whose international relations Thailand or Pakistan is responsible, which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures.

2. Unless otherwise agreed by both Contracting States, the termination of the Convention by one of them under Article 29 shall also terminate, in the manner provided for in that Article, the application of the Convention to any State or territory to which it has been extended under this Article.

Chapter VI. Final Provisions

Article 28

Entry Into Force

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Islamabad as soon as possible.

2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect:

(a) in Thailand:

for the income of the tax years or accounting periods beginning on or after the first day of January of 1979.

(b) in Pakistan:

for the income of the "income years" (as defined by the tax law of Pakistan) beginning on or after the first day of January of 1979.

Article 29

Termination

This Convention shall remain in force indefinitely but either of the Contracting States may, on or before the thirtieth day of June in any calendar year beginning after the expiration of a period of three years from the date of its entry into force, give to the other Contracting State, through diplomatic channels, written notice of termination and, in such event, the Convention shall cease to have effect:

- (a) in Thailand-for the income of the tax years or accounting periods beginning on or after the first day of January of the calendar year following that in which the notice is given;
- (b) in Pakistan-for the income of the "income year" (as defined by the tax law of Pakistan) beginning on or after the first day of January in the calendar year following that in which notice of termination is given.

Memorandum of Understanding

It is understood that:

1. The attached, initialled text of the Convention between the Kingdom of Thailand and the Islamic Republic of Pakistan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income will be submitted in due course to the respective authorities for approval. It will be signed and ratified as soon as all necessary formalities have been completed; hopefully no later than December, 1979. In case such formalities are not completed by that date the Convention shall yet be made effective from the 1st of January, 1979.

2. In case Thailand grants full exemption from tax on income derived from the operation of ships in international traffic by a resident of any country, paragraph 2 of Article 8 of the Convention should be reconsidered with a view to granting, on the basis of reciprocity, the same exemption on such income of shipping companies which are residents of Pakistan.

3. Thai tax imposed on the disposal of profits from Thailand in accordance with section 70 bis of the Thai Revenue Code shall not be construed as being inconsistent with the provision of paragraph 5 of Article 10 of this Convention.

N. M. Qureshi

Head of the Pakistan Delegation

July 12, 1979 Islamabad

Panas Simasathien

Head of the Thai Delegation

July 12, 1979 Islamabad

In witness whereof the undersigned, duly authorised thereto by their respective Government, have signed this Convention.

Done in duplicate at Bangkok this Fourteenth day of August, one thousand nine hundred and eighty, in the English language.

FOR THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN

Mansur Ahmad

Ambassador of Pakistan, Bangkok

FOR THE ROYAL GOVERNMENT OF THE KINGDOM OF THAILAND

A. C. M. Siddhi Savetsila

Minister of Foreign Affairs
