

# Pakistan - Turkey

## Income Tax Treaties

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1985 Income Tax Agreement and Final Protocol

Signatories: Pakistan; Turkey

Signed: November 14, 1985

In Force: August 8, 1988

Effective: In Pakistan, from July 1, 1989. In Turkey, from January 1, 1989.

See Article 28.

Status: In Force

Tax Analysts Classification: Income Tax Treaties

### **AGREEMENT BETWEEN THE ISLAMIC REPUBLIC OF PAKISTAN AND THE REPUBLIC OF TURKEY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME**

The Government of Pakistan and the Government of Turkey,  
Desiring to conclude an Agreement for the avoidance of double taxation and the  
prevention of fiscal evasion with respect to taxes on income, signed at Islamabad, 14  
November 1985.

Have agreed as follows:

#### Article 1

##### **Personal Scope**

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

#### Article 2

##### **Taxes Covered**

1. This Agreement shall apply to taxes on income imposed on behalf of each Contracting  
State or of its political sub-divisions or local authorities, irrespective of the manner in  
which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income, or on  
elements of income.

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

##### **In the case of Turkey:**

- (i) the income tax;
  - (ii) the corporation tax;
- (hereinafter referred to as "Turkish tax").

**In the case of Pakistan:**

- (i) the income tax;
- (ii) the super tax: (iii) the surcharge;
- (hereinafter referred to as "Pakistan tax").

4. The Agreement shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify to each other any changes which have been made in their respective taxation laws covered by this Agreement.

## Article 3

**General Definitions**

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

- (a) the term "Turkey" means the territory of the Republic of Turkey, including any area in which the laws of Turkey are in force, as well as the continental shelf over which Turkey has, in accordance with international law, sovereign rights to explore and exploit its natural resources;
- (b) the term "Pakistan" used in the 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 and the 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;
- (c) the term "a Contracting State" and "the other Contracting State" mean the Republic of Turkey or the Islamic Republic of Pakistan, as the context requires;
- (d) the term "tax" means any Turkish tax or Pakistan tax covered by Article 2 of this Agreement as the context requires;
- (e) the term "person" includes as an individual, a company and any other body of persons;
- (f) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (g) the term "registered office" means:
  - (i) in respect of Turkey the legal head office registered under the Turkish Code of Commerce; and
  - (ii) in respect of Pakistan the registered office of a company as defined under the relevant laws in force in Pakistan;
- (h) the term "nationals" means:

- (i) in respect of the Republic of Turkey any individual possessing the Turkish nationality from the "Turkish Nationality Code" and in respect of Pakistan, any individual possessing the nationality or citizenship of Pakistan; and
  - (ii) any legal person, partnership, association and any other entity deriving its status as such from the law in force in Turkey or Pakistan as the case may be;
- (i) 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;
  - (j) the term "competent authority" means:
    - (i) in Turkey, the Ministry of Finance and Customs;
    - (ii) in Pakistan, the Central Board of Revenue.

2. As regards the application of this Agreement 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 this Agreement.

## Article 4

### **Fiscal Domicile**

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to taxation therein by reason of his domicile, residence, registered office, place of management 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 case shall be determined in accordance with the following rules:

- (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);
- (b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;

(c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;

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

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall settle the question by mutual agreement in accordance with the provisions of Article 25.

## Article 5

### **Permanent Establishment**

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

2. The term "permanent establishment" includes especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- (g) a permanent sales exhibition.

3. The term "permanent establishment" likewise encompasses a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than six months.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

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 Contracting 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 the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise. However, if a person occasionally maintains in the first-mentioned State a stock of goods or merchandise from which he seldom delivers goods or merchandise on behalf of the enterprise, that person shall not constitute a permanent establishment for such 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 or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.

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 from immovable property (including income from agriculture or forestry) may be taxed in the Contracting State in which such property is situated.
2. The term "immovable property" shall be defined in accordance with 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, fishing places of every kind, 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 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 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 an allocation of executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

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

## Article 8

### **Shipping and Air Transport**

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

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

3. The expression "international traffic" means any transport by a ship or an aircraft by a Turkish or a Pakistan enterprise, except when the ship or the aircraft is operated solely between places situated in the territory of Turkey or Pakistan.

## Article 9

### **Interdependent 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 Contracting 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; where that other Contracting State considers the adjustment justified, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting State shall if necessary consult each other.

## Article 10

### **Dividends**

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

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, in accordance with the laws 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 beneficial owner is a company (excluding partnership) which 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; and

(b) 15 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, or rights, not being debt-claims, participating in profits or income, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the taxation laws of the Contracting State of 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 use of a process to substantially change the original condition of goods or materials;

(ii) ship-building;

(iii) electricity, hydraulic power, gas and water supply;

(iv) mining including the working of an oil-well or any other source of mineral deposits;

(v) construction;

(vi) setting up or running a hotel;

(vii) any other undertaking which may be mutually agreed to be an "industrial undertaking" by the competent authorities for the purposes of the present Article.

4. Notwithstanding the other provisions of this Agreement, profits of a company of a Contracting State carrying on business in the other Contracting State through a permanent establishment situated therein may, after having been taxed under Article 7, be taxed on the remaining amount in the Contracting State in which the permanent establishment is situated and in accordance with paragraph 2.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or in the case of a resident of Turkey, performs in Pakistan independent personal services from a fixed base situated in Pakistan, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or 14, 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.

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

## 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, interest arising in:

(a) Pakistan and paid to the Government of Turkey or to the Central Bank of Turkey (Turkiye Cumhuriyet Merkez Bankasi) shall be exempt from the Pakistan tax;

(b) Turkey and paid to the Government of Pakistan or to the State Bank of Pakistan shall be exempt from Turkish tax.

4. The term "interest" as used in this Article means income from government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind, including premiums

attaching to such securities, bonds or debentures as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

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 in the case of a resident of Turkey, performs in Pakistan independent personal services from a fixed base situated in Pakistan, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

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

## Article 12

### **Royalties**

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

2. However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 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 recordings for radio and television, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience or for the use of, or the right to use industrial, commercial, or scientific equipment.

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, in the case of a resident of Turkey, performs in Pakistan independent personal services from a fixed base situated in Pakistan 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 14, 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 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 or fixed base with which the right or property giving rise to the royalties is effectively connected, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. Where, owing to a special relationship between the payer and the beneficial owner 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 beneficial owner in the absence of such relationships, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

## Article 13

### **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 services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such a fixed base, may be taxed in that other State.

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

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

5. Notwithstanding the provisions of paragraph 4, gains derived by a resident of a Contracting State from the alienation of shares or similar rights in a company which is a

resident of the other Contracting State or of bonds issued in that other State may be taxed in that other State.

## Article 14

### **Independent Personal Services**

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State. However, such income may also be taxed in the other Contracting State if such services or activities are performed in that other State and if:

- (a) he has a fixed base regularly available to him in that other State for the purposes of performing those services or activities; or
- (b) he is present in that other State for the purpose of performing those services or activities for a period or periods amounting in the aggregate to 183 days or more in the fiscal year concerned.

In such circumstances, only so much of the income as is attributable to that fixed base or is derived from the services or activities performed during his presence in that other State, as the case may be, may be taxed in that other State.

2. Income derived by an enterprise of a Contracting State in respect of professional services or other activities of a similar character shall be taxable only in that State. However, such income may also be taxed in the other Contracting State if such services or activities are performed in that other State and if:

- (a) the enterprise has a permanent establishment in that other State through which the services or activities are performed; or
- (b) the period or periods during which the services are performed exceed in the aggregate 183 days in the fiscal year concerned.

In such circumstances only so much of the income as is attributable to that permanent establishment or to the services or activities performed in that other State, as the case may be, may be taxed in that other State.

3.

- (a) Notwithstanding the provisions of paragraphs 1 and 2 of this Article, income derived by a resident of Turkey from sources in Pakistan in respect of professional services or other activities including the provision of technical services of an independent character may be taxed in Pakistan in accordance with the taxation law of Pakistan, but the tax so charged shall not exceed 10 per cent of the gross receipts.
- (b) The provisions of sub-paragraph (a) of this paragraph shall not apply if the recipient of such income, being a resident of Turkey carries on business in Pakistan through a permanent establishment situated therein, or performs in

Pakistan independent personal services from a fixed base situated therein, and such income is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or paragraphs 1 and 2 of this Article, as the case may be, shall apply. However, the withholding tax should not exceed 10 per cent of the gross receipts.

(c) However, independent personal services which are wholly performed in Turkey shall not be subject to taxation in Pakistan.

4. 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, and other activities requiring specific professional or technical skill.

## Article 15

### **Dependent Personal Services**

1. Subject to the provisions of Articles 16, 17, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State, unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned, and
- (b) the remuneration is paid by, or on behalf of, an employer which 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 provisions of paragraphs 1 and 2, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State of which the enterprise is a resident.

## Article 16

### **Directors' Fees and Remuneration of Top-level Managerial Officials**

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 a manager in the highest tiers of a company which is a resident of the other Contracting State may be taxed in that other State.

## Article 17

### **Artistes and Athletes**

1. Notwithstanding the provisions of Articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their independent activities as such may be taxed in the Contracting State in which these activities are exercised.

2. The provisions of paragraph 1 shall not apply to income derived from activities exercised in a Contracting State if the visit to that State is directly or indirectly supported wholly or substantially from the public funds of the other State or a political sub-division or a local authority thereof.

3. 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.

## Article 18

### **Pensions**

Subject to the provisions of paragraph 1 of Article 19, 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.

## Article 19

### **Governmental Functions**

1. Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or political subdivision or a local authority thereof to any individual in respect of services rendered to that State or political subdivision or local authority thereof in the discharge of functions of a governmental nature may be taxed in that State.

2. The provisions of Articles 15, 16 and 18 shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or a political subdivision or local authority thereof.

## Article 20

### **Teachers and Students**

1. Payments which a student or business apprentice who is a resident of a Contracting State immediately before making a visit to the other Contracting State and who resides

temporarily in the other Contracting State receives solely for the purpose of his education or training shall not be taxed in that other State, provided that such payments are made to him from sources outside that other State.

2. Likewise, remuneration received by a teacher who is a resident of a Contracting State immediately before making a visit to the other Contracting State and who resides temporarily in the other Contracting State for the primary purpose of teaching or engaging in scientific research for a period or periods not exceeding two years shall be exempt from tax in that other State on his remunerations from personal services for teaching or research, provided that such payments are received from sources outside that other State.

3. Remuneration which a student or a trainee who is a resident of a Contracting State immediately before making a visit to the other Contracting State derives from an employment which he exercises in the other Contracting State for a period or periods not exceeding 183 days in a calendar year, in order to obtain practical experience related to his education or formation, shall not be taxed in that other State.

## Article 21

### **Other Income**

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that 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 14, as the case may be, shall apply.

## Article 22

### **Elimination of Double Taxation**

1. The laws in force in either of the Contracting States shall continue to govern the taxation of income in the respective States except where express provisions to the contrary are made in this Agreement. Where income is subject to tax in both States, relief from double taxation shall be given in accordance with the following paragraphs.

2. In the case of Pakistan, subject to the provisions of the laws of Pakistan regarding the allowance as a credit against Pakistan tax, the amount of Turkish tax payable under the laws of Turkey and in accordance with the provisions of this Agreement, whether directly or by deduction, by a resident of Pakistan, in respect of income from sources within Turkey which has been subjected to tax both in Pakistan and Turkey, 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.

3. In the case of Turkey, subject to the provisions of the laws of Turkey regarding the allowance as a credit against Turkish tax, the amount of Pakistan tax payable under the laws of Pakistan and in accordance with the provisions of this Agreement, whether directly or by deduction, by a resident of Turkey, in respect of income from sources within Pakistan which has been subjected to tax both in Turkey and Pakistan shall be allowed as a credit against the Turkish tax payable in respect of such income but in an amount not exceeding that proportion of Turkish tax which such income bears to the entire income chargeable to Turkish tax.

4. For the purposes of paragraphs 2 and 3, the term "tax payable in a Contracting State by a resident of the other Contracting State" shall be deemed to include any amount of the first-mentioned State's tax which would have been payable under that State's taxation law but for any reduction or exemption of that State's tax granted under the provisions concerning special incentive measures to promote economic development in that State which were in force on the date of signature of this Agreement or any other provisions which may subsequently be introduced in that State in modification of, or in addition to, those provisions so far as they are informed by the competent authorities of the Contracting State to be of a substantially similar character.

Notwithstanding the preceding sentence, the tax payable in the first-mentioned Contracting State shall be calculated:

- (a) in the case of dividends referred to in sub-paragraph (a) of paragraph 2 of Article 10, at a rate of 10 per cent;
- (b) in the case of dividends referred to in sub-paragraph (b) of paragraph 2 of Article 10, at a rate of 15 per cent;
- (c) in the case of interest referred to in paragraph 2 of Article 11, at a rate of 10 per cent;
- (d) in the case of royalties referred to in paragraph 2 of Article 12, at a rate of 10 per cent; and
- (e) in the case of income from independent personal services referred to in sub-paragraph (a) of paragraph 3 of Article 14, at a rate of 10 per cent.

However, if the tax rates under the first-mentioned State's taxation law applicable to dividends, interest, royalties and income from independent personal services delivered by persons who are not residents of that State are reduced below those mentioned in this paragraph, these lower rates shall apply for the purposes of this paragraph.

## Article 23

### **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. 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.
3. The taxation of 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 in the same circumstances and under the same conditions.
4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.
5. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.
6. Nothing contained in this Article shall be construed as:
  - (a) obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident; or
  - (b) affecting the provisions of the Pakistan law providing for an allowance or tax rebate to companies whose shares are listed on a recognised stock exchange in Pakistan or as affecting tax holiday which under the Pakistan law are available only to companies registered in Pakistan; or
  - (c) affecting the taxation of non-resident companies in Turkey in regard to income tax which applied for the deemed dividend of shareholders after corporation tax.

## Article 24

### **Exchange of Information**

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement in so far as the taxation thereunder is not contrary to the Agreement, in particular for the prevention of fraud or 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. However, if the information is originally regarded as secret in the transmitting State it 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 Agreement. Such persons or authorities shall use the information only for such purposes but 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).

## Article 25

### **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 Agreement, 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.

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 not in accordance with the Agreement.

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

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.

5. If the competent authority of a Contracting State authorises its diplomatic agents or consular officers in the other Contracting State, the latter may help the residents of that State to solve their tax disputes arising in the other Contracting State.

## Article 26

### **Diplomatic and Consular Officials**

Nothing in this Agreement 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 Agreement may be extended, either in its entirety or with any necessary modifications, to any State or territory for whose international relations either of the Contracting States is responsible and which imposes taxes substantially similar in character to those to which this Agreement 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.

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

## Article 28

### **Entry Into Force**

This Agreement shall enter into force on the later of the dates on which the respective Governments have notified each other in writing that the formalities constitutionally

required in their respective States have been complied with and its provisions shall have effect:

- (a) In Turkey, for taxes with respect to every taxable year beginning on or after the first day of January of the year following that of entry into force of the Agreement;
- (b) In Pakistan, for taxes with respect to every assessment year beginning on or after the first day of July of the year following that of entry into force of the Agreement.

## Article 29

### **Termination**

This Agreement shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Agreement through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect:

- (a) In Turkey, for taxes with respect to every taxable year beginning on or after the first day of January of the year following that in which the notice of termination is given;
- (b) In Pakistan, for taxes with respect to every assessment year on or after the first day of July of the year following that in which the notice of termination is given.

In witness whereof, the undersigned plenipotentiaries have signed the present Agreement and have affixed their seals thereto.

Done at Islamabad on 14th day of November, 1985.

FOR THE ISLAMIC REPUBLIC OF PAKISTAN

Salim Saifullah Khan

Minister for Commerce

FOR THE REPUBLIC OF TURKEY

Vahit Halefoglul

Minister for Foreign Affairs

### **Protocol**

At the moment of signing the Agreement between the Islamic Republic of Pakistan and the Republic of Turkey for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed upon the following provisions which shall constitute an integral part of the Agreement.

1. In the application of paragraph 1 of Article 7, it is understood that, where an enterprise of a Contracting State has a permanent establishment in the other Contracting State, and the enterprise:

- (a) effects sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment, or

- (b) carries on other business activities in that other State of the same or similar kind as those effected through that permanent establishment,

profits derived from such sales and business activities may be taxed in that other State as part of the profits of the permanent establishment.

However, the profits derived from such sales or activities shall not be taxed in that other Contracting State if the enterprise can prove that the sales or the activities have been carried on for other purposes than achieving benefits under this Agreement.

2. In the application of paragraph 3 of Article 7 the executive and general administrative expenses incurred, whether in the State in which the permanent establishment is situated or elsewhere, shall be allowed in any one of the following ways:

- (a) an amount equal to the average of such expenses in the preceding three years or lesser number of years in the case of a newly set up permanent establishment, or
- (b) the amount of expenses attributable to the permanent establishment on the basis of:
  - (i) accounts maintained by the enterprise, or
  - (ii) the total amount of capital employed in the business of the enterprise and of the permanent establishment, or
  - (iii) the total amount of turnover of the enterprise and turnover of the permanent establishment, or
  - (iv) the total amount of direct manufacturing cost of the enterprise and such cost of the permanent establishment.

3. In the application of paragraph 3 of Article 7 no deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

4. In respect of Articles 10, 11 and 12 it is understood that the term "beneficial owner" shall be interpreted in the way that a resident of a third country will not be allowed to get benefits from the Agreement with regard to dividends, interest and royalties derived from Turkey or Pakistan, but this restriction shall in no case be applied to residents of a Contracting State.

In witness whereof, the undersigned plenipotentiaries have signed the present Protocol and have affixed their seals thereto.

Done at Islamabad on 14th day of November, 1985.

FOR THE ISLAMIC REPUBLIC OF PAKISTAN

Salim Saifullah Khan

Minister for Commerce

FOR THE REPUBLIC OF TURKEY

Vahit Halefoglul

Minister for Foreign Affairs

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