

1983 Income and Capital Tax Convention and Final Protocol

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Status: In Force

CONVENTION BETWEEN THE GOVERNMENT OF THE KINGDOM OF BELGIUM AND THE GOVERNMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Government of the Kingdom of Belgium, and the Government of the Democratic Socialist Republic of Sri Lanka, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, have agreed as follows:

Article 1 Personal Scope

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

Article 2 Taxes Covered

1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political or administrative subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.
3. The existing taxes to which the Convention shall apply are in particular:
 - (a) In Sri Lanka:
 - (i) the income tax, including the income tax based on the turnover of enterprises licensed by the Greater Colombo Economic Commission; and
 - (ii) the wealth tax;(hereafter referred to as "Sri Lanka tax");
 - (b) In Belgium:
 - (i) the individual income tax (impot des personnes physiques - personenbelasting);
 - (ii) the corporate income tax (impot des societos - vennootschapsbelasting);
 - (iii) the income tax on legal entities (impot des personnes morales - rechtspersonenbelasting);
 - (iv) the income tax on non-residents (impot des non-residents - belasting der nict-verblijfhouders);
 - (v) the exceptional and temporary solidarity contribution (la participation exceptionnelle et temporaire de solidarite - de uitzonderlijke en tijdelijke solidaritoitsbijdrage);including the prepayments, the surcharges on these taxes and prepayments, and the supplements to the individual income tax; (hereinafter referred to as "Belgian tax").
4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any important changes which have been made in their respective taxation laws.

Article 3 General Definitions

1. For the purposes of this Convention, unless the context otherwise requires:
 - (a) the term "Sri Lanka" means the Democratic Socialist Republic of Sri Lanka, including any area outside the territorial sea of Sri Lanka which in accordance with international law has been or may hereafter be designated, under the laws of Sri Lanka concerning the Continental Shelf, as an area within which the rights of Sri Lanka with respect to the sea bed and sub-soil and the natural resources may be exercised;
 - (b) the term "Belgium" means the Kingdom of Belgium; when used in a geographical sense, it means the national territory and any area beyond the territorial sea of Belgium within which under Belgian law and in accordance with international law Belgium exercises sovereign rights or its jurisdiction;
 - (c) the terms "a Contracting State" and "the other Contracting State" mean Sri Lanka or Belgium, as the context requires;

- (d) the term "person" includes an individual, a company and any other body of persons;
 - (e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes in the Contracting State of which it is a resident;
 - (f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
 - (g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
 - (h) the term "nationals" means:
 - (i) all individuals possessing the nationality of a Contracting State;
 - (ii) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State;
 - (i) the term "competent authority" means:
 - (i) in the case of Sri Lanka, the Commissioner-General of Inland Revenue;
 - (ii) in the case of Belgium, the Director-General of Direct Taxes.
2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

Article 4 Resident

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

Article 5 Permanent Establishment

1. For the purposes of this Convention, the terms "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) an agricultural or farming state or plantation.
3. The term "permanent establishment" likewise encompasses:
 - (a) 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 183 days;
 - (b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for each purpose, but only where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than 183 days within any twelve month period.

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

- (a) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of 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 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.

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 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 derived by a resident of a Contracting State from movable property 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 and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph (1) shall also 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 deductions expenses which are incurred for the purposes of the business 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. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

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

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

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

2. Profits from the operation of ships in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

However, if the operation of a ship in the other Contracting State is more than casual, such profits may also be taxed in that other State according to the laws of that State, but only so much of them as is derived from that other State. For the purposes of this paragraph:

(a) profits derived from the other State mean profits from the carriage of passengers or freight embarked in that other State;

(b) the amount of such profits shall not exceed 6 per cent of the sums receivable in respect of such carriage; and

(c) the tax chargeable in the other State on the amount of such profits shall be reduced by 50 per cent.

3. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

4. The provisions of paragraphs (1) and (2) shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9 Associated Enterprises

1. Where:

(a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State; or

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

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

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

Article 10 Dividends

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

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident. This term means also income - even paid in the form of interest - which is taxable under the head of income on capital invested by the members of a company other than a company with share capital, which is a resident of Belgium.

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

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to a person who is a resident of the first-mentioned State, except insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11 Interest

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

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

3. Notwithstanding the provisions of paragraph (2), interest arising in a Contracting State and paid to the Government of the other Contracting State, a political or administrative subdivision or a local authority thereof or any agency or instrumentality (including a financial institution) controlled by that other State, political or administrative subdivision or local authority, shall be exempt from tax in the first-mentioned 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. However, the term "interest" shall not include for the purpose of this Article penalty charges for late payment nor interest regarded as dividends under the second sentence of paragraph (3) of Article 10.

5. The provisions of paragraphs (1), (2) and (3) shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal Services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

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

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 beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 percent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and films or tapes for television or broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs (1) and (2) shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 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 or administrative 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 a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13 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 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 in which the place of effective management of the enterprise is situated.

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

Article 14 Independent Personal Services

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, when such income may also be taxed in the other Contracting State:

(a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or

(b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days within any twelve month period; in that case only so much of the income as is derived from his activities performed in the other State may be taxed in that State.

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

Article 15 Dependent Personal Services

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

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

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days within any twelve month period; and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and

(c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

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

2. However, remuneration which a person to whom paragraph (1) applies derives from the company in respect of the discharge of day-to-day functions in a permanent establishment which is situated in a Contracting State other than the State of which the company is a resident, may be taxed in the first-mentioned State if such remuneration is borne by that permanent establishment.

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, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

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

Article 18 Pensions and Annuities

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

2. Notwithstanding the provisions of paragraph (1), pensions and other allowances, periodic or non periodic, paid under the social security legislation of a Contracting State by that State, a political or administrative subdivision or a local authority thereof or by a legal person organized under the public law thereof, shall be taxable in that State.

3. Annuities arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in the State in which they arise.

The term "annuities" means any stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Article 19 Government Service

1.

(a) Remuneration, other than a pension, paid by a Contracting State or a political or administrative subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State,

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

2.

(a) Any pension paid by, or out of funds created by a Contracting State or a political or administrative subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political or administrative subdivision or a local authority thereof.

Article 20 Professors and Students

1. Any remuneration paid to professors and other teachers who are residents of a Contracting State and who are temporarily present in the other Contracting State for the purpose of teaching or carrying on scientific research during a period not exceeding two years at a university or other officially recognized educational institution shall be taxable only in the first-mentioned State.

2. An individual who is or was a resident of a Contracting State and is temporarily present in the other Contracting State solely --

(a) as a student at a recognized university, college or school in that other State; or

(b) as a business apprentice; or

(c) as the recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific, or educational organisation, shall be exempt from tax in that other State in respect of --

(i) the remittances from abroad for the purposes of his maintenance, education, study, research or training;

(ii) the grant, allowance or award; and

(iii) the remuneration from employment in that other State, provided that such remuneration does not exceed 120,000 Belgian francs or the equivalent thereof in Sri Lanka currency within any twelve month period.

3. A resident of a Contracting State who is temporarily present in the other Contracting State for a period not exceeding one year, as an employee of, or under contract with, an enterprise of the first-mentioned State or an organisation of that first-mentioned State as referred to in subparagraph (c) of paragraph (2), solely to acquire technical, professional or business experience from a person other than such enterprise or organisation, shall be exempt from tax in that other State in respect of remuneration for such period.

4. A resident of a Contracting State temporarily present in the other Contracting State under arrangements with the Government of that other State or any agency or instrumentality thereof solely for the purpose of training, study or orientation shall be exempt from tax in that other State in respect

of remuneration received by him on account of such training, study or orientation from sources within the first-mentioned 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 Convention shall be taxable only in that State.

2. The provisions of paragraph (1) shall not apply to income, other than income from immovable property as defined in paragraph (2) of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 22 Capital

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

2. Capital represented by 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 by 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, may be taxed in that other State.

3. Capital represented by ships or aircraft operated in international traffic and by movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 23 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 Contracting States except when express provision to the contrary is made in this Convention.

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

(a) where a resident of Belgium derives income which may be taxed in Sri Lanka in accordance with the provisions of the Convention, whether or not it is taxed, and which is not subject to the provisions of subparagraphs (b) and (c) below, Belgium shall exempt such income from tax but may, in calculating the amount of tax on the remaining income of that resident, apply the rate of the tax which would have been applicable if such income had not been exempted;

(b) where a resident of Belgium derives:

- dividends dealt with in paragraph (2) of Article 10 and not covered by sub-paragraph (c) below,
- interest dealt with in paragraph (2) or 7 of Article 11,
- royalties dealt with in paragraph (2) or 6 of Article 12,

Belgium shall allow and appropriate credit against Belgian tax relating to such income. This credit shall be the fixed proportion for which provision is made under Belgian law. Notwithstanding the provisions of its law, Belgium shall also allow the credit provided for in this subparagraph in respect of tax which may be charged in Sri Lanka on dividends, interest and royalties by virtue of the Convention and the law of Sri Lanka, but which is temporarily remitted or reduced under special provisions designed to promote the economic development of Sri Lanka;

(c) where a company which is a resident of Belgium owns shares in a company with share capital which is a resident of Sri Lanka, the dividends which are paid to it by the latter company and which may be taxed in Sri Lanka in accordance with paragraph (2) of Article 10, shall be exempt from the corporate income tax in Belgium to the extent that exemption would have been accorded if the two companies had been residents of Belgium;

(d) notwithstanding sub-paragraph (a) above, Belgian tax may be charged on income liable to Sri Lanka tax to the extent that such income has not been charged in Sri Lanka because of the set off of losses also deducted, in respect of any accounting period, from income taxable in Belgium.

3. Subject to the provisions of the law of Sri Lanka regarding the allowance as a credit against Sri Lanka tax of tax payable in a territory outside Sri Lanka (which shall not affect the general principle hereof) Belgian tax payable under the law of Belgium and in accordance with the Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Belgium (excluding in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any Sri Lanka tax computed by reference to the same items

of income. Provided that such credit shall not exceed Sri Lanka tax (as computed before allowing any such credit), which is appropriate to the income derived from sources within Belgium.

Article 24 Non-discrimination

1. Nationals of a Contracting State shall not be subjected in other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. 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. This provision shall not be construed as obliging a contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of 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. Similarly, any debts of an enterprise of a Contracting State to a resident of the the Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned 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. Nothing in this Article shall be construed as preventing a Contracting State:

(a) from taxing the total amount of the profits attributable to a permanent establishment in that State of a company being a resident of the other Contracting State or of an association having its place of effective management in that other State at the rate of tax provided by the laws of the first-mentioned State;

(b) from imposing its withholding tax on dividends derived from a holding which is effectively connected with a permanent establishment or a fixed base maintained in that State by a company which is a resident of the other Contracting State or by an association which has its place of effective management in that other State and is taxable as a body corporate in the first-mentioned State.

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

Article 25 Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph (1) of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention.

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.

4. The competent authorities of the Contracting State shall agree on administrative measures necessary to carry out the provisions of the Convention and particularly on the proofs to be furnished by residents of either Contracting State in order to benefit in the other State from the exemptions or reductions in tax provided for in the Convention.

5. The competent authorities of the Contracting States shall communicate directly with each other for the application of the Convention.

Article 26 Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention, as well to prevent fiscal evasion. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(b) to supply information 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 (order public).

Article 27 Limitation of the Effects of the Convention

1. The provisions of this Convention shall not limit the taxation of a company which is a resident of a Contracting State in accordance with the laws of that State, in the event of the repurchase of its own shares or in the event of the distribution of its assets.

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

3. For the purposes of the Convention, persons who are members of a diplomatic or consular mission of a Contracting State in the other Contracting State or in a third State and who are nationals of the sending State, shall be deemed to be residents of the sending State if they are subjected therein to the same obligations in respect of taxes on income and capital as are residents of that State.

4. The Convention shall not apply to international organisations, to organs or officials thereof and to persons who are members of a diplomatic or consular mission of a third State, being present in a Contracting State and not treated in either Contracting State as residents in respect of taxes on income or on capital.

Article 28 Entry Into Force

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

2. The Convention shall enter into force on the fifteenth day following the date of the exchange of the instruments of ratification and its provisions shall have effect:

(a) In Belgium:

(i) in respect of taxes due at source on income credited or payable on or after the 1st day of January in the calendar year in which the Convention enters into force;

(ii) in respect of taxes other than taxes due at source, on income of any taxable period beginning on or after the 1st day of January in the calendar year in which the Convention enters into force.

(b) In Sri Lanka:

in respect of income or capital assessable for any year of assessment beginning on or after the 1st day of January in the year preceding the year in which the Convention enters into force.

Article 29 Termination

This Convention shall remain in force indefinitely but either of the Contracting States may terminate the Convention through diplomatic channels, by giving to the other Contracting State, written notice of termination not later than the 30th June of any calendar year from the fifth year following that in which the Convention entered into force. In such event the Convention shall have effect for the last time:

In Belgium:

(a) as respects all tax due at source on income credited or payable at last on the 31st day of December in the calendar year in which the notice of termination is given;

(b) as respects all tax other than tax due at source on income of any taxable period ending at last on the 30th day of December of the calendar year following that in which the notice of termination is given.

In Sri Lanka:

as respects all tax for the year of assessment beginning on or after the first day of January in the calendar year preceding that in which the notice of termination is given.

In witness whereof the undersigned, duly authorised thereto, have signed this Convention.

Done in duplicate at Colombo the Third day of February 1983, in the French, Dutch, Sinhala and English languages, all texts being equally authentic. In the case of divergence of interpretation the English text shall prevail.

FOR THE GOVERNMENT OF THE KINGDOM OF BELGIUM

[Signature]

FOR THE GOVERNMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

[Signature]

PROTOCOL

At the signing of the Convention concluded today between the Kingdom of Belgium and the Democratic Socialist Republic of Sri Lanka for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, the undersigned have agreed upon the following additional provision which shall form an integral part of the said Convention.

AD ARTICLE 12, PARAGRAPH (3).

It is understood that payments received as a consideration for technical services, including studies or surveys of a scientific, geological or technical nature, or for engineering contracts including blue prints related thereto, or for consultant or supervisory services shall be deemed not to be payments received as a consideration for information concerning industrial, commercial or scientific experience.

In witness whereof the undersigned, duly authorised thereto, have signed this Protocol.

Done in duplicate at Colombo, this Third day of February 1983, in the French, Dutch, Sinhala and English languages, all texts being equally authoritative. In the case of divergence of interpretation the English text shall prevail.

FOR THE GOVERNMENT OF THE KINGDOM OF BELGIUM

[Signature]

FOR THE GOVERNMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

[Signature]