

Union of Soviet Socialist Republics

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS FOR THE AVOIDANCE OF DOUBLE TAXATION OF INCOME

Notification No. G. S. R. 812(E), dated 4th September, 1989.

Whereas the annexed Agreement between the Government of the Republic of India and the Government of the Union of Soviet Socialist Republics for the avoidance of double taxation of income has come into force on the 5th June, 1989, after the ratification by both the Contracting States to each other of the completion of the procedures required under their laws for bringing into force the said Agreement in accordance with article 28 of the said Agreement;

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby directs that all the provisions of the said Agreement shall be given effect to in the Union of India.

ANNEXURE

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS FOR THE AVOIDANCE OF DOUBLE TAXATION OF INCOME.

The Government of the Republic of India and the Government of the Union of Soviet Socialist Republics,

led by the desire to strengthen and develop friendly relations in economic, industrial, technical and cultural spheres,

have resolved to conclude an Agreement for the avoidance of double taxation of income

and have agreed as follows:

Article 1

SCOPE OF THE AGREEMENT

1. This Agreement shall apply to persons who for the purposes of taxation are deemed to be residents of one or both Contracting States.
2.
  - a. This Agreement shall apply to the territory of each Contracting State, including its territorial sea, to its economic zone and its continental shelf, adjacent to the limits of its territorial sea, in respect of which it exercises, in conformity with international law, sovereign rights for the purpose of exploration and exploitation of natural resources of such a kind as to require the establishment of a regime of protection.
  - b. For the purposes of this Agreement, any reference to either Contracting State shall be deemed as reference to the territory of the respective State, including its territorial sea, to its economic zone and the regions of the continental shelf adjacent to the limits of the territorial sea of this State, which are mentioned in sub-paragraph (a).

Article 2

## TAXES COVERED

1. The taxes to which this Agreement shall apply are:
  - a. in the Republic of India, the income-tax including any surcharge thereon (hereinafter referred to as " Indian tax
  - b. in the Union of Soviet Socialist Republics;
    - i. income-tax on foreign legal persons;
    - ii. income-tax on population; and
  - iii. tax on part of profits of a foreign participant of a joint venture imposed when it is transferred abroad (h referred to as " the USSR tax ").
2. The Agreement shall also apply to any identical or substantially similar taxes which are imposed by either Contract after the date of signature of the present Agreement in addition to, or in place of, the taxes referred to in paragraph
3. Taxes mentioned in this article shall not include any penalty or interest imposed by either Contracting State relat taxes covered by this Agreement.

## Article 3

### GENERAL DEFINITIONS

1. In this Agreement, unless the context otherwise requires:
  - a. the terms " a Contracting State " and " the other Contracting State " mean the Republic of India (India) or the Soviet Socialist Republics (the USSR), as the context requires;
  - b. the term " person " means an individual, and
    - i. in the case of India, also a company or any other entity which is treated as a taxable unit under the taxati force in India;
    - ii. in the case of the USSR, also any legal person or other organisation, created under the laws of the USSR or Republic and treated as a legal person for the purposes of taxation in the USSR;
  - c. the term " competent authority " means;
    - i. in the case of India, the Ministry of Finance (Central Government, Department of Revenue) or its a representative;
    - ii. in the case of the USSR, the Ministry of Finance of the USSR or its authorized representative;
  - d. the term " national " means:
    - i. in the case of India, any individual possessing the nationality of India and any legal person, partnership or a deriving its status from the laws in force in India;
    - ii. in the case of the USSR, any individual possessing the citizenship of the USSR and any legal person deriving from the laws in force in the USSR;
  - e. the term " international traffic " means any transport by a ship or aircraft operated by a resident of a Contract except when the ship or aircraft is operated solely between places in the other Contracting State;
  - f. the term " fiscal year " means:

- i. in the case of India, the " previous year ", as defined in the Income-tax Act, 1961;
- ii. in the case of the USSR, the period commencing on the 1st January and ending on the 31st of December.
- g. As regards the application of the Agreement by a Contracting State, any term not defined therein shall, in the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Agreement applies.

#### Article 4

##### RESIDENT

1. For the purposes of this Agreement, the term " resident of a Contracting State " means any person who, under the law of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.
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 each Contracting State regards him as a national of that State or if he is a national 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 Agreement, the term " permanent establishment " means any fixed place of business through which a resident of a Contracting State carries on, wholly or partly, business in the other Contracting State.
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 warehouse in relation to a person providing storage facilities for others;

- h. a premises used as a sales outlet or for receiving or soliciting orders;
- i. an installation or structure used for the exploration or exploitation of natural resources;
- j. a building site or construction, installation or assembly project or supervisory activities in connection therewith such site, project or activities (together with other such sites, projects or activities, if any) continue for a period of more than 6 months or where such project or supervisory activity, being incidental to the sale of machinery or equipment, continues for a period not exceeding six months and the charges payable for the project or supervisory activities do not exceed 10 per cent. of the sale price of the machinery and equipment.

However, the competent authorities of the Contracting States may in particular cases and by mutual agreement consider such activities as not constituting a permanent establishment also in cases when the duration of works on a building site or a construction or assembly project exceeds six months:

Provided that for the purpose of this paragraph a resident of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State and to carry on business through that permanent establishment if it provides services or facilities in connection with or supplies plant and machinery on hire used or to be used in, the prospecting for, or extraction or production of mineral oils in that other State.

3. Notwithstanding the preceding provisions of this article, the term " permanent establishment " shall not include:
  - a. the use of facilities solely for the purpose of storage or display of merchandise for the resident;
  - b. the maintenance of a stock of goods belonging to the resident, only for the purpose of storage or display;
  - c. the maintenance of a stock of goods or merchandise, belonging to the resident, solely for the purpose of processing for or for sale to another person;
  - d. the maintenance of a fixed place of business solely for the purchase of goods or merchandise or for the collection of information for the resident;
  - e. subject to the provisions of sub-paragraph (j) of paragraph 2 of this article, carrying out of mere supervision functions for a period not exceeding six months over construction and assembly works;
  - f. the maintenance of a fixed place of business solely for the purpose of carrying out of advertising or scientific research or any other activity of a preparatory or an auxiliary character, for the resident;
  - g. the maintenance of a fixed place of business for the display of goods and merchandise, belonging to the resident, for occasional exhibitions;
  - h. the maintenance of a fixed place of business solely for carrying out, for the resident, of one or several kinds of activities enumerated in sub-paragraphs (a) to (g), if the overall activity, being the result of carrying out of these kinds of activities, is of a preparatory or an auxiliary character.

However, the provisions of sub-paragraphs (a) to (h) shall not be applicable where the resident of a Contracting State maintains another fixed place of business in the other Contracting State for any purposes other than the purpose; specified in the preceding paragraphs.

4. Notwithstanding the provisions of paragraphs 1 and 2 where a person --other than an agent of an independent contractor to whom paragraph 5 applies--is acting in a Contracting State on behalf of a resident of the other Contracting State, the resident shall be deemed to have a permanent establishment in the first-mentioned State, if
  - a. he has and habitually exercises in that State an authority to conclude contracts on behalf of the resident, and his activities are limited to the purchase of goods or merchandise for the resident
  - b. he has no such authority, but habitually maintains in the firstmentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the resident;

- c. he habitually secures orders in the first-mentioned State, wholly or almost wholly for the resident itself or for the resident and other residents controlling, controlled by, or subject to the same common control, as that resident; or
  - d. in so acting, he manufactures or processes in that State for the resident goods or merchandise belonging to the resident.
5. A resident 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 person having an independent status provided that such persons are acting in the ordinary course of their business.
  6. The fact that a person (other than an individual) who is a resident of a Contracting State controls or is controlled by another person (other than an individual), who is a resident of the other Contracting State or who carries on business in that other State (either through a permanent establishment or otherwise) shall not constitute one of those persons a permanent establishment of the other.

#### Article 6

##### INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or stock raising) 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, in the case of India, 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 regarding 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 also apply to income derived from the direct use, letting, or use in any other manner of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of a resident and from immovable property used for the performance of independent personal services.

#### Article 7

##### BUSINESS PROFITS

1. The profits of a resident of a Contracting State shall be taxable only in that State unless the resident carries on business in the other Contracting State through a permanent establishment situated therein. If the resident carries on business in the other Contracting State, aforesaid, the profits of the resident may be taxed in the other State but only so much of them as is directly or indirectly attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where a resident 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 third parties, resident 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 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, in accordance with the provisions of and subject to the limitations of the taxation laws of that State.
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 resident.
5. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be the profits which it would have earned 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 third parties, resident of which it is a permanent establishment.

determined by the same method year by year unless there is good and sufficient reason to the contrary.

6. 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.
7. Where:
  - a. a resident of a Contracting State participates directly or indirectly in the management, control or capital of a resident of the other Contracting State, or
  - b. the same persons participate directly or indirectly in the management, control or capital of a resident of a Contracting State and a resident of the other Contracting State,

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

## Article 8

### AIR TRANSPORT

1. Profits derived by a resident of a Contracting State from the operation of aircraft in international traffic shall be taxable only in that State.
2. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.
3. For the purposes of this article, interest on funds connected with the operation of aircraft in international traffic shall be regarded as profits derived from the operation of such aircraft, and the provisions of article 11 shall not apply in relation to such interest.
4. The term " operation of aircraft " shall mean business of transportation by air of passengers, mail, livestock or goods, including on by the owners or lessees or charterers of aircraft, including the sale of tickets for such transportation on behalf of such enterprises, the incidental lease of aircraft and any other activity directly connected with such transportation.

## Article 9

### SHIPPING

1. Income derived by a resident of a Contracting State from the operation of ships in international traffic shall be taxable only in that State.
2. Notwithstanding the provisions of paragraph 1 of this article and article 15 of the Agreement between the Government of India and the Government of the Union of Soviet Socialist Republics on merchant shipping, dated 1976, income derived by a resident of a Contracting State from the operation of ships between the ports of that Contracting State and the ports of third countries (in both directions) may be taxed in that other State, but the tax in that other State shall be reduced by an amount equal to two thirds thereof.
3. The provisions of paragraph 1 of this article shall also apply to income from participation in a pool, a joint business or an international operating agency engaged in the operation of ships.
4. For the purposes of this article:
  - a. interest on funds connected with the operation of ships in international traffic shall be regarded as income derived from the operation of such ships and the provisions of article 11 shall not apply in relation to such interest; and
  - b. income from the operation of ships includes income derived from the use, maintenance or rental of containers

trailors and related equipment for the transport of containers) in connection with the transport of goods or merchandise in international traffic.

## Article 10

### DIVIDENDS

1. Dividends paid by a legal person (in the case of India, a company) which is resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the legal person (in the case of India, a company) paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends, the tax so charged shall not exceed 15% of the gross amount of the dividends.

This paragraph shall not affect the taxation of the legal person (in the case of India, a company) in respect of the profits out of which the dividends are paid.

3. The term " dividends " as used in this article means income from shares or other rights, not being debt claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the legal person (in the case of India, a company) making the distribution is a resident. In the case of the USSR, this term means especially part of profits of a joint venture established in conformity with the laws of the USSR which is attributable to its participant who is a resident of India, transferred from the USSR.
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 legal person (in the case of India, a company) paying the dividends is a resident, through a permanent establishment situated therein, and the business in respect of which the dividends are paid is effectively connected with such permanent establishment. In such cases the provisions of article 7 shall apply.

## 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 15 per cent. of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2,--
  - a. interest arising in a Contracting State shall be exempt from tax in that State provided it is derived and beneficially owned by:
    - i. the Government, a sub-division or a local authority of the other Contracting State; or
    - ii. the central bank of that other State;
  - b. interest arising in a Contracting State shall be exempt from tax in that State to the extent approved by the Government of that State if it is derived and beneficially owned by any person (other than a person referred to in sub-paragraph a) who is a resident of the other Contracting State provided that the transaction giving rise to the debt-claim is approved in this regard by the Government of the first-mentioned State.
4. The term " interest " when used in this article means income from debt-claims of every kind, bank deposits, government securities, loans as well as any other income which is treated as interest in accordance with the laws of the State where such income arises. Penalty charges for late payment shall not be regarded as interest for the purpose of this article.
5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State of which the legal person (in the case of India, a company) paying the interest is a resident, through a permanent establishment situated therein, and the business in respect of which the interest is paid is effectively connected with such permanent establishment. In such cases the provisions of article 7 shall apply.

State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of article 7 shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a sub-division, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.
7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and another 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 a case, the excess part of the payments shall nevertheless be taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

## Article 12

### ROYALTIES AND FEES FOR TECHNICAL SERVICES

1. Royalties and fees for technical services arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such royalties and fees for technical services may also be taxed in the Contracting State in which they arise, according to the laws of that State, but if the recipient is the beneficial owner of the royalties, or fees for technical services, the tax so charged shall not exceed:
  - a. Fifteen per cent. of the gross amount of the royalties relating to copyrights of literary, artistic or scientific works other than cinematograph films or films or tapes used for radio or television broadcasting; and
  - b. Twenty per cent. of the gross amount of the royalties in all other cases or fees for technical services.
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 or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, 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 term " fees for technical services " as used in this article means payments of any kind to any person other than an employee of a person making payments, in consideration for the services of a managerial, technical or consultancy nature, including the provision of services of technical or other personnel.
5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties or fees for technical services, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties or fees for technical services arise, through a permanent establishment situated therein, and the right, property or contract in connection with which the royalties or fees for technical services are paid is effectively connected with such permanent establishment. In such case the provisions of article 7 shall apply.
6. Royalties and fees for technical services shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a sub-division, a local authority or a resident of that State. Where, however, the person paying the royalties or fees for technical services, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties or fees for technical services was incurred, and such royalties or fees for technical services are borne by such permanent establishment, then such royalties or fees for technical services shall be deemed to arise in the State in which the permanent establishment is situated.
7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and another person, the amount of royalties or fees for technical services paid exceeds the amount which would have been agreed upon in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In such a case, the excess part of the payments shall nevertheless be taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.



the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard to the other provisions of this Agreement.

#### Article 13

##### GAINS FROM ALIENATION OF PROPERTY

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in article 6 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 a resident of a Contracting State has in the other Contracting State including such gains from the alienation of a permanent establishment (alone or with the whole property) may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State of which the alienator is a resident.
4. Gains from the alienation of shares of the capital stock of a legal person (in the case of India, a company) which is a resident of a Contracting State may be taxed in that State.
5. Gains from the alienation of any property other than that mentioned in paragraphs 1, 2, 3 and 4 shall be taxable only in the Contracting State of which the alienator is a resident.

#### Article 14

##### INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is a resident of a Contracting State from the performance of professional services or other independent activities of a similar character shall be taxable only in that State unless he is present in the other Contracting State for a period or periods amounting to or exceeding in the aggregate 90 days in the relevant fiscal year; in that case, such income may also be taxed in that other State, but only so much of it as is derived from his activities performed in that other State.
2. The term " professional services " includes especially independent personal services of an individual in his capacity as a physician, teacher, architect, engineer and accountant.

#### Article 15

##### INCOME FROM EMPLOYMENT

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 shall be taxable 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 firstmentioned State if:
  - a. the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year; 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 which the employer has in the other State.
3. Notwithstanding the preceding provisions in this article, remuneration derived in respect of an employment exercised on board a ship or aircraft operated in international traffic by a resident of a Contracting State may be taxed in that State.

## Article 16

### DIRECTOR'S FEES

Director's fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the directors or similar body of a company or any other legal person which is a resident of the other Contracting State may be taxed in that other State.

## Article 17

### INCOME EARNED BY ENTERTAINERS AND ATHLETES

1. Notwithstanding the provisions of articles 14 and 15, income derived by a resident of a Contracting State as an entertainer or athlete, 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 such income in respect of personal activities exercised by an entertainer or 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 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.
3. Notwithstanding the provisions of paragraph 1, income derived by an entertainer or an athlete who is a resident of a Contracting State from his personal activities as such exercised in the other Contracting State shall be taxable only in the first-mentioned State, if more than 50 per cent. of the expenses for such activities are supported from the public funds of the first-mentioned State, including any of its sub-divisions or local authorities.
4. Notwithstanding the provisions of paragraph 2 and articles 7, 14 and 15, where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such in a Contracting State accrues not to the entertainer or athlete himself but to another person, that income shall be taxable only in the other Contracting State, if more than 50 per cent. of the expenses of such person are supported from the public funds of that other State, including any of its sub-divisions or local authorities.

## Article 18

### REMUNERATION AND PENSIONS IN RESPECT OF GOVERNMENT SERVICES

1.
  - a. Remuneration, other than a pension, paid by a Contracting State, or a sub-division or a local authority thereof, to an individual in respect of services rendered to that State or sub-division or authority shall be taxable only in that State or sub-division or authority.
  - b. However, such remuneration shall be taxable only in the other Contracting State, if the services are rendered to that other 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 purposes of rendering the services.
2.
  - a. Any pension paid by, or out of funds created by a Contracting State, or a sub-division or a local authority thereof, to an individual in respect of services rendered to that State or sub-division or authority shall be taxable only in that State or sub-division or authority.
  - b. However, such pension shall be taxable only in the other Contracting State if the individual is a resident of that other State and a national of that other State.
3. The provisions of articles 15, 16 and 19 shall apply to remuneration and pensions in respect of services rendered in connection with commercial activities.

## Article 19

### PENSIONS

Any pension, other than a pension referred to in article 18, derived by a resident of a Contracting State from sources within the other Contracting State may be taxed only in the first-mentioned State.

## Article 20

### PAYMENTS RECEIVED BY STUDENTS, APPRENTICES, PROFESSORS, TEACHERS AND RESEARCH SCHOLARS

1. A student or business apprentice who is or was a resident of one of the Contracting States immediately before becoming a resident of the other Contracting State and who is present in that other State solely for the purpose of his education or training shall be exempt from tax in that other State on payments derived from sources outside that other State for the purpose of his maintenance, education or training.
2. Remuneration derived by a professor, a teacher or a research scholar who was, immediately before becoming a resident of the first-mentioned Contracting State, a resident of the other Contracting State and visits the first-mentioned State with the aim of pursuing his education, conducting research or teaching in an educational institution or a school shall not be taxable in the first-mentioned State during first two years of his activity.
3. The provisions of paragraph 2 shall not apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.

## Article 21

### OTHER INCOME

1. Items of income of a resident of a Contracting State which are not expressly dealt with in the foregoing articles of this Agreement shall be taxable only in that State. However, such items of income arising in the other Contracting State may be taxed in that other State.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 1 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, and the right or property in respect of which the income is effectively connected with such permanent establishment. In such cases, the provisions of article 7 shall apply.

## Article 22

### ELIMINATION OF DOUBLE TAXATION

1. The laws in force in either of the Contracting States will continue to govern the taxation of income in the other Contracting States except where provisions to the contrary are made in this Agreement.
2. In the case of India, double taxation shall be avoided as follows:
  - a. where a resident of India derives income which, in accordance with the provisions of this Agreement, may be taxed in the USSR, India, shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in the USSR, whether directly or by deduction. Such deduction shall not, however, exceed that part of the tax (as paid before the deduction is given), which may be attributable to the income which may be taxed in the USSR;
  - b. where a resident of India derives income which, in accordance with the provisions of this Agreement, shall be taxed only in the USSR. India may include this income in the tax base but shall allow as a deduction from the income tax a part of the income-tax which is attributable to the income derived from the USSR.
3. In the USSR, double taxation shall be eliminated in accordance with the laws of the USSR, due regard being given to the taxes paid or spared in India.

## Article 23

### NON-DISCRIMINATION

1. A Contracting State may not exercise in respect of a resident of the other Contracting State a higher or more burdensome taxation than taxation which that State would exercise in respect of a resident of a third State with which it did not conclude an agreement for the avoidance of double taxation.
2. In this article, the term " taxation " means taxes covered by this Agreement.

## Article 24

### MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result for him in taxation not in accordance with this Agreement, he may, notwithstanding the remedies provided in the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident. This case must be presented within three years of the date of receipt of notice of the action which gives rise to taxation not in accordance with the Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to afford 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. Any agreement reached shall be implemented notwithstanding any time limits in the national laws of the Contracting States.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.
4. The competent authorities of the Contracting States may communicate with each other, under the established procedures, for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach an agreement to have an oral exchange of opinions, such exchange may take place through a commission consisting of representatives of the competent authorities of the Contracting States.

## Article 25

### EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange, to the extent permitted by their domestic laws, information (including documents) 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 covered by the Agreement, in particular for the prevention of fraud or evasion of such taxes. Any information received by a Contracting State shall be treated as confidential in the same manner as information obtained under the domestic laws of that State. However, if the information is originally regarded as confidential in the transmitting State, it shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection, 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 exchange of information or documents shall be without prejudice to a request with reference to particular cases.
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 or 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, industrial, commercial or professional secret or trade information the disclosure of which would be contrary to the interests of the first-mentioned State.

3. The competent authorities of the Contracting States shall notify each other of the changes which are made in their

#### Article 26

#### DIPLOMATIC AND CONSULAR ACTIVITIES

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

#### EXISTING AGREEMENTS

Nothing in this Agreement shall affect the provisions of existing agreements between the Contracting States to the extent they have effect in respect of the taxes to which this Agreement applies. However, where any greater relief from these taxes is provided by any provision of this Agreement, that provision shall apply.

#### Article 28

#### ENTRY INTO FORCE

Each of the Contracting States shall notify each other of the completion of the procedures required by its law for the entry into force of this Agreement. This Agreement shall enter into force on the date of receipt of the later of these notifications and thereupon have effect:

- a. in India, in respect of income arising in any fiscal year beginning on or after the first day of April next following the calendar year in which the agreement enters into force;
- b. in the USSR, in respect of income arising in any fiscal year beginning on or after the first day of January next following the calendar year in which the Agreement enters into force.

#### Article 29

#### TERMINATION

1. This Agreement shall remain in force indefinitely, but either of the Contracting States may, on or before the thirtieth day of June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through diplomatic channels, written notice of termination, and, in such event, this Agreement shall cease to have effect:
  - a. in India, in respect of income arising in any fiscal year beginning on or after the first day of April next following the calendar year in which the notice of termination is given;
  - b. in the USSR, in respect of income arising in any fiscal year beginning on or after the first day of January next following the calendar year in which the notice of termination is given.

In witness whereof the undersigned, being duly authorised thereto, have signed the present Agreement.

Done in duplicate at New Delhi this 20th day of November one thousand nine hundred and eighty-eight in the Hindi, Russian and English languages, all the texts being equally authentic. In case of divergence between any of the texts, the English text shall be the operative one.

For the Government of the Republic of India

(Sd.) P. K. Appachoo

Joint Secretary to the Government of India.

For the Government of the Union of Soviet Socialist Republics,

(Sd.) V. M. Kamentsev.

[No. 8442/F.No.503/1/88-FTD]

#### ANNEXURE

TEXT OF NOTIFICATION NO. GSR 952(E) DATED 30TH DECEMBER, 1992 GIVING EFFECT TO THE DECISION THAT THE AGREEMENTS CONCLUDED BY THE ERSTWHILE USSR WILL REMAIN IN FULL FORCE BETWEEN INDIA AND THE RUSSIAN FEDERATION.

WHEREAS the agreements mentioned in the Schedule hereto were entered into between the Government of the Republic of India and the Government of the Union of the Soviet Socialist Republics;

AND WHEREAS the Russian Federation has expressed its desire to exercise the rights and fulfil the obligations arising from the aforesaid Agreements concluded by the erstwhile Union of the Soviet Socialist Republics and to remain a party to the said Agreements;

AND WHEREAS the Government of the Republic of India has accepted and confirmed that the aforesaid Agreements shall have full force and effect between India and the Russian Federation;

AND WHEREAS the Government of the Republic of India and the Russian Federation have agreed that the references in the aforesaid Agreements to "USSR", or "Union of Soviet Socialist Republics", or "SOVIET UNION", wherever they occur shall be construed as references to "Russian Federation";

NOW, THEREFORE, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961), the Government hereby directs that all the provisions of the aforesaid Agreements between the Government of the Republic of India and the Russian Federation shall be given effect to in the Union of India.

#### SCHEDULE

- i. Agreement between the Government of India and the Union of Soviet Socialist Republics on Merchant Shipping concluded at New Delhi on 19th July, 1976, and notified vide Government of India, Ministry of Finance (Department of Revenue) Notification No. 1588 [F. No. 501/1/73-73-FTD]/GSR No. 943(E), dated 23rd December, 1976, and modified by Government of India, Ministry of Finance (Department of Revenue) Notification F. No. 480/1/81-FTD/GSR No. 419(E), dated 31st May, 1984; and
- ii. Agreement between the Government of the Republic of India and the Government of the Union of Soviet Socialist Republics for the avoidance of double taxation of income signed at New Delhi on 20th November, 1988 and notified vide Government of India, Ministry of Finance (Department of Revenue) (Foreign Tax Division) Notification No. 503/1/88-FTD/GSR No. 812(E) dated 4th September 1989.

#### AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION OF INCOME FROM MERCHANT SHIPPING WITH THE RUSSIAN FEDERATION

Whereas the annexed Agreement between the Government of India and the Union of Soviet Socialist Republics on merchant shipping has been concluded; And where as Article XV of the said Agreement provides for the avoidance of double taxation with respect of taxes on income derived from the carriage of cargo;

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961) and section 2 of the Companies (Profits) Surtax Act, 1964 (7 of 1964), the Central Government hereby directs that the provisions of the said Agreement shall be given effect to in the Union of India.

Notification: No. GSR 943(E), dated 23rd December, 1976 as modified by GSR 419(E), dated 31 st May, 1984.

## TEXT OF AGREEMENT DATED 19TH JULY, 1976 REFERRED TO ABOVE

The Government of the Republic of India and the Government of the Union of the Soviet Socialist Republics, being guided by the provisions of the Treaty of Peace, Friendship and Co-operation between the Republic of India and the Union of Soviet Socialist Republics, dated 9th August, 1971, proceedings from the common aspiration for all possible expansion and deepening of beneficial economic and trade co-operation between the two countries as envisaged in the Agreement on the further Development of Economic and Trade Co-operation, dated 29th November, 1973, and desirous of developing merchant shipping between the two countries, have agreed as follows:

### ARTICLE I

For the purposes of this Agreement,----

1. the term " vessel " of the Contracting party shall mean any merchant vessel playing under the national flag of that party in accordance with its legislation. This definition excludes warships and fishing vessels from the sphere of application of this Agreement;
2. the term " member of the crew " shall mean the master and any other person actually employed for duties on board a vessel on voyage in the working or service of a vessel and included in the crew list.

### ARTICLE 2

The Contracting Parties shall grant all possible assistance to the vessels of the two countries and shall refrain from taking any measures which might cause harm to the development of merchant shipping.

### ARTICLE 3

The Contracting Parties shall continue their efforts to maintain and develop effective working relationships between the authorities responsible for maritime affairs in their countries. In particular, the Contracting Parties shall

**BARE**



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