রেজিস্টার্ড নং ডি এ-১

বাংলাদেশ গেজেট

অতিরিক্ত সংখ্যা

কর্তৃপক্ষ কর্তৃক প্রকাশিত

মঙ্গলবার, জানুয়ারী ৩, ১৯৮৯

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গণপ্রজাতন্ত্রী বাংলাদেশ সরকার

অর্থ মন্ত্রণালয়

অভ্যন্তরীণ সম্পদ বিভাগ

(আয়কর)

প্রজ্ঞাপন

ঢাকা, ২১শে পৌষ, ১৩৯৫/৪ঠা জানুয়ারী, ১৯৮৯

নং এস, আর, ও ২-আইন/৮৯—যেহেতু গণপ্রজাতন্ত্রী বাংলাদেশ সরকার এবং প্রজাতন্ত্রি ফ্রান্স সরকার দ্বৈত করারোপণ পরিহার এবং আয়ের উপর কর সম্পর্কিত রাজস্ব ফাঁকি প্রতিরোধের জন্য চুক্তি সম্পাদন করিয়াছেন;

সেহেতু, এক্ষণে, Income Tax Ordinance, 1984 (XXXVI of 1984) এর Section 144 এ প্রদত্ত ক্ষমতাবলে সরকার নির্দেশ দিলেন যে, এতদসংগে সংযোজিত উক্ত চুক্তির বিধানাবলী বাংলাদেশে কার্যকর হইবে;

চুক্তি

CONVENTION

between

The Government of the People's Republic of Bangladesh

and

The Government of the French Republic

for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

মূল্য : টাকা ১·৮০

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The Government of the People's Republic of Bangladesh

and

The Government of the French Republic

desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows :

ARTICLE 1

PERSONAL SCOPE

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

ARTICLE 2

TAXES COVERED

1. This Convention shall apply to taxes on income imposed on behalf of a State or of its local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property.

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

(a) in the case of France :

(i) the income tax ;

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

(b) in the case of Bangladesh :
the income tax (hereinafter referred to as "Bangladesh 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 States shall notify each other of substantial changes which have been made in their respective taxation laws.

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ARTICLE 3

GENERAL DEFINITIONS

1. For the purpose of this Convention, unless the context otherwise requires :

(a) the term "France" means the French Republic and, when used in a geographical sense, the european and overseas departments of the French Republic including the territorial sea, and any area outside the territorial sea of those departments which is, in accordance with international law, an area within which France may exercise rights with respect to the sea, the sea bed and sub-soil and their natural resources ;

(b) the term "Bangladesh" means the People's Republic of Bangladesh ;

(c) the terms "a State" and "the other State" mean France or Bangladesh as the context requires ;

(d) the term "person" includes an individual, a company and any other body of persons ;

(e) the term "company" means anybody corporate or any entity which is treated as a body corporate for tax purposes ;

(f) the terms "enterprises of a State" and "enterprise of the other State" mean respectively an enterprise carried on by a resident of a State and an enterprise carried on by a resident of the other 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 State, except when the ship or aircraft is operated solely between places in the other State ;

(h) the term "nationals" means :

(i) all individuals possessing the nationality of a State;

(ii) all legal persons, partnerships and associations deriving their status as such from the laws in force in a State ;

(j) the term "competent authority" means :

(i) in the case of France, the Minister in charge of the Budget or his authorized representative ;

(ii) in the case of Bangladesh, the National Board of Revenue or its authorized representative.

2. As regards the application of the Convention by a 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.

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ARTICLE 4

RESIDENT

1. For the purpose of this Convention, the term "resident of a State" means any persons who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of managements or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both 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 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 States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

ARTICLE 5

PERMANENT ESTABLISHMENT

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

2. The term "permanent establishment" includes especially :

(a) a place of management ;

(b) a branch ;

(c) an office ;

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(d) a factory;

(e) a workshop;

(f) a warehouse, in relation to a person providing storage facilities for others; and

(g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than 183 days.

4. Notwithstanding the preceding provisions of this Articale 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. A person acting in a State on behalf of an enterprise of the other State—other than an agent of an independent status to whom paragraph 6 of this Article applies—shall be deemed to be a permanent establishment in the first-mentioned State but only if:

(a) he has, and habitually exercises, in the first-mentioned State, a general authority to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise, or

(b) he habitually maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders or makes deliveries on behalf of the enterprise, or

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(c) he habitually secures orders for the sale of goods or merchandise in the first-mentioned State, wholly or almost wholly on behalf of the enterprise itself, or on behalf of the enterprise and other enterprises controlled by it or which have a controlling interest in it.

6. An enterprise shall not be deemed to have a permanent establishment n a 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.

7. The fact that a company which is a resident of a State controls or is controlled by a company which is a resident of the other 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 State from immovable property (including income from agriculture or forestry) situated in the other 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 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 aircrafts shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

ARTICLE 7

Business Profits

1. The profits of an enterprise of a State shall be taxable only in that State unless the enterprise carries on business in the other 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.

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2. Subject to the provisions of pragraph 3, where an enterprise of a State carries on business in the other State through a permanent establishment situated therein, there shall in each State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. Insofar as it has been customary in a State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that State from determining the profits to be taxed by such an apportionment as may be customy, the method of apportionment adopted shall however, be such that the result shall 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 purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

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

ARTICLE 8

SHIPPING AND AIR TRANSPORT

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

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2. Profits from the operation of ships in international traffic may be taxed in the State in which the place of effective management of the enterprise is situated. However, such profits arising in the other State may also be taxed in that State in accordance with its domestic law, but the tax so charged shall be reduced by fifty per cent.

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

4. The provisions of paragraphs 1 and 2 shall also apply to profits derived by such enterprises from the participation in a pool, a joint business or an international operating agency and to incidental income derived by such enterprises from the use of containers for the transport of goods or merchandise.

ARTICLE 9

ASSOCIATED ENTERPRISES

Where

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

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

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

ARTICLE 10

DIVIDENDS

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

2. However, such dividends may also be taxed in the State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the benficial owner of the dividends the tax so charged shall not exceed :

(a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends ;

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(b) 15 per cent of the gross amount of the dividends in all other cases.

This paragraph shall not effect the taxation of the 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, "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.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a State, carries on business in the other 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. A resident of Bangladesh who receives dividends paid by a company which is a resident of France may obtain the refund of the prepayment (Precompte) relating to such dividends, in the event it had been paid by such company. Such refund shall be taxable in France according to the provisions of paragraph 2.

The gross amount of the prepayment (precompte) refunded shall be deemed to be dividends for the purposes of the provisions of this Convention.

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

7. Notwithstanding the provisions of paragraph 6 where a company which is a resident of a State carries on business in the other State through a permanent establishment situated therein, the profits of this permanent establishment shall, after having borne the Corporation tax, be liable to a tax the rate of which shall not exceed 15 per cent, according to the laws of that other State.

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ARTICLE 11

INTEREST

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

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

3. Notwithstanding the provisions of paragraphs 1 and 2, interest derived by a State, its central bank, or related to loans financed or guaranteed directly or indirectly by a public instrumentality of that State in charge of the financing of external trade shall be exempt from tax in the other State.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a State carries on business in the other 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 State when the payer is that State itself, a local authority, a statutory body or a resident of that State. Where, however, the person paying the interest, whether he is a resident of State or not, has in a State a permanent establishment or 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.

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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 State, due regard being had to the other provisions of this Convention.

ARTICLE 12

ROYALTIES

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

2. However, such royalties may also be taxed in the State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of he royalties the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films and films or tapes for radio or television broadcasting), any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific exeprience but does not include any payment in respect of the operation of mines, quarries or other place for extraction of natural resources.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a State, carries on business in the other 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 State when the payer is that State itself, a local authority, a statutory body or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a State or not has in a State a permanent establishment or a fixed base with which the right or property in respect of which the royalties are paid is effectively

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connected, 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 State, regard being had to the other provisions of this Convention.

ARTICLE 13

CAPITAL GAINS

1. Gains derived by a resident of a State from the alienation if immovable property referred to in Article 6 may be taxed in the State where the immovable property is situated.

2. Gains from alienation of shares or rights in a company or a legal person the assets of which consist mainly of immovable property or rights on immovable property may be taxed in the State where the immovable property is situated, where under the law of that State, such gains are subject to the same taxation rules as gains from the alienation of immovable property. For the purposes of this provision, immovable property pertaining to the industrial, commercial or agricultural operation of such company or legal person or to the performance of its independent personal services shall not be taken into account.

3. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a State has in the other State or of movable property pertaining to a fixed base available to a resident of a State in the other 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.

4. 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 State in which the place of effective management of the enterprise is situated.

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

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ARTICLE 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless :

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

(b) his stay in the other State is for a period or periods amounting to or exceeding in the aggregate 120 days in the fiscal year.

2. The term "professional services" includes especially independent scientffic, 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, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other 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 State in respect of an employment exercised in the other State shall be taxable only in the first-mentioned State if :

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned, and

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

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

3. Notwithstanding the preceding provisions of this Article remuneration derived by a resident of a State in respect of an employment exercised aboard a ship or aircraft operated in international traffic shall be taxable only in that State.

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ARTICLE 16

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a State in his capacity as a member of the board of directors of a company which is a resident of the other State may be taxed in that other State.

ARTICLE 17

ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a 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 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 State in which the activities of the entertainer or athlete are exercised.

3. Notwithstanding the provisions of paragraph 1, remunerations or profits, and wages, salaries and other similar income derived by an entertainer or an athlete, who is a resident of a State, from his personal activities as such exercised in the other State, shall be taxable only in the first-mentioned State if these activities in the other State are supported substantially by public funds of the first-mentioned State, one of its local authorities or of a statutory body thereof.

4. Notwithstanding the provisions of paragraph 2, where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such in a State accrues not to the entertainer or athlete himself but to another person, that income, notwithstanding the provisions of Articles 7, 14 and 15 shall be taxable only in the other State, if that other person is supported substantially by public funds of that other State, one of its local authorities or of a statutory body thereof, or if that other person is a non-profit organization of that other State.

ARTICLE 18

PENSIONS

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

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2. Notwithstanding the provisions of paragraph 1, pensions and other payments made under the social security legislation of a State shall be taxable only in that State.

ARTICLE 19

GOVERNMENT SERVICE

1. Remuneration, other than a pension, paid by a State or a local authority thereof, or by a statutory body thereof, to an individual in respect of services rendered to that State or authority or statutory body shall be taxable only in that State.

2. Any pension paid by, or out of funds created by, a State or a local authority thereof, or by a statutory body thereof, to an individual in respect of services rendered to that State or authority or statutory body shall be taxable only in 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 State or a local authority or a statutory body thereof.

ARTICLE 20

STUDENTS

1. Payments which a student or business apprentice who is or was immediately before visiting a State, a resident of the other State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

2. Notwithstanding the provisions of Articles 14 and 15, remuneration which a student or business apprentice who is, or was immediately before visiting a State, a resident of the other State and who is present in the first-mentioned State solely for the purpose of his education or training, derives in respect of services rendered in the first-mentioned State shall not be taxed in the first-mestioned State, provided that such services are in connection with his education or training or that the remuneration of such services is necessary to supplement the resources available to him for the purpose of his maintenance

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ARTICLE 21

TEACHERS AND RESEARCHERS

1. Remuneration which a teacher or a researcher who is or was immediately before visiting a State a resident of the other State, and who is present in the first-mentioned State solely for the purpose of teaching or engaging in research, derives in respect of such activities shall not be taxed in that State for a period not exceeding two years.

2. The provisions of paragraph 1 shall not apply to remuneration derived in respect of research undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

ARTICLE 22

OTHER INCOME

1. Items of income of a resident of a State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

2. Notwithstanding paragraph 1, items of income of a resident of a State not dealt with in the foregoing Articles of this Convention and arising in the other State may be taxed in that other State.

ARTICLE 23

METHOD FOR ELIMINATION OF DOUBLE TAXATION

Double taxation shall be avoided in the following manner :

1. In the case of Bangladesh :

Subject to the provisions of the law of Bangladesh regarding the allowance as a credit against Bangladesh tax of tax payable in a territory outside Bangladesh, tax payable under the laws of France and in accordance with this Convention on income, profits or gains from sources within France shall be allowed as a credit against any Bangladesh tax computed in respect of the same income, profits or gains by reference to which the French tax is computed.

2. In the case of France :

(a) Income other than that referred to in sub-paragraph (b) below shall be exempt from the French taxes referred to in sub-paragraph (a) of paragraph 3 of Article 2 if the income is taxable in Bangladesh under this Convention.

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(b) Income referred to in Articles 10, 11, 12, 14, 16, 17 and 22 received from Bangladesh may be taxed in France in accordance with the provisions of these Articles, on their gross amount. The Bangladesh tax levied on such income entitles residents of France to a tax credit corresponding to the amount of Bangladesh tax levied but which shall not exceed the amount of French tax attributable to such income. Such credit shall be allowed against taxes referred to in sub-paragraph (a) of paragraph 3 of Article 2, in the bases of which such income is included.

(c) For the purpose of sub-paragraph (b), and with respect to items of income dealt with in Articles 10, 11 and 12, the amount of Bangladesh tax levied shall be deemed to be equal to the amount of tax actually withheld at source in Bangladesh increased by 10 per cent of the gross amount of the income but shall in no case exceed 20 per cent of the gross amount of the income.

(d) Notwithstanding the provisions of sub-paragraphs (a) and (b), French tax is computed on income chargeable in France by virtue of this Convention at the rate appropriate to the total of the income chargeable in accordance with the French laws.

ARTICLE 24

NON-DISCRIMINATION

1. Nationals of a State shall not be subjected in the other 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. The provisions shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the States.

2. Stateless persons who are residents of a State shall not be subjected in the other 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.

3. The taxation on a permanent establishment which an enterprise of a State has in the other 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.

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4. Nothing contained in paragraphs 1, 2, and 3 of this Article shall be construed as :

(a) obliging a State to grant to residents of the other State any personal allowances, reliefs and reductions which it grants to its residents ;

(b) affecting any provisions of the tax laws of the respective States regarding the imposition of tax on non-resident persons as such.

5. Nothing contained in paragraph 1 of this Article shall be construed as preventing France from granting only to persons possessing the French nationality the benefit of the exemption of the capital gains derived from the alienation of immovable property or part of immovable property constituting a residence in France, according to the provisions of Article 150 C of the "Code General des Impots".

6. 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 State to a resident of the other 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.

7. Nothing contained in paragraph 6 of this Article shall be construed as :

(a) preventing Bangladesh from applying its law requiring the deduction of tax at source, from interest, royalties and other disbursements as a condition for deduction ;

(b) preventing France from applying the provisions of Article 212 of the "Code General des Impots" as regards interest paid by a French company to a foreign parent company.

8. Enterprises of a State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other 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.

9. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

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ARTICLE 25

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the 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 State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the 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 State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limit in the domestic law of the States.

3. The competent authorities of the States shall endeavour to resolve by mutual agreement any difficulties arising as to the application of the Convention.

In particular, the competent authorities of the States may consult together to endeavour to agree :

(a) to the same attribution in both States of the profits attributable to a permanent establishment situated in a State of an enterprise of the other State ;

(b) to the same allocation of income between a resident of a State and an associated person referred to in Article 9 who is a resident of the other State.

They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

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

5. The competent authorities of the States shall by mutual agreement settle the mode of application of the Convention and, especially, the requirements to which the residents of a State shall be subjected in order to obtain, in the other State, the tax reliefs or exemptions provided for by the Convention.

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ARTICLE 26

EXCHANGE OF INFORMATION

1. The competent authorities of the States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a 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 State the obligation :

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

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

ARTICLE 27

DIPLOMATIC AGENTS AND CONSULAR OFFICERS

1. Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions and their personal domestics, of members of consular missions, or of members of permanent missions to international organizations under the general rules of international law or under the provisions of special agreements.

2. Notwithstanding the provisions of Article 4 an individual who is a member of a diplomatic mission, consular post or permanent mission of a State which is situated in the other State or in a third State shall be deemed for the purposes of this Convention to be a resident of the sending State if :

(a) in accordance with international law he is not liable to tax in the receiving State in respect of income from sources outside that State; and

(b) he is liable in the sending State to the same obligations in relation to tax on his total world-wide income as are residents of that State.

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3. This Convention shall not apply to international organizations, to organs or officials thereof and to persons who are members of a diplomatic mission, consular post or permanent mission of a third State, being present in a State and not treated in either State as residents in respect of taxes on income.

ARTICLE 28

TERRITORIAL EXTENSION

1. This Convention may be extended, either in its entirety or with any necessary modifications, to the overseas territories of the French Republic which impose taxes substantially similar in character to those to which the Convention applies. Any such extention shall take effect from such date and subject to such modifications and conditions, including condition as to termination, as may be specified and agreed between the States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures.

2. Unless otherwise agreed by both States, the termination of the Convention by one of them under Article 30 shall also terminate, in the manner provided for in that Article, the application of the Convention to any territory to which it has been extended under this Article.

ARTICLE 29

ENTRY INTO FORCE

1. Each State shall notify to the other the completion of the procedure required as far as it is concerned for the bringing into force of this Convention. This Convention shall enter into force on the first day of the second month following the day when the latter of these notifications has been received.

2. Its provisions shall apply for the first time:

(a) as regards taxes withheld at source, to amounts payable on or after the date of entry into force of this Convention;

(b) as regards other taxes on income:

- in Bangladesh, to income derived during the fiscal year year in which the Convention enters into force, or relating to the accounting period ending during this year;
- in France, to income derived during the calendar year in which the Convention entered into force, or relating to the accounting period ending during this year.

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ARTICLE 30

TERMINATION

1. This Convention shall remain in force until terminated by a State. Either State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year 1987. In such event, the Convention shall cease to have effect :

(a) in Bangladesh :

(i) as regards taxes withheld at source, to amounts payable after the 31st December of the calendar year during which the termination has been notified ;

(ii) as regards other taxes on income, to income derive during the fiscal year beginning during the calendar year next following that during which the termination has been notified or relating to the accounting period ending during this year ;

(b) in France :

(i) as regards taxes withheld as source, to amounts payable after the 31st of December of the calendar year during which the termination has been notified;

(ii) as regards other taxes on income, to income derived during the calendar year next following that during which the termination has been notified or relating to the accounting period ending during this year.

In WITNESS WHEREOF, the undersigned, duly authorized thereto, have signed this Convention.

Done at Dhaka, this 9th day of March, 1987....., in duplicate, in the French, Bengali and English languages, all the three texts being equally authoritative.

For the Government of the People's Republic of Bangladesh.

(M. SYEDUZZAMAN)

For the Government of the French Republic.

(Didier BARIANI)

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PROTOCOL

At the time of signature of the Convention between the Government of the People's Republic of Bangladesh and the Government of the French Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed that the following provisions shall form an integral part of the Convention :

1. In respect of paragraph 3 of Article 12, 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.

2. In respect of Article 30, the provisions of the Convention relating to the elimination of double taxation, the mutual agreement procedure and the exchange of information shall continue to apply, after the 31st of December of the calendar year for the end of which the termination has been notified, to the assessment of income covered by the present Convention according to Article 30 paragraph 2 (a) and (b).

Done at Dhaka, this day of March, 1987, in duplicate, in the French, Bengali and English languages, all the three text being equally authoritative.

For the Government of the People's Republic of Bangladesh.

(M. SYEDUZZAMAN)

For the Government of the French Republic.

(Didier BARIANI)

রাষ্ট্রপতির আদেশক্রমে
মোঃ মতিউর রহমান
অতিরিক্ত সচিব।

মোঃ সিদ্দিকুর রহমান, ডেপুটি কন্ট্রোলার, বাংলাদেশ সরকারী মুদ্রণালয়, ঢাকা, কর্তৃক মুদ্রিত।
খোন্দকার মাহ্‌ফুজাল করিম, ডেপুটি কন্ট্রোলার, বাংলাদেশ ফরমস্ ও প্রকাশনী অফিস, তেজগাঁও, ঢাকা কর্তৃক প্রকাশিত।

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