রেজিষ্টার্ড নং ডি এ-১

বাংলাদেশ গেজেট

অতিরিক্ত সংখ্যা

কর্তৃপক্ষ কর্তৃক প্রকাশিত

রবিবার সেপ্টেম্বর ১৮, ১৯৯৪

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার

অর্থ মন্ত্রণালয়

আভ্যন্তরীণ সম্পদ বিভাগ

(আয়কর)

প্রজ্ঞাপন

তারিখ, ৩০ শে ভাদ্র, ১৪০১/১৪ই সেপ্টেম্বর, ১৯৯৪

নং এস, আর, ও ২৬৭-আইন/৯৪—যেহেতু গণপ্রজাতন্ত্রী বাংলাদেশ সরকার এবং রাজকীয় নেদারল্যান্ডস সরকার দ্বৈত করারোপন পরিহার এবং আয়ের উপর কর সম্পর্কিত রাজস্ব ফাঁকি প্রতিরোধের জন্য ১৩ই জুলাই, ১৯৯৩ তারিখে একটি চুক্তি সম্পাদন করিয়াছেন।

সেহেতু Incometax 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 KINGDOM OF THE NETHERLANDS AND THE PEOPLE'S REPUBLIC OF BANGLADESH FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

মূল্য ঃ টাকা ৬.০০

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THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS

AND

THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

DESIRING to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

HAVE AGREED as follows :

CHAPTER I

SCOPE OF THE CONVENTION

Article 1

PERSONAL SCOPE

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

Article 2

TAXES COVERED

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

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

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

(a) in the Netherlands :

- de inkomstenbelasting (income tax),
- de loonbelasting (wages tax),
- de vennootschapsbelasting (company tax) including the Government share in the net profits, of the exploitation of natural resources levied pursuant to the Mijnwet 1810 (the Mining Act of 1810) with respect to concessions issued from 1967, or pursuant to Mijnwet Continentaal plat 1965 (the Netherlands Continental Shelf Mining Act of 1965),

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de dividendbelasting (dividend tax),

(hereinafter referred to as "Netherlands tax") ;

(b) in Bangladesh :

the income tax,

(hereinafter referred to as "Bangladesh tax").

4. The Convention shall apply also to any identical or substantially simillar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify to each other any substantial changes which have been made in their respective taxation laws.

CHAPTER II

DEFINITIONS

Article 3

GENERAL DEFINITIONS

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

(a) the term "Contracting State" means the Netherlands or Bangladesh, as the context requires; the term "Contracting States" means the Netherlands and Bangladesh;

(b) the term "the Netherlands" means the part of the Kingdom of the Netherlands that is situated in Europe including the part of the seabed and its sub-soil under the North Sea, to the extent that area in accordance with international law has been or may hereafter be designated under Netherlands law as an area within which the Netherlands may exercise sovereign rights with respect to the exploration and exploitation of the natural resources of the seabed or its sub-soil;

(c) the term "Bangladesh" means all the territory of the People's Republic of Bangladesh including the part of the seabed and its sub-soil thereof, to the extent that area in accordance with international law has been or may hereafter be designated under Bangladesh law as an area within which Bangladesh may exercise sovereign rights with respect to the exploration and exploitation of the natural resources of the seabed or its sub-soil;

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

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

(f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a contracting State and an enterprise carried on by a resident of the other Contreting State;

(g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(h) the term "nationals" means :

(1) all individuals possessing the nationality of one of the Contracting States;

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

(i) the term "competent authority" means :

(1) in the Netherlands the Minister of Finance or his duly authorised representative;

(2) in Bangladesh the National Board of Revenue or its authorised representative.

2. As regards the application of the Convention by a Contracting State any term not defined therin shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

Article 4

RESIDENT

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws 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. 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 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);

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(b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;

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

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

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

Article 5

PERMANENT ESTABLISHMENT

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

2. The term "permanent establishment" includes especially :

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

(f) a 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, a construction, assembly or installation project constitutes a permanent establishment only if it lasts more than six months.

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

(a) the use of facilities solely for the purpose of storuage or display of goods or merchandise belonging to the enterprise;

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(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-paragraph (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person—other than an agent of an independent status to whom paragraph 6 applies—is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned State if the person :

(a) has and habitually excercises in that State an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for that enterprise; or

(b) has no such authority, but habitually maintains in that State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

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CHAPTER III

TAXATION OF INCOME

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

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

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

Article 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therin. If the interprise carries on business as aforesaid, the profits of the interprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therin, 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 interprise 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.

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4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result 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 Contracting State in which the place of effective management of the enterprise is situated.

2. Profits arising in a Contracting State and derived from the operation of ships in international traffic by an enterprise having its place of effective management in the other Contracting State may be taxed in the first-mentioned State but the rate of tax chargeable in that State shall be reduced to fifty per cent thereof and shall in no case exceed 4 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 Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

4. The provisions of paragrahs 1 and 2 also apply to profits from the paticipation in a pool, a joint business or an international operating agency.

Article 9

ASSOCIATED ENTERPRISES

1. Where—

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

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or,

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

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

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

Article 10

DIVIDENDS

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

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

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

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

3. The provisions of paragraph 2 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

4. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights participating in profits, as well as income from profits sharing bonds and 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 dirstribution is a resident.

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

6. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insorfar 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 undistrbuted profits consist wholly or partly of profits or income arising in such other State.

Article 11

INTEREST

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

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

3. Notwithstanding the provisions of paragraph 2 :

(a) the Bangladesh Bank shall be exempt from Netherlands tax with respect to interest arising in the Netherlands ;

(b) the Central Bank of the Netherlands shall be exempt from Bangladesh tax with respect to interest arising in Bangladesh ;

(c) the Government of a Contracting State shall be exempt from tax in the other Contracting State with respect to interest arising in that other State ;

(d) interest arising in a Contracting State and paid in respect of a loan made by or guaranteed or insured by the Government of the other Contracting State, the Central Bank of the other State or any agency or instrumentality (including a financial institution) owned or controlled by the Government of the other State shall be exempt from tax in the first-mentioned State;

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(e) interest arising in a Contracting State and paid to a resident of the other Contracting State by virtue of a contract of financing or of delay in payment relating to the sale of industrial, commercial or scientific equipment or to the construction of industrial, commercial or scientific installations as well as of public works shall be exempt from tax in the first-mentioned State.

4. The term "interest" as used in this Article means income from debt-claims of every kind, wheather or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits and in particular, income from government securities and income from bonds or debentures including premiums and prizes attaching to such securities, bonds or debentures. However, this term does not include income dealt with in Article 10. 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 in which the interest arises, through a permanent establishment situated therein , or performs in that other State independent personal services from a fixed base situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

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

Article 12

ROYALTIES

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

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

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

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royallties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therin, 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 snch permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision a local authority or a resident of that State. Where, however, the person paying the royalties, whether, he is a resident of a Contracting state or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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

Article 13

CAPITAL GAINS

1. Capital gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Capital gains from the alienation of movable property forming part of the business propeerty of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independeent 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.

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3. Capital gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the contracting State in which the place of effective management of the enterprise is situated.

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

5. The provisions of paragraph 4 shall not affect the right of each of the Contracting States to levy according to its own law a tax on gains from the alienation of shares or "jouissance" rights in a company, the capital of which is wholly or partly divided into shares and which is a resident of that State according to the laws of that State, derived by an individuld who is a resident of the other Contracting State and has been a resident of the first-mentioned State in the courese of the last five years preceding the alienation of the shares or "jouissance" rights.

Article 14

INDEPENDENT PERSONAL SERVICES

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

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

(b) if he is present in the other Contracting State for a period or periods amounting to or exceeding in the aggregate 183 days in the taxable period or the fiscal year, as the case may be, of that State; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.

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

Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the taxable period or the fiscal year, as the case may be, of that State, 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 in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16

DIRECTORS' FEES

Directors' fees or other remuneration derived by a resident of a Contracting State in his capacity as a member of the board of directors a 'bestuurder" or a "commissaris'' of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17

ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

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

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, income derived from such activities as defined in paragraph 1 shall be exempt from tax in the Contracting State in which these activities are exercised if the visit of the entertainers, the musicians or the athletes to a Contracting State is supported wholly or substantially from public funds of the other Contracting State, a political subdivision or a local authority thereof, or if these activities are performed under a cultural or sport agreement or arrangement between the Contracting States.

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Article 18

PENSIONS AND ANNUITIES

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

2. However, where such pension, remuneration or annuity is not of a periodical nature, it may be taxed in that other State.

3. Pensions and other payments paid to an individual under the social security scheme of a Contracting State, may be taxed in that State.

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

Article 19

GOVERNMENT SERVICE

1. (a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority may be taxed in that State.

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

(1) is a national of that State ; or

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

2 (a) Any pension paid by, or out of funds created by, a Contracting state or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority may be taxed in that State.

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

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

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Article 20

PROFESSORS AND TEACHERS

An individual who is or was a resident of a Contracting State immediately before making a visit to the other Contracting State, and who, at the invitation of any university, college, school or other similar educational institution, which is recognised by the competent authority in that other Contracting State visits that other Contracting State for a period not exceeding two years solely for the purpose of teaching or research or both at such educational institution shall be exempt from tax in that other Contracting state on his remuneration for such teaching or research.

Article 21

STUDENTS AND APPRENTICES

1. An individual who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely as a student at a recognised university, college, school or other similar recognised educational institution in the first-mentioned State or as a business or technical apprentice therein, for a period not exceeding five years from the date of his first arrival in the first-mentioned State in connection with that visit, shall be exempt from tax in that first-mentioned State on :

(a) all remittances from abroad for the purposes of his maintenance, education or training, and

(b) any remuneration for personal services rendered in the first-mentioned State with a view to supplementing the resources available to him for such purposes but not exceeding 6000 Netherlands guilders or its equivalent in Bangladesh currency for any fiscal year.

2. An individual who was a resident of a Contracting State immediately before visiting the other Contracting State and is, for a period, which in no case shall exceed five years, present in that other State solely for the purpose of study research or training as a recipient of a grant, allowance or award from a scientific, educational, religious or charitable organisation or under a technical assistance programme entered into by the Government of a Contracting State shall from the date of his first arrival in that other State in connection with that visit, be exempt from tax in that other State :

(a) on the amount of such grant, allowance or award ; and

(b) on all remittances from abroad for the purposes of his maintenance, education or training.

Article 22

OTHER INCOME

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

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

CHAPTER IV

ELIMINATION OF DOUBLE TAXATION

Article 23

ELIMINATION OF DOUBLE TAXATION

1. The Netherlands, when imposing tax on its residents, may include in the basis upon which such taxes are imposed the items of income which, according to the provisions of this convention, may be taxed in Bangladesh.

2. However where a resident of the Netherlands derives items of income which according to Article 6, Article 7, paragraph 5 of Article 10, paragraph 5 of Article 11, paragraph 4 of Article 12, paragraphs 1 and 2 of Article 13, Article 14, paragraphs 1 and 3 of Article 15, Article 16, Article 19 and paragraph 2 of Article 22 of this Convention may be taxed in Bangladesh and are included in the basis referred to in paragraph 1 the Netherlands shall exempt such items of income by allowing a reduction of its tax. This reduction shall be computed in conformity with the provisions of Netherlands law for the avoidance of double taxation. For that purpose the said items of income shall be deemed to be included in the total amount of the items of income which are exempt from Netherlands tax under those provisions.

3. Further, the Netherlands shall allow a deduction from the Netherlands tax so computed for the items of income which according to paragraph 2 of Article 8, paragraph 2 of Article 10, paragraph 2 of Article 11, paragraph 2 of Article 12, paragraph 5 of Article 13, Article 17 and paragraph 2 of article 18 of this Convention may be taxed in Bangladesh to the extent that these items are included in the basis referred to in paragraph 1. The amount of this deduction shall be equal to the tax paid in Bangladesh on these items of income, but shall not exceed the amount of the reduction which would be allowed if the items of income so included were the sole items of income which are exempt from Netherlands tax under the provisions of Netherlands law for the avoidance of double taxation.

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4. Where, by reason of special relief given under the provisions of Bangladesh law for the purpose of encouraging investment in Bangladesh the Bangladesh tax actually levied on interest and royalties arising in Bangladesh is lower than the tax Bangladesh may levy according to paragraph 2 of Article 11 and paragraph 2 of Article 12, then the amount of the tax paid in Bangladesh on such interest and royalties shall be deemed to have been paid at the rates of tax mentioned in the said provisions. However, if the general tax rates under Bangladesh law applicable to the afore-mentioned interest and royalties are reduced below those mentioned in the foregoing sentence these lower rates shall apply for the purposes of that sentence.

The provisions of the two foregoing sentences shall only apply for a period of ten years after the date on which the Convention became effective. This period may be extended by mutual agreement between the competent authorities.

5. 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 (which shall not affect the general principle hereof), tax payable under the laws of the Netherlands and in accordance with this Convention on income, profits or gains from sources within the Netherlands 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 Netherlands tax is computed.

For the purposes of this paragraph in determining the taxes on income paid to the Netherlands the investment premiums and bonuses and disinvestment payments as meant in the Netherlands Investment Account Law ("Wet investeringsrekening") shall not be taken into account. For the purposes of this paragraph, the taxes referred to in paragraph 3(a) and 4 of Article 2 shall be considered taxes on income.

CHAPTER V

SPECIAL PROVISIONS

Article 24

NON-DISCRIMINATION

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

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.This provision shall not be construed as obliging in a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

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3. Except where the provisions of paragraph 1 of Article 9 paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

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

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

Article 25

MUTUAL AGREEMENT PROCEDURE

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

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

3. The competent authorities of the Contracting State shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the imterpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

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

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Article 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement 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 Contractiong State the obligation :

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

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State ;

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

Article 27

DIPLOMATIC AGENTS AND CONSULAR OFFICERS

1. Nothing in this Convention shall affect the fiscal privileges of members of a diplomatic mission or consular post under the general rules of international law or under the provisions of special agreements.

2. For the purposes of the Convention, an individual who is a member of a diplomatic mission, consular post or permanent mission of a Contracting State which is situated in the other Contracting State or in a third State shall be deemed to be a resident of the sending State if he is liable in the sending State to the same obligations in relation to tax on his total world income as are residents of that sending State.

3. The Convention shall not apply to international organisations, to organs or officials thereof and to persons who are members of a diplomatic, consular or permanent mission of a third State being present in a Contracting State and who are not liable in either Contracting State to the same obligations in relation to tax on their total world income as are residents thereof.

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Article 28

REGULATIONS

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of paragraph 2 of Article 10, of paragraph 2 and 3 of Article 11 and paragraph 2 of Article 12.

Article 29

TERRITORIAL EXTENSION

1. This Convention may be extended, either in its entirety or with any necessary modifications, to any part or territory of the Kingdom of the Netherlands to which the Convention does not apply and which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination as may be specified and agreed in notes to be exchanged through diplomatic channels or in any other manner, in accordance with their constitutional procedures.

2. Unless otherwise agreed the termination of the Convention shall not also terminate any extension of the Convention to any part or territory to which it has been extended under this Article.

CHAPTER VI

FINAL PROVISIONS

Article 30

ENTRY INTO FORCE

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

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

(a) in the Netherlands : for taxable years and periods beginning on or after January 1 in the calendar year next following that in which the instruments of ratification have been exchanged ;

(b) in Bangladesh : for any year of assessment beginning on or after July 1 in the calendar year next following that in which the instruments of ratification have been exchanged.

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Article 31

TERMINATION

This Convention shall remain in force until terminated by a Contracting State Either Contracting State may terminate the Convention, through diplomatic channels, by giving to the other Contracting State, written notice of termination not later than 30th June of any calendar year from the fifth year following that in which the instruments of ratification have been exchanged. In such event, the Convention shall cease to have effect:

(a) in the Netherlands : for taxable years and periods beginning on or after January 1 in the calendar year next following that in which the notice of termination is given ;

(b) in Bangladesh : for any year of assessment beginning on or after July 1 in the calendar year next following that in which the notice of termination is given.

IN WITNESS whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Convention.

DONE at Dhaka this 13th day of July, 1993, in duplicate, in the English language.

FOR THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS

Sd/—
(H. Gajentaan)
Ambassador of the Kingdom
of the Netherlands
to Bangladesh.

FOR THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

Sd/—
(Dr. Akbar Ali Khan)
Secretary
Internal Resources Division
Ministry of Finance.

রাষ্ট্রপতির আদেশক্রমে

ডঃ আকবর আলী খান
সচিব।

মোঃ মিজানুর রহমান, উপ-নিয়ন্ত্রক, বাংলাদেশ সরকারী মুদ্রণালয়, ঢাকা কর্তৃক মুদ্রিত।
মোঃ আব্দুর রশীদ সরকার, উপ-নিয়ন্ত্রক, বাংলাদেশ ফরমস্ ও প্রকাশনী অফিস, তেজগাঁও, ঢাকা কর্তৃক প্রকাশিত।

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