রেজিস্টার্ড নং ডি এ-১

বাংলাদেশ গেজেট

অতিরিক্ত সংখ্যা

কর্তৃপক্ষ কর্তৃক প্রকাশিত

সোমবার, অক্টোবর ২৯, ২০১২

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার

অর্থ মন্ত্রণালয়

অভ্যন্তরীণ সম্পদ বিভাগ

(আয়কর)

প্রজ্ঞাপন

তারিখ, ৩ কার্তিক ১৪১৯ বঙ্গাব্দ/১৮ অক্টোবর ২০১২ খ্রিস্টাব্দ

এস. আর. ও নং ৩৫৮-আইন/২০১২।—Income-tax Ordinance, 1984 (Ordinance No. XXXVI of 1984) এর অধীন দ্বৈত করারোপণ পরিহার এবং আয়ের উপর কর সম্পর্কিত রাজস্ব ফাঁকি প্রতিরোধের উদ্দেশ্যে গণপ্রজাতন্ত্রী বাংলাদেশ সরকার ও দি ইউনিয়ন অব মায়ানমার সরকার এর মধ্যে ০৭ অক্টোবর, ২০০৮ খ্রিস্টাব্দ তারিখে নিম্ন তফসিলে বর্ণিত চুক্তি, অতঃপর "উক্ত চুক্তি" বলিয়া উল্লিখিত, সম্পাদিত হইয়াছে; এবং

যেহেতু, উক্ত চুক্তির বিধানাবলী বাংলাদেশে কার্যকর করা প্রয়োজন;

সেহেতু, Income-tax Ordinance, 1984 (Ordinance No. XXXVI of 1984) এর section 144 এ প্রদত্ত ক্ষমতাবলে সরকার এতদ্দ্বারা বিধান করিল যে, নিম্ন তফসিলে বর্ণিত উক্ত চুক্তির (ইংরেজী পাঠ) বিধানাবলী ০১ জুলাই, ২০১২ খ্রিস্টাব্দ তারিখে বাংলাদেশে কার্যকর হইয়াছে বলিয়া গণ্য হইবে।

মূল্য ঃ টাকা ৩০.০০

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তফসিল

চুক্তি
(ইংরেজী পাঠ)

AGREEMENT
BETWEEN
THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH
AND
THE GOVERNMENT OF THE UNION OF MYANMAR
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND
THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH
AND
THE GOVERNMENT OF THE UNION OF MYANMAR

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

ARTICLE 2
TAXES COVERED

1. This Agreement shall apply to taxes on income imposed by a Contracting State or 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.

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

(a) In the case of Bangladesh :
the income tax
(Hereinafter referred to as "Bangladesh tax")

(b) in the case of Myanmar :

(i) the income tax imposed under the Income Tax Law 1974 (Law No. 7 of 1974);

(ii) the profit tax imposed under the Profits Tax Law of 1976; (Law No. 4 of 1976);
(Hereinafter referred to as "Myanmar tax").

4. This Agreement shall also apply to any identical or substantially similar taxes on income which are imposed by either Contracting State after the date of signature of this Agreement in addition to, or in place of, the existing taxes referred to in this Article. The competent authorities of the Contracting States shall notify each other of any substantial changes, which have been made in their respective taxation laws.

ARTICLE 3
GENERAL DEFINITIONS

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

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

(b) the term "Myanmar" means the Union of Myanmar;

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

(d) the term "national" means all individuals possessing the nationality or citizenship of the respective Contracting State and also any legal person, partnership and association deriving their status as such from the laws in force in the respective Contracting State;

(e) the term "person" includes an individual, a company, a body of persons or any other entity which is treated as a person for tax purposes;

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

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

(h) the term "tax" means Myanmar tax or Bangladesh tax as the context require;

(i) the term "competent authority" means :

(i) in the case of Myanmar, the Ministry of Finance and Revenue or its authorized representative;

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

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

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

ARTICLE 4
RESIDENT

1. For the purpose of this Agreement the term "resident of a Contracting State" means :

(a) in the case of Myanmar, a person who is a resident in Myanmar for the purposes of Myanmar tax; and

(b) in the case of Bangladesh, any person who, under the laws of that Contracting State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

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2. Where, by reason of the provisions of paragraph 1 of this Article 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 Contracting State in which he has a permanent home available to him;

(b) if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);

(c) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has no permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;

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

(e) if the status of a resident cannot be determined according to sub-paragraphs (a) to (d), the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

ARTICLE 5
PERMANENT ESTABLISHMENT

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

2. The term “permanent establishment” shall include especially :

(a) a place of management;

(b) a branch;

(c) an office;

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(d) a factory;

(e) a workshop;

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

(g) a farm or plantation;

(h) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than six months;

(i) a warehouse, in relation to a person providing storage facilities for others.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, the term "permanent establishment" shall be deemed not to include :

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

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or for collecting information, for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of advertising, supply of information for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e) :

Provided that overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

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4. A person acting in a Contracting State for or on behalf of an enterprise of the other Contracting State, other than an agent of an independent status to whom paragraph 5 of this Article applies shall be deemed to be a permanent establishment in the first-mentioned Contracting State if :

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

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

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

5. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that Contracting 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.

6. 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 Contracting State (whether through a permanent establishment or otherwise) shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 6
INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property situated in the other Contracting State may be taxed in that other Contracting State.

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

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

4. The provisions of paragraph 1 and 3 of this Article 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 Contracting State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other Contracting State but only so much of them as is directly or indirectly attributable to that permanent establishment.

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

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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 Contracting State in which the permanent establishment is situated or elsewhere, but this does not include any expenses which under the law of that Contracting State would not be allowed to be deducted by an enterprise of that Contracting State.

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 of this Article shall preclude that Contracting State from determining the profit to be taxed by such an apportionment as my be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.

5. No profit 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 Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8
SHIPPING AND AIR TRANSPORT

1. Income of an enterprise of one of the Contracting States derived from the other Contacting State from the operation of ships in international traffic may be taxed in that other Contracting State, but the tax chargeable in that other Contracting State on such income shall be reduced by an amount equal to fifty per cent thereof.

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2. Income of an enterprise of a Contracting State from the operation of aircraft in international traffic shall be taxable only in that Contracting State.

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

ARTICLE 9
ASSOCIATED ENTERPRISES

1. Where :

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

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

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

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

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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 Contracting 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 Contracting State, but if the recipient is the beneficial owner of the dividend is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

This paragraph shall not affect 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, mining shares, founder's shares, or other right, 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 Contracting State of which the company making the distribution is a resident.

4. The provisions if paragraphs 1 and 2 of this Article shall not apply if the recipient of the dividend 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 Contracting 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.

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5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other Contracting 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 Contracting 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 Contracting 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 Contracting 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 Contracting State.

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

Notwithstanding the provisions of paragraph 2 of this Article, interest arising in a Contracting State and paid to the Government and any other institution performing functions of a governmental nature of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State.

4. For the purpose of paragraph 3 of this Article, the term "Government and any other institutions performing functions of a governmental nature,"

(a) in the case of Bangladesh, means the Government of Bangladesh and shall include :
   (i) the local authorities;
   (ii) the political sub-divisions;
   (iii) Bangladesh Bank; and

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(iv) other financial institutions performing functions of governmental nature as may be specified and agreed upon from time to time between the competent authorities of the Contracting States.

(b) in the case of Myanmar, means the Government of Myanmar and shall include :

(i) the local authorities;

(ii) the political sub-divisions;

(iii) the Central Bank of Myanmar;

(iv) Myanmar Foreign Trade Bank;

(v) Myanmar Investment and Commercial Bank;

(vi) Myanmar Economic Bank; and

(iv) other financial institutions performing functions of governmental nature as may be specified and agreed upon from time to time between the competent authorities of the Contracting States;

5. 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.

6. The Provisions of paragraphs 1, 2 and 3 of this Article 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 Contracting 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 a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

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7. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority, or a resident of that Contracting 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 a fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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

ARTICLE 12
ROYALTIES

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

2. However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that Contracting State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 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, or tapes, used for television or radio broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

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4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other Contracting 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 a 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 local authority or a resident of that Contracting 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 obligation 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 Contracting 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 interest paid, having regard to the use, right or information for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 13
CAPITAL GAINS

1. Capital gains from the alienation of immovable property, as defined in paragraph 2 of Article 6 or from the alienation of shares in a company the assets of which consist principally of immovable property may be taxed in the Contracting State in which such property is situated.

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2. Capital Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), or of such fixed base may be taxed in that other Contracting State.

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 shares of the capital stock of a company the property of which consists principally of immovable property situated in Contracting State may be taxed in that State.

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

ARTICLE 14
INDEPENDENT PERSONAL SERVICES

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

(a) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days;

(i) in the case of Bangladesh, within any 12 months period concerning or any fiscal year concerned. In that case only so much of the income as is derived from his activities performed in that other Contracting State may be taxed in that other Contracting State; and

(ii) in the case of Myanmar, in fiscal year concerned;

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(b) if the remuneration for his activities in the other Contracting State is paid by a resident of that Contracting State or is borne by a permanent establishment situated in that Contracting State and exceeds US 5,000 Dollars :

(i) in the case of Bangladesh in the fiscal year concerned; and

(ii) in the case of Myanmar in the calendar year concerned;

(c) 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 the other Contracting State; or

(d) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in the fiscal year concerned; in that case only, so much of the income as is derived from his activities performed in that other Contracting 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 Contracting 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 Contracting State.

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2. Notwithstanding the provisions of paragraph 1, of this Article 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 Contracting State for a period or periods not exceeding in the aggregate 183 days;

(i) in the case of Bangladesh, in the income year concerned; and

(ii) in the case of Myanmar, in the fiscal year concerned;

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

(c) the remuneration is not borne by a resident of the other Contracting State or a permanent establishment, which the employer has in the other State.

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

ARTICLE 16
DIRECTORS' FEES

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

ARTICLE 17
ARTISTS AND SPORTSMEN

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 artist, or a musician, or as a sportsman from his personal activities as such exercised in the other Contracting State, may be taxed in that other Contracting State.

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2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman 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 sportsman are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, income derived in respect of the activities referred to in paragraph 1 of this Article within the framework of cultural or sports exchange programme agreed to by both Contracting States shall be exempt from tax in the Contracting State in which these activities are exercised.

ARTICLE 18
PENSIONS AND ANNUITIES

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

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

ARTICLE 19
GOVERNMENT SERVICE

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

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

      (i) is a national of that Contracting State; or

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

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

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

3. The provision of Articles 16, 17 and 19 shall apply to remuneration or pensions in respect of services rendered in connection with any business carried on by a Contracting State or a local authority or statutory body thereof.

ARTICLE 20
STUDENTS AND APPRENTICES

1. An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State and is temporarily present in the other State solely :

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

(b) as a business or technical apprentice; or

(c) as a recipient of a grant, allowance or award for the primary purpose of study, research or training from the Government of either State or from a scientific, educational, religious or charitable organization or under a technical assistance programme entered into by the Government of either State;

shall be exempt from tax in that other State on :

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

(ii) the amount of such grant, allowance or award; and any remuneration not exceeding 2000 US dollars per annum in respect of services in that other State provided the services are performed in connection with his study, research or training or are necessary for the purposes of his maintenance.

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2. An individual who was a resident of a Contracting State immediately before visiting the other Contracting State and is temporarily present in that other Contracting State solely as a trainee for the purpose of acquiring technical, professional or business experience, shall for a period not exceeding two years from the date of his first arrival in that other Contracting State in connection with that visit be exempt from tax in that other Contracting State in respect of :

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

(b) any remuneration for personal services rendered in that other Contracting State not exceeding the sum of 2500 US dollars in any calendar year during that visit provided such services are in connection with his training or incidental thereto.

3. The benefits of paragraphs 1 and 2 of this Article shall not be concurrently cumulative.

ARTICLE 21
TEACHERS AND RESEARCHERS

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 or other similar public educational institutions, primarily for research purposes, visits that other State for a period not exceeding two years solely for the purpose of teaching or research or both at such public institutions shall be exempt from tax in that other State on any remuneration for such teaching or research which is subject to tax in the first-mentioned Contracting State.

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 Agreement shall be taxable only in that Contracting State.

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2. The provisions of paragraph 1 of this Article 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 Contracting 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 of fixed base. In such case the provisions of Article 7 or Article 14, as a case may be, shall apply.

ARTICLE 23
LIMITATION OF RELIEF

Where this Agreement provides (with or without other conditions) that income from sources in a Contracting State shall be exempt from tax, or taxed at a reduced rate in that Contracting State, and under the laws in force in the other Contracting State the said income is subject to tax by reference to the amount thereof which is remitted to or received in that other Contracting State and not by reference to the full amount thereof, then the exemption or reduction of tax to be allowed under this Agreement in the first-mentioned Contracting State shall apply to so much of the income as is remitted to or received in that other Contracting State.

ARTICLE 24
ELEMINATION OF DOUBLE TAXATION

1. Where income is subject to tax in both Contracting State, relief from double taxation shall be given in accordance with the following provisions :

(a) In the case of Myanmar, the amount of Bangladesh tax payable in respect of income derived from Bangladesh in accordance with the provisions of this Agreement, shall be allowed as a credit against the Myanmar tax payable imposed on a resident of Myanmar. The amount of credit shall not, however, exceed that part of Myanmar tax as computed before the credit is given, which is appropriate to that income.

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(b) In the case of Bangladesh, where a resident of Bangladesh derives income from Myanmar, the amount of tax on that income payable in Myanmar in accordance with the provisions of this Agreement, may be credited against the tax levied in Bangladesh imposed on that resident. The amount of credit, however, shall not exceed the amount of the Bangladesh tax on that income computed in accordance with its taxation laws and regulations.

2. Where in accordance with any provision of the Agreement income derived by a resident of a Contracting State is exempted from tax in that Contracting State, such Contracting State may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

ARTICLE 25
NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

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

3. Expect where the provisions of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to 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 Contracting State.

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

5. In this Article, the term "taxation" means taxes which are the subject of this Agreement.

ARTICLE 26
MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, notwithstanding the remedies provided by the taxation laws of those Contracting 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 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 Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an 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 this Agreement. Any agreement reached shall be implemented notwithstanding any time limit in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.

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

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ARTICLE 27
EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement insofar as the taxation there under is not contrary to the Agreement. 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 Contracting 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 Agreement. Such person 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 of this Article be construed to impose on the Contracting States the obligation:

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

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

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

ARTICLE 28
DIPLOMATIC AND CONSULAR OFFICIALS

Nothing in this Agreement shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.

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ARTICLE 29
ENTRY INTO FORCE

1. This Agreement shall be ratified by the competent authorities of both the Contracting States and the instruments of ratification shall be exchanged as soon as possible.

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

(a) 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.

(b) in Myanmar :

(i) in respect of taxes withheld at source, to the income derived on or after the first day of April in the fiscal year following the fiscal year in which this Agreement enters into force;

(ii) in respect of other taxes on income, to taxes chargeable for any year of assessment beginning, on or after the first day of April of the second fiscal year following the fiscal year in which this Agreement enters into force and subsequent years of assessment;

ARTICLE 30
TERMINATION

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement at any time after five years from the date on which the Agreement enters into force, by giving notice of termination through diplomatic channels at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect:

(a) in Bangladesh :

for any year of the assessment beginning on or after July 1 in the Calendar year next following that in which the notice of termination is given.

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(b) in Myanmar :

(i) in respect of taxes withheld at source, to income derived on or after the first day of April in the fiscal year following the year in which the notice is given;

(ii) in respect of other taxes on income, to taxes chargeable for any year of assessment beginning on or after the first day of April of the second fiscal year following the year in which the notice is given.

IN WITNESS whereof the undersigned, duly authorised thereto, have signed this Agreement.

DONE in English in Dhaka on the 7th day of October 2008.

H.E.U Soe Tha
Hon'ble Minister
Ministry of National Planning
and Economic Development

Dr.A.B. Mirza Md. Azizul Islam
Hon'ble Adviser for finance and
Planning

FOR AND ON BEHALF OF
THE GOVERNMENT OF
THE UNION OF MYANMAR

FOR AND ON BEHALF OF THE
GOVERNMENT OF
THE PEOPLE'S REPUBLIC OF
BANGLADESH

রাষ্ট্রপতির আদেশক্রমে

মোঃ আলাউদ্দিন
অতিরিক্ত সচিব (পদাধিকারবলে)।

মোঃ আব্দুল বারিক (উপ-সচিব), উপ-পরিচালক, বাংলাদেশ সরকারি মুদ্রণালয়, ঢাকা কর্তৃক মুদ্রিত।
আবদুর রশিদ (উপ-সচিব), উপ-পরিচালক, বাংলাদেশ ফরম ও প্রকাশনা অফিস,
তেজগাঁও, ঢাকা কর্তৃক প্রকাশিত।

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