Registered No. DA-1

The Bangladesh Gazette

Extraordinary

Published by Authority

THURSDAY, OCTOBER 20, 1983

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GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

MINISTRY OF FINANCE AND PLANNING

Internal Resources Division

(Income-Tax)

NOTIFICATION

Dhaka, the 19th October 1983

No. S.R.O. 382-L/83.—Whereas the Government of the People's Republic of Bangladesh and the Government of the Kingdom of Sweden have concluded a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income;

Now, Therefore, in exercise of the powers conferred by Section 49AA of the Income-tax Act, 1922 (XI of 1922), the Government is pleased to direct that all the provisions of the said Convention annexed hereto shall be given effect to in Bangladesh.

CONVENTION BETWEEN THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH AND THE GOVERNMENT OF THE KINGDOM OF SWEDEN 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 Kingdom of Sweden;

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income;

Price: Taka 1·25

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Have agreed as follows:

Article 1

PERSONAL SCOPE

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

Article 2

TAXES COVERED

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

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

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

(a) in the case of Bangladesh: the income tax (hereinafter referred to as "Bangladesh tax");

(b) in the case of Sweden:

(i) the State income tax, including sailors' tax and coupon tax;

(ii) the tax on undistributed profits of companies and the tax on distribution in connection with reduction of share capital or the winding-up of a company;

(iii) the tax on public entertainers; and

(iv) the communal income tax;
(hereinafter referred to as "Swedish tax").

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

GENERAL DEFINITIONS

1. In this Convention, unless the context otherwise requires:

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

(b) the term "Sweden" means the Kingdom of Sweden;

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

(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 carporate 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 Contracting State;

(g) the term "nationals" means:

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

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

(h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(i) the term "competent authority" means in the case of Bangladesh, the National Board of Revenue or its authorised representative and in the case of Sweden, the Minister of the Budget or his authorised representative.

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

Article 4

RESIDENT

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

(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;

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

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

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

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Covention, 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 ;

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

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

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 purpose of storage or display of goods or merchandise belonging to the enterprise ;

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

(c) the maintenance of a sock 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 ;

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

5. 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 6 applies—shall be deemed to be a permanent establishment in the first-mentioned State, if :

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

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

(c) he habitually secures orders for the sale of goods or merchandise in the first-mentioned 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.

6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely becacse it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such person is acting in the ordinary course of his business and his activities are not as described in sub-paragraph (c) of paragraph 5.

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 establisment of the other.

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income fro magriculture 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.

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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 therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment. If the information available to the taxation authorities concerned is inadequate to determine the profits to be attributed to the permanent establishment, nothing in this paragraph shall affect the application of the law of either Contracting State in relation to the liability of the permanent establishment to pay tax on an amount determined by the exercise of a discretion or the making of an estimate by the taxation authorities of that Contracting State, provided that such discretion shall be exercised or such estimate shall be made, so far as the information available to the taxation authorities permits, in accordance with the principle stated in this paragraph.

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, but this does not include any expenses which, under the law of that State would not be allowed to be deducted by an enterprise of that 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 shall preclude that Contracting State from determining the profits to be taxed by such 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.

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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

AIR TRANSPORT

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

2. With respect to profits derived by the Swedish, Danish and Norwegian air transport consortium Scandinavian Airlines System (SAS), the provisions of paragraph 1 shall apply, but only to such part of the profits as corresponds to the participation held in that consortium by AB Aerotransport (ABA), the Swedish partner of Scandinavian Airlines System (SAS).

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

Article 9

SHIPPING

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

2. For the purposes of paragraph 1, income derived by an enterprise of a Contracting State from the operation of ships in international traffic in the other Contracting State shall mean income from the carriage of passengers, mail, livestock or goods shipped from that other State.

3. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 10

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

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(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 amount 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 11

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 or indirectly 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.

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, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a 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,

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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 15, as the case may be, shall apply.

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

6. Notwithstanding the provisions of paragraph 1, dividends paid by a company being a resident of Bangladesh to a company which is a resident of Sweden shall be exempt from Swedish tax to the extent that the dividends would have been exempt under Swedish law if both companies had been Swedish companies.

Article 12

INTEREST

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

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

(a) 10 per cent of the gross amount of the interest, if the interest is derived by a bank or any other financial institution (including an insurance company);

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

3. Notwithstanding the provisions of paragraph 2 :

(a) interest arising in Sweden and paid to the Government of Bangladesh or to the Bangladesh Bank shall be exempt from Swedish tax;

(b) interest arising in Bangladesh and paid to the Government of Sweden, the Central Bank of Sweden or the National Debt Office, shall be exempt from Bangladesh tax.

The competent authorities of the Contracting States may determine by mutual agreement any other institution to which this paragraph shall apply.

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

5. The provisions of paragraphs 1 to 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, 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 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 13

ROYALTIES

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

2. However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the 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 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 for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience but does not include any payments in respect of the operation of mineral deposits, sources and other natural resources.

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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 State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, 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 State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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

Article 14

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, or from the alienation of shares in a company the assets of which consist principally of such property, may be taxed in that other State.

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 a fixed base, may be taxed in that other State.

3. Capital gains derived by an enterprise of a Contracting State 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 that State.

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With respect to gains derived by the Swedish, Danish and Norwegian air transport consortium Scandinavian Airlines System (SAS), the provisions of this paragraph shall apply only to such proportion of the gains as corresponds to the participation held in that consortium by AB Aerotransport (ABA), the Swedish partner of Scandinavian Airlines System (SAS).

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

Article 15

INDEPENDENT PERSONAL SERVICES

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

(a) he has a fixed base regularly available to him in the other Contracting State for the purposes 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) he is present in the other Contracting State for a period or periods exceeding in the aggregate 120 days in the fiscal year concerned of that State.

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

Article 16

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 17, 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.

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 fiscal year concerned 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

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(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 of which the enterprise is a resident.

Where a resident of Sweden derives remuneration in respect of employment exercised aboard an aircraft operated in international traffic by the Swedish, Danish and Norwegian air transport consortium Scandinavian Airlines System (SAS), such remuneration shall be taxable only in Sweden.

Article 17

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 State.

Article 18

ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 15 and 16, 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, provided that such income shall be exempt from tax in that other State if the visit of the entertainer or athlete to that State falls within the scope of a cultural or sports exchange programme agreed to by both Contracting States.

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, 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

Article 19

PENSIONS

Subject to the provisions of paragraph 2 of Article 20, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

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Article 20

GOVERNMENT SERVICE

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

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

(i) is a national of that State; or

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

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

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

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

Article 21

TEACHERS, STUDENTS AND TRAINEES

1. A professor or teacher who temporarily visits a Contracting State for a period not exceeding two years for the purpose of teaching at a university, college, school or other educational institution, and who is , or immediately before such visit was, a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State in respect of remuneration for such teaching, provided that he is subject to tax on that remuneration in the other Contracting State.

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

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

(b) as a business apprentice or trainee ; or

(c) as a recipient of a grant, allowance or award from a scientific, educational, religious or charitable organization or under a technical assistance programme entered into by the Government of a Contracting State,

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shall be exempt from tax in that other State in respect of :

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

(ii) remuneration for personal services performed in that other State, provided the remuneration does not exceed Twelve Thousand Swedish Kronor or its equivalent in Bangladesh Takas for any taxable year ; and

(iii) the amount of such grant, allowance or award.

The benefits under sub-paragraph (ii) above shall extend only for such period of time as may be reasonably or customarily required to complete the education, training or practice undertaken but shall in no event exceed a period of five consecutive years.

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.

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

Article 23

ELIMINATION OF DOUBLE TAXATION

1. Subject to the provisions of the law of Bangladesh regarding the allowance as a credit against Bangladesh tax of tax payable in a territory outside Bangladesh, tax payable under the laws of Sweden and in accordance with this Convention on income, profits or gains from sources within Sweden 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 Swedish tax is computed.

2. Subject to the provisions of paragraph 3 of this Article and of paragraph 6 of Article 11, where a resident of Sweden derives income which, in accordance with the provisions of this Convention may be taxed in Bangladesh, Sweden shall allow as a deduction from the tax on the income of that person, an amount equal to the Bangladesh tax payable in respect of that income. The deduction shall not, however, exceed that part of the Swedish tax as computed before the deduction is given, which is attributable to the income which may be taxed in Bangladesh.

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3. Where a resident of a Contracting State derives income which, in accordance with the provisions of this Convention, shall be taxable only in the other Contracting State, the first-mentioned State may include this income in the tax base but shall allow as a deduction from the tax that part of the tax which is attributable to the income derived from the other Contracting State.

4. For the purposes of paragraph 2, the term "the Bangladesh tax payable" shall be deemed to include the amount of Bangladesh tax which would have been payable if the Bangladesh tax had not been exempted or reduced in accordance with the following provisions of Bangladesh law:

(a) clause (xiii) of sub-section (3) of section 4 of the Bangladesh Income-tax Act;
clause (viia) of sub-section (2) of section 10 of the said Act;
sub-sections (2A), (2B), (2C) and (2D) of section 14A of the said Act;

paragraphs (c), (e), (f), (g) and (h) of Notification number S.R.O. 417A-L/76, dated 29 November, 1976; and
paragraphs (a), (b) and (d), of the said Notification so far as the exemption or relief relates to loans made with a view to promoting economic development in Bangladesh;
so far as they were in force on, and have not been modified since, the date of signature of this Convention, or have been modified only in minor respects so as not to affect their general character; or

(b) under any other provision which may subsequently be made granting an exemption or reduction of tax which is agreed by the competent authorities of the Contracting States to be of a substantially similar character, if it has not been modified there after or has been modified only in minor respects so as not to affect its general character.

The provisions of this paragraph shall apply for the first ten years for which this Convention is effective. The competent authorities shall consult each other in order to determine whether such period shall be extended.

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.

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

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

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

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

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 limit in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the 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 applying the provisions of this Convention.

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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 or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

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

(b) to supply information which are 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 (ordre public).

Article 27

DIPLOMATIC AGENTS AND CONSULAR OFFICERS

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

Article 28

ENTRY INTO FORCE

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

2. This Convention shall enter into force upon the exchange of the instruments of ratification and its provisions shall have effect:

(a) in Bangladesh, for any year of assessment beginning on or after the first day of July in the calendary year next following that in which the exchange of instruments of ratification takes place; and

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(b) in Sweden,

(i) in respect of dividents payable on or after the first day of January in the calendar year next following that in which the exchange of instruments of ratification takes place; and

(ii) in respect of other income derived on or after the first day of January in the calendar year next following that in which the exchange of instruments of ratification takes place.

Article 29

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 notice of termination at least six months before the end of any calendar year after the year 1986. In such event, the Convention shall cease to have effect :

(a) in Bangladesh, for any year of assessment beginning on or after the first day of July in the calendar year next following that in which the notice of termination is given; and

(b) in Sweden,

(i) in respect of dividends payable on or after the first day of January in the calendar year following that in which the notice of termination is given; and

(ii) in respect of other income derived on or after the first day of January 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 in duplicate at Dacca this 3rd day of May 1982 in the English language.

A.K. AZIZUL HUQ
For the Government of the People's Republic of Bangladesh.

PEDER HAMMARKJOLD
For the Government of the Kingdom of Sweden.

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PROTOCOL

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

Article 5

In respect of sub-paragraph (c) of paragraph 5 of Article 5 of the Convention, it is understood that the following interpretation is to be given to the expression "almost wholly".

Where a person has been habitually securing orders in the way mentioned in sub-paragraph (c) of paragraph 5 of Article 5 of the Convention, he shall be considered to have secured orders almost wholly for the enterprise or enterprises in question if 75 per cent or more of his commissions received are attributable to orders secured for such enterprise or enterprises, or if 75 per cent or more of the gross amount of the total contract sums of all orders secured are attributable to orders secured for the enterprise or enterprises in question.

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

DONE in duplicate at Dacca this 3rd day of May 1982 in the English language.

A. K. AZIZUL HUQ
For the Government of the People's Republic of Bangladesh.

PEDER HAMMARKJOLD
For the Government of the Kingdom of Sweden.

By order of the
Chief Martial Law Administrator
M. MATIUR RAHMAN
Joint Secretary.

Printed by Khandker Obaidul Muqtader, Superintendent, Bangladesh Government Press, Dhaka
Published by the Assistant Controller, Bangladesh Forms and Publications Office, Dhaka.

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