রেজিস্টার্ড নং ডি এ-১

# বাংলাদেশ গেজেট

অতিরিক্ত সংখ্যা

কর্তৃপক্ষ কর্তৃক প্রকাশিত

বৃহস্পতিবার, মার্চ ৪, ২০০৪

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গণপ্রজাতন্ত্রী বাংলাদেশ সরকার

অর্থ মন্ত্রণালয়

অভ্যন্তরীণ সম্পদ বিভাগ

(আয়কর)

প্রজ্ঞাপন

তারিখ, ২১ ফাল্গুন ১৪১০/৪ মার্চ ২০০৪

**এস, আর, ও নং ৫৬/আইন/২০০৪।**—যেহেতু The Income Tax Ordinance, 1984(XXXVI of 1984)।। এবং The Republic of Philippines এ প্রচলিত এতদসংক্রান্ত আইনের অধীনে দ্বৈত করারোপণ পরিহার এবং আয়ের উপর কর সম্পর্কিত রাজস্ব ফাঁকি প্রতিরোধের উদ্দেশ্যে গণপ্রজাতন্ত্রী বাংলাদেশ সরকার The Government of the Republic of the Philippines এর সহিত ৮ সেপ্টেম্বর, ১৯৯৭ খ্রিষ্টাব্দ তারিখে একটি চুক্তি (Convention) সম্পাদন করিয়াছে; এবং

যেহেতু, উক্ত চুক্তি বাংলাদেশে কার্যকর করার উদ্দেশ্যে বিধান প্রণয়ন করা সমীচীন ও প্রয়োজনীয়;

সেহেতু, Income Tax Ordinance, 1984(XXXVI of 1984) এর section 144 এ প্রদত্ত ক্ষমতাবলে সরকার এতদ্দ্বারা বিধান করিল যে, এতদসংগে সংযোজিত উল্লিখিত চুক্তির



মূল্য ঃ টাকা ৬.০০

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বিধানাবলী ১ জুলাই, ২০০৪ খ্রিষ্টাব্দ তারিখে আরব্ধ কর বৎসর হইতে বাংলাদেশে কার্যকর হইবে, যথা ঃ—

## THE CONVENTION BETWEEN THE PEOPLE'S REPUBLIC OF BANGLADESH AND THE REPUBLIC OF THE PHILIPPINES FOR

## THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVATION WITH RESPECT TO TAXES ON INCOME.

The Government of the People's Republic of Bangladesh
And
The government of The Republic of the Philippines

Desiring to conclude a Convention for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect to Taxes and Income,

Have agreed as follows :

### Article 1

### PERSONAL SCOPE

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

2. Nothing in this Convention shall be construed as preventing the Philippines from taxing its rational who may be residing in Bangladesh in accordance with its domestic laws. However, no credit shall be given for taxes paid in pursuance thereto.

### Article 2

### TAXES COVERED

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political sub-divisions 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, and taxes on total amounts of wages or salaries paid by enterprise.

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

(a) in the case of Bangladesh :

the income tax,
(hereinafter referred to as "Bangladesh tax");

(b) in the Philippines :

the income tax imposed under Title II and the stock transaction tax in accordance with Section 124-A of the National Internal Revenue Code of the Republic of the Philippines,
(hereinafter referred to as "Philippine tax").

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

## Article 3

## GENERAL DEFINITION

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

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

(ii) the term "Philippines" shall refer to the territory comprising the Philippine archipelago, with all the islands and waters embraced therein, and all other territories over which the Philippines has sovereignty or jurisdiction, consisting of its terrestrial, fluvial and aerial domains, including its territorial sea, the seabed, the sub-soil, the insular shelves, and other submarine areas;

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

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

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(d) the term "tax" means any tax covered by Article 2 of this Convention;

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

(h) the term "national' means :

(i) any individual possessing the nationality or citizenship of a Contracting State;

(ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;

(i) the term "Competent Authority" means:

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

(ii) in the case of the Philippines, the Secretary of Finance/ Commissioner of Internal Revenue or their authorized representative.

2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of 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

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any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows :

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

(b) if the 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 State, he shall be deemed to be a resident of the State in which he has an habitual abode;

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

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

3. Where by reason of 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 Convention, the term "permanent establishment" means a fixed place of business through which the business of the enterprise is wholly or partly carried on.

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2. The term "permanent establishment" includes especially :

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

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

(g) 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;

(h) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than six months within any twelve-month period;

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

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

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

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

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

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

(e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

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

(a) he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to those mentioned in paragraph 3 of this Article; or

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

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other 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 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 Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

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

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

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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.

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

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

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

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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

## 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 State-and taxes accordingly—profits on which and enterprise of the other Contracting State has been charged on 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 9

## 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.

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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 beneficial owner of the dividends is a resident of the other Contracting State, 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 (excluding partnerships) which holds directly at least 25 per cent of the capital of the paying company;

(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, 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 taxation law 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, 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 (Business Profits) or Article 13 (Independent Personal Services), 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. Nothing in this Article shall prevent either Contracting State from imosing, apart from the corporate income tax, a tax on remittance of profits by a branch to its head office provided that the tax so imposed shall not exceed 10 per cent of the amount remitted.

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## Article 10

## 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 beneficial owner of the interest is a resicent of the other Contracting State, the tax so charged shall not exceed 15 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and derived by the Government of the other Contracting State, a local authority, the Central Bank othereof or any financial institution wholly owned by that Government, or by any other resident of that other Contracting State with respect to debt-claims indirectly financed by the Government of that other Contracting State, a local authority, the Central Bank thereof or any financial institution wholly owned by that Government, shall be exempt from tax in the first-mentioned State.

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

5. The provisions of paragraphs 1, 2, and 3 shall not apply if the beneficial owner of the interest, being a resident of a 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 based situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed based. In such case, the provisions of Article 7 (Business Profits) or Article 13 (Independent Personal Services), as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, a local athority 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 based, 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 payment shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

## Article 11

## 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, the royalties may also be taxed in the Contracting State in which they arise and accordding to the laws of the State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 15 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payment 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 cinematographic films and films or tapes for television or radio broadcasting, any patent, trademark, 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.

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 (Business Profits) or Article 13 (Independent Personal Services), as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, 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 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

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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 12

## CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 (Income from Immovable Property) and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which 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 permanent establishment (alone or with the whole enterprise) or of such fixed base may be taxed in that other State.

3. Gains from the alienation of ships or aircraft operated in international traffic or gains from the alienation of movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State of which the enterprise is a resident.

4. Gains from the alienation of shares of a company, the property of which consists principally of immovable property situated in a Contracting State, may be taxed in that State. Gains from the alienation of an interest in a partnership or a trust, the property of which consists principally of immovable property situated in a Contracting State, may be taxed in that State.

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

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## Article 13

## 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 that other Contracting State for the purpose of performing his activities, but only so much of the income as is attributable to that fixed base may be taxed in that Contracting State ; or

(b) he is present in that other State for a period (or periods) aggregating 183 days in any taxable calendar/fiscal year, which ever is applicable.

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 14

## DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 15 (Director's Fees), 17 (Pensions and Social Security Payments), 18 (Government Service), 19 (Professors and Teachers), and 20 (Students and Apprentices), 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 any taxable calendar/fiscal year, whichever is applicable;

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

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

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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 taxable only in that State.

**Article 15**

**DIRECTOR'S FEES**

Director's 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 the other Contracting State.

**Article 16**

**ARTISTES AND ATHLETES**

1. Notwithstanding the provisions of Articles 13 (Independent Personal Services) and 14 (Dependent Personal Services), income derived by a resident of a Contracting State as an entertainer, such as theater, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities of an entertainer or an athlete in his capacity as such accrues not to that entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Article 7 (Business Profits), 13 (Independent Personal Services) and 14 (Dependent Personal Services), be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. The provisions of paragraph 1 and 2 shall not apply to income derived form activities performed in a Contracting State by artistes and athletes if the visit to that Contracting State is substantially supported by public funds of the other Contracting State, including any political sub-division, local authority or statutory body thereof.

**Article 17**

**PENSIONS AND SOCIAL SECURITY PAYMENTS**

1. Subject to the provisions of paragraph 2 of Article 18 (Government Service), 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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2. Notwithstanding the provisions of paragraph 1 of this Article and of paragraph 2 of Article 18 (Government Service), payments received by an individual, being a resident of a Contracting State, under the social security legislation of the other Contracting State shall be taxable only in that other State.

**Article 18**

**GOVERNMENT SERVICE**

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

(b) However, such remunertion 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.

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

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

3. The provisions of Article 14 (Dependent Personal Services), 15 (Director's Fees) and 17 (Pensions and Social Security Payments) shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political sub-division or a local authority thereof.

**Article 19**

**PROFESSORS AND TEACHERS**

1. Remuneration which a professor or a teacher, who is a resident of one of the Contracting State and who visits the other Contracting State for a period not exceeding two years for the purpose of teaching or carrying out advanced study or research at a university, college, school or other educational institution which is recognized by the competent authority in that other Contracting State, receives for those activities shall be taxable only in first-mentioned State.

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2. This Article shall not apply to remuneration which a professor or a teacher receives for conducting research if the research is undertaken primarily for the private benefit of specific person or persons.

3. For the purposes of paragraph 1 of this Article, the term "remuneration" shall include remittance from sources outside the other State sent to enable the professor or teacher carry out the purposes referred to in paragraph 1.

**Article 20**

**STUDENTS AND APPRENTICES**

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

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

(b) any remuneration for personal services rendered in the first-mentioned State with a view to supplementing the resources available to him for such purposes.

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 State solely for the purpose of study, research or training as a recipient of a grant, allowance or award from a scientific, educational, religious or charitable organization or under a technial assistance programme entered into by the Government of a Contracting State shall, for a period not exceeding 2 years from the date of his first arrival in that other State in connection with that visit, the exempt from tax in that other State :

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

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

**Article 21**

**OTHER INCOME**

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

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2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6 (Income from Immovable Property), if the recipient of such income, being a resident of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 (Business Profits) or Article 13 (Independent Personal Services), as the case may be, shall apply.

3. Notwithstanding the provisions of paragraph 1 and 2, 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 22**

**ELIMINATION OF DOUBLE TAXATION**

1. In the Philippines in accordance with the provisions and subject to the limitations of the laws of the Philippines, as may be amended from time to time without changing the general principles hereof, double taxation shall be avoided in the following manner:

In accordance with the principles of this Convention, taxes paid or accrued under the laws of Bangladesh, whether directly or by deduction, in respect of income from sources within Bangladesh shall be allowed as a credit against Philippine tax subject to the folloing limitations:

(i) the amount of credit in respect to the tax paid or accrued to Bangladesh shall not exceed the same proportion of taxes covered by the Convention against which such credit is taken, which the taxpayer's taxable income from sources within Bangladesh bears to his entire taxable income for the same taxable year; and

(ii) the total amount of the credit shall not exceed the same proportion of the taxes covered by the Convention against which such credit is taken, which the taxpayer's taxable income from sources without the Philippines bears to his entire taxable income for the same taxable year.

In the case of a Philippine corporation owning directly or indirectly more than 50 percent of the voting stock of a Bangladesh company from which it receives dividends in any taxable year, the Philippines shall also allow credit for the appropriate amount of taxes paid or accrued to Bangladesh by a

Bangladesh company paying such dividends with respect to such profits out of which such dividends are paid. The deduction shall not, however, exceed that part of the Philippine income tax, as computed before the deduction is given, which is appropriate to the income which may be taxed in Bangladesh.

2. In Bangladesh in accordance with the provisions and subject to the limitations of the laws of Bangladesh, as may be amended from time to time without changing the general principles hereof, double taxation shall be avoided in the following manner :

(a) Subject to the provisions of sub-paragraph (c), where a resident of Bangladesh derives income which, in accordance with the provisions of the Convention, may be taxed in the Philippines, Banglaesh shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in the Philippines;

(b) such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in the Philippines;

(c) where a resident of Bangladesh derives income which in accordance with the provisions of this Convention, shall be taxable only in the Philippines, Bangladesh may include this income in the tax base, but shall allow as a deduction from the income tax that part of the income tax, which is attributable to the income derived from the Philippines.

**Article 23**

**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 Contracting State in the same circumstance, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1 (Personal Scope), also apply to persons who are not residents of one or both of the Contracting States.

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

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3. Except where the provisions of paragraph 1 of Article 8 (Associated Enterprises), paragraph 7 of Article 10 (Interest), or paragraph 5 of Article 11 (Royalties), apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State, shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is 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 buredensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are of may be subjected.

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

**Article 24**

**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 laws 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 23 (Non-Discrimination), to that of the Contracting State of which he is a national. The case must be presented within three (3) years from the first notification of the action which gives rise to taxation not inaccordance 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 imoplemented notwithstanding any time limits 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 this Convention.

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4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

## Article 25

## 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 (Personal Scope). 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 person or authorities (including courts and administrative bodies) involved in the asessment or collection of the inforcement 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 the 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 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 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 or which would be contrary to the public policy.

## Article 26

## 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.

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**Article 27**

**ENTRY INTO FORCE**

Each of the Contracting States shall notify the other of the completion of the procedures reqired by its law for the entry into force of this Convention.

2. The Convention shall enter into force on the thirtieth day after the latter of these notifications referred to in paragraph 1 and its provisions shall 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 Convention enters into force.

(b) in the Philippines :

(i) in respect of tax withheld at source, on amounts paid to non-residents on or after the first day of January in the calendar year next following that in which the Convention enters into force ;

(ii) in respect of other taxes on income, for taxable year beginning on or after the first day of January in the calendar year next following that in which the Convention enters into force.

**Article 28**

**TERMINATION**

This Convention shall continue in effect indefinitely but either Contracting State may, on or before June 30 in any calendar year after the fifth year following the entry into force, give notice of termination to the other Contracting State and in such event shall cease to 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 notice of termination is given.

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(b) in the Philippines :

(i) in respect of tax withheld at source, on amounts paid to non-residents on or after the first day of January in the calendar year next following that in which the notice of termination is given ;

(ii) in respect of other taxes on income, for taxable year beginning on or after the first day of January in the calendar year next following that in wihich the notice of termination is given.

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

DONE in duplicate at Manila this 8th day of September, 1997, in the English language.

**SD/REAZUL HOSSAIN**
Ambassador of Bangladesh to the Philippines.

**SD/DOMINGO L. SIAZON, JR**
Secretary of Foreign Affairs,
Government of the Republic of Philippines

রাষ্ট্রপতির আদেশক্রমে

এ. এস জহির মোহাম্মদ
অতিরিক্ত সচিব (পদাধিকারবলে)।

শেখ মোঃ মোবারক হোসেন (উপ-সচিব), উপ-নিয়ন্ত্রক, বাংলাদেশ সরকারী মুদ্রণালয়, ঢাকা কর্তৃক মুদ্রিত।
মোঃ আমিন জুবেরী আলম, উপ-নিয়ন্ত্রক, বাংলাদেশ ফরম ও প্রকাশনা অফিস,
তেজগাঁও, ঢাকা কর্তৃক প্রকাশিত।

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