

GOVERNMENT OF PAKISTAN
REVENUE DIVISION
FEDERAL BOARD OF REVENUE

Islamabad, the December 20, 2008.

NOTIFICATION
(Income Tax)

S.R.O.1290(I)/2008.- WHEREAS the Government of the Islamic Republic of Pakistan and the Swiss Federal Council have signed a Convention for the Avoidance of Double Taxation with respect to Taxes on Income on the 19th day of July 2005, as reproduced in the Annexure to this notification;

AND WHEREAS the aforesaid Convention has been ratified by both the Contracting States and the Instruments of Ratification have been exchanged on the 24th day of November, 2008, and upon entry into force of this Convention its provisions shall override previous Convention of the Contracting States regarding Avoidance of Double Taxation with respect to Taxes on Income;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of section 107 of the Income Tax Ordinance, 2001 (XLIX of 2001), the Federal Government is pleased to direct that the provisions of the said Convention shall have effect from the date of exchange of Instruments of Ratification and shall apply,-

- (a) in Pakistan for any fiscal year beginning on or after the first day of July of the calendar year next following that of the entry into force of the Convention; and
- (b) in Switzerland for any fiscal year beginning on or after the first day of January of the calendar year next following that of the entry into force of the Convention.

**“CONVENTION
BETWEEN
THE ISLAMIC REPUBLIC OF PAKISTAN
AND
THE SWISS CONFEDERATION
FOR THE AVOIDANCE OF DOUBLE TAXATION
WITH RESPECT TO TAXES ON INCOME**

THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN
AND
THE SWISS FEDERAL COUNCIL

DESIRING to conclude a Convention for the avoidance of double taxation with respect to taxes on income

HAVE AGREED as follows: -

**ARTICLE 1
PERSONAL SCOPE**

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

**ARTICLE 2
TAXES COVERED**

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

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

(a) in Pakistan:

the income tax,
the super tax, and
the surcharge
(hereinafter referred to as "Pakistan tax");

(b) in Switzerland:

the federal, cantonal and communal taxes on income (total income, earned income, income from capital, industrial and commercial profits, capital gains, and other items of income)

(hereinafter referred to as "Swiss tax").

3. 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 by either Contracting State. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws.

ARTICLE 3 GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:
 - (a) The term "Pakistan" when used in a geographical sense means Pakistan as defined in the Constitution of the Islamic Republic of Pakistan and includes any area outside the territorial waters of Pakistan which under the laws of Pakistan and international law is an area within which Pakistan exercises sovereign rights and exclusive jurisdiction with respect to the natural resources of the seabed and subsoil and superjacent waters;
 - (b) the term "Switzerland" means the Swiss Confederation;
 - (c) the terms "a Contracting State" and "the other Contracting State" mean Pakistan or Switzerland as the context requires;
 - (d) the term "person" includes an individual, a company and any other body of persons;
 - (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 "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.
 - (i) the term "tax" means Swiss tax or Pakistan tax as the context requires;
 - (j) the term "competent authority" means:
 - (i) in the case of Pakistan, the Central Board of Revenue or its authorised representative;

- (ii) in the case of Switzerland, the Director of the Federal Tax Administration 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 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 not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
- (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
- (d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of 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 an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;

- (e) a workshop;
- (f) a warehouse in relation to a person providing storage facilities for others; and
- (g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site, a construction, assembly or installation project or any supervisory activity in connection therewith constitutes a permanent establishment only if it lasts more than six months.

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

- (a) the use of facilities solely for the purpose of 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 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 on behalf of an enterprise of the other Contracting State - other than an agent of an independent status to whom paragraph 7 applies - shall be deemed to be 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 the purchase of goods or merchandise for the enterprise; or
- (b) he has no such authority, but he or the enterprise 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.

6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.

7. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.

8. 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 a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

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

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

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

ARTICLE 7 BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated 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 directly or indirectly 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 all expenses of the enterprise (including executive and general administrative expenses) which would be deductible if the permanent establishment were an independent enterprise and which are reasonably allocable to the permanent establishment, whether such expenses were incurred in the Contracting 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.

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

ARTICLE 8

SHIPPING AND AIR TRANSPORT

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

2. Notwithstanding the provisions of paragraph 1, profits derived from the operation of ships in international traffic may be taxed in the Contracting State in which such operation is carried on; but the tax so charged shall not exceed 50 per cent of the tax otherwise imposed by the internal law of that State.

3. The provisions of paragraph 1 and 2 shall likewise apply in respect of the participation in a pool, in a joint business or in an international operations agency of any kind by enterprises engaged in the operation of ships or aircraft in international traffic.

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

ARTICLE 9

ASSOCIATED ENTERPRISES

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.

ARTICLE 10 DIVIDENDS

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

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

- (a) 10 per cent of the gross amount of the dividends if the recipient is a company (excluding partnerships) which owns directly at least 20 per cent of the capital of the company paying the dividends; and
- (b) 20 per cent of the gross amount of the dividends in all other cases.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

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

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other Contracting State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 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 Contracting State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other Contracting State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other Contracting State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other Contracting State.

ARTICLE 11 INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other 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 10 per cent of the gross amount of the interest.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, interest arising in Pakistan and paid to a resident of Switzerland shall be exempt from Pakistan tax if the loan or other indebtedness in respect of which the interest is paid is an approved loan. The term "approved loan" means any loan or other indebtedness approved by the competent authority of Pakistan for the purposes of Clause (72) or Clause (90) of Part I of the Second Schedule to the Income-tax Ordinance 2001 or for the purposes of any other substantially similar incentive program.

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, 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 Contracting State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such 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 Contracting State itself, a political subdivision, a local authority or a resident of that Contracting State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

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

ARTICLE 12
ROYALTIES AND RELATED SERVICES

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.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

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 films or tapes used for radio or television, any patent, trade mark, design or model, plan, secret formula or process, any industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience, including any service, assistance or consultancy of an ancillary or subsidiary nature connected therewith.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other Contracting State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such 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 Contracting State itself, a political subdivision, a local authority or a resident of that Contracting State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the 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 Contracting State in which the permanent establishment 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 13
FEES FOR TECHNICAL SERVICES

1. Fees for technical services, other than services mentioned in paragraph 3 of Article 12, including consultancy services arising in a Contracting State and derived by a resident of other Contracting State may be taxed in that other State.
2. However, such fees for technical services 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 thereof, the tax so charged shall not exceed 10 per cent of the gross amount of the fees.
3. The term "fees for technical services" as used in this Article means any consideration (including any lump sum consideration) for the provision of rendering of any managerial, technical or consultancy services (including the provision by the enterprise of the services of technical or other personnel) but does not include consideration for any construction, assembly or like project undertaken by the recipient or consideration which would be income falling under Article 15 of the Convention.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the payments, being a resident of a Contracting State, carries on business in the other Contracting State in which the payments arise, through a permanent establishment situated therein or performs in that other Contracting State independent personal services from a fixed base situated therein, and the activity in respect of which the payments are made 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. Payments for the furnishing of services shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a political subdivision, a local authority or a resident of that Contracting State. Where, however, the person paying for the furnishing of services, 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 services are rendered, and the payment is borne by such permanent establishment or fixed base, then such payment shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the payments for furnishing of services, having regard to the activity 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 14
CAPITAL GAINS

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

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

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

4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, and other than shares that form part of at least 20 per cent interest in the capital stock of a company, 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 except in the following circumstances, when such income may also be taxed in the other Contracting State:

- (a) If he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or
- (b) If his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.

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

ARTICLE 16 DEPENDENT PERSONAL SERVICE

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, and
 - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
 - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

ARTICLE 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 Article 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.
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 AND ANNUITIES

1. Any pension (other than a pension referred to in Article 20) or annuity derived by a resident of a Contracting State shall be taxable only in that State.
2. The term "pension" means a periodic payment made in consideration of past employment or by way of compensation for injuries received in the course of the performance of services.
3. The term "annuity" means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

ARTICLE 20
GOVERNMENT SERVICE

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

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

ARTICLE 21
STUDENTS AND APPRENTICES

1. Payments which a student or business apprentice 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 for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State.

2. 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 for the purpose of study, research or training or of acquiring technical, professional or business experience, shall be exempt from tax in that State for a period or periods not exceeding in the aggregate twelve months on remuneration in respect of an employment in such State provided that such employment is directly related to his studies, research, training or acquiring of experience and that the remuneration from the employment does not exceed 18,000 Swiss francs or the equivalent thereof in Pakistan currency at the official rate of exchange.

ARTICLE 22
ELIMINATION OF DOUBLE TAXATION

1. In the case of Pakistan, double taxation shall be avoided as follows:

Subject to the provisions of the laws of Pakistan regarding the allowance as a credit against Pakistan tax, the amount of Swiss tax payable, under the laws of Switzerland and in accordance with the provisions of this Convention, whether directly or by deduction, by a resident of Pakistan, in respect of income from sources within Switzerland which has been subjected to a tax both in Pakistan and Switzerland, shall be allowed as a credit against the Pakistan tax payable in respect of such income but in an amount not exceeding that proportion of Pakistan tax which such income bears to the entire income chargeable to Pakistan tax.

2. In the case of Switzerland, double taxation shall be avoided as follows:

- (a) Where a resident of Switzerland derives income which, in accordance with the provisions of this Convention, may be taxed in Pakistan, Switzerland shall, subject to the provisions of sub-paragraphs b) and c) of this paragraph, exempt such income from tax but may, in calculating tax on the remaining income of that resident, apply the rate of tax which would have been applicable if the exempted income had not been so exempted; provided, however, that where profits derived by a resident of Switzerland from sources within Pakistan which in accordance with paragraph 2 of Article 8 are subject to tax in Pakistan, the Swiss tax charged on those profits shall be reduced by one half.
- (b) Where a resident of Switzerland derives dividends, interest, royalties or fees for technical services which, in accordance with the provisions of Article 10, 11, 12 or 13, may be taxed in Pakistan, Switzerland shall allow, upon request, a relief to such resident. The relief may consist of:
- (i) a deduction from the tax on the income of that resident of an amount equal to the tax levied in Pakistan in accordance with the provisions of Articles 10, 11, 12 and 13; such deduction shall not, however, exceed that part of the Swiss tax, as computed before the deduction is given, which is appropriate to the income which may be taxed in Pakistan; or
 - (ii) a lump sum reduction of the Swiss tax determined by standardized formulae which have regard to the general principles of the relief referred to in sub-paragraph (i); or
 - (iii) a partial exemption of such dividends, interest, royalties or fees for technical services from Swiss tax, in any case consisting at least of the deduction of the tax levied in Pakistan from the gross amount of the dividends, interest, royalties or fees for technical services.

Switzerland shall determine the applicable relief and regulate the procedure in accordance with the Swiss provisions relating to the carrying out of international conventions of the Swiss Confederation for the avoidance of double taxation.

- (a) Where a resident of Switzerland derives interest dealt with in paragraph 3 of Article 11, Switzerland shall allow, upon request, a relief to such resident of an amount equal to 10

per cent of the gross amount of the interest. The provisions of sub-paragraph b) of this paragraph shall apply accordingly.

- (b) A company which is a resident of Switzerland and which derives dividends from a company which is a resident of Pakistan shall be entitled, for the purposes of Swiss tax with respect to such dividends, to the same relief which would be granted to the company if the company paying the dividends were a resident of Switzerland.

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 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.
3. Except where the provisions of Article 9, paragraph 7 of Article 11, or paragraph 6 of Articles 12 or 13, apply, interest, royalties, fees for technical services 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 burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.
5. Nothing contained in the preceding paragraphs of this Article shall be construed
 - (a) as affecting any provisions of the law of Pakistan regarding the imposition of tax on a non-resident person of either nationality;
 - (b) as obliging either of the Contracting States to grant to persons not resident in its territory those personal allowances and reliefs for tax purposes which are by law available only to persons who are so resident; or
 - (c) as affecting any provisions of the law of Pakistan regarding the grant of rebate of tax to companies fulfilling specific requirements regarding the declaration and payment of dividends.
6. 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 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 23, 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.

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 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 (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of this Convention in relation to the taxes which are the subject of this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of this Convention. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

2. In no case shall the provisions of this Article be construed as imposing upon either of the Contracting States the obligation to carry out administrative measures at variance with the regulations and practice of either Contracting State or which would be contrary to its sovereignty, security or public policy or to supply particulars which are not procurable under its own legislation or that of the State making application.

ARTICLE 26
DIPLOMATIC AGENTS AND CONSULAR OFFICERS

1. 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.

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

- (a) in accordance with international law he is not liable to tax in the receiving Contracting State in respect of income from sources outside that State and
- (b) he is liable in the sending State to the same obligations in relation to tax on his total income as are residents of that State.

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

ARTICLE 27 ENTRY INTO FORCE

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

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

- (a) in Pakistan for any fiscal year beginning on or after the first day of July of the calendar year next following that of the entry into force of the Convention;
- (b) in Switzerland for any fiscal year beginning on or after the first day of January of the calendar year next following that of the entry into force of the Convention.

3. The Convention between the Islamic Republic of Pakistan and the Swiss Confederation for the avoidance of double taxation with respect to taxes on income of December 30, 1959 / June 15, 1962 shall terminate upon the entry into force of this Convention and shall cease to have effect for the fiscal year next following that of the entry into force of this Convention.

ARTICLE 28 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. In such event, the Convention shall cease to have effect:

- (a) in Pakistan for any fiscal year beginning on or after the first day of July of the calendar year next following that in which such notice has been given;
- (b) in Switzerland for any fiscal year beginning on or after the first day of January in the calendar year next following that in which such notice has been given;

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

Done in duplicate at Islamabad this 19th July, 2005 in the English and German languages, both texts being equally authentic.

Sd/
**For the Government of the
Islamic Republic of Pakistan:**

Sd/
For the Swiss Federal Council:

PROTOCOL

The Government of the Islamic Republic of Pakistan

and

The Swiss Federal Council

have agreed at the signing of the Convention between the two States for the avoidance of double taxation with respect to taxes on income upon the following provisions which shall form an integral part of the said Convention:

1. With reference to Article 5.

With respect to sub-paragraphs a) and b) of paragraph 4, it is understood that the maintenance of a stock of goods or merchandise for the purpose of delivery or facilities used for delivery of goods and merchandise do not constitute a permanent establishment as long as the conditions of sub-paragraph b) of paragraph 5 are not fulfilled.

2. With reference to Article 7.

- (a) It is understood that the words "directly or indirectly" as used in paragraph 1 of Article 7 mean, that where a permanent establishment takes an active part in negotiating, concluding or fulfilling contracts entered into by the enterprise, then, notwithstanding that other parts of the enterprise have also participated in those transactions, there shall be attributed to the permanent establishment that proportion of profits of the enterprise arising out of those contracts as the contribution of the permanent establishment to those transactions bears to that of the enterprise as a whole. It is also understood that profits shall be regarded as attributable to the permanent establishment to the above-mentioned extent, even when the contracts in question are made directly with the head office of the enterprise rather than with the permanent establishment.
- (b) In the case of contracts for the survey, supply, installation or construction of industrial, commercial or scientific equipment or premises, or of public works, when the enterprise has a permanent establishment, as defined in paragraph 3 of Article 5, the profits of such permanent establishment shall not be determined on the basis of the total amount of the contract, but shall be determined only on the basis of that part of the contract which is

effectively carried out by the permanent establishment in the State where the permanent establishment is situated. The profits related to that part of the contract which is carried out by the head-office of the enterprise shall be taxable only in the State in which the enterprise is a resident.

- (c) With respect to paragraph 3 of Article 7, it is understood that the Contracting States will apply the principles referred to in paragraphs 17 and 18 of the Commentaries on Article 7 of the OECD Model Convention 1977 and reproduced in the UN Model Convention 1980.

3. With reference to Article 9.

With reference to Article 9 it is understood that where profits on which an enterprise of a Contracting State has been charged to tax in that State are also included in the profits of an enterprise of the other Contracting State and taxed accordingly, and the profits so included are profits which would have accrued to that enterprise of the other State, if the conditions made between the enterprises have been those which would have been between independent enterprises, then the competent authorities of the Contracting States may consult together with a view to reach an agreement (on the adjustments of profits) in both Contracting States.

4. With reference to Article 13.

Notwithstanding the provisions of paragraph 2, as long as Switzerland does not according to its inland law, levy a tax at source on payments for services paid to non-residents, the rate of tax levied on such payments shall not exceed 7.5% and with reference to paragraph 2 it is further understood that expenses related to the furnishing of services shall be deductible. However, such reduction shall not exceed 20% of the gross amount of the payments.

Done in duplicate at Islamabad this 19th July, 2005 in the English and German languages, both texts being equally authentic.

Sd/
**For the Government of the
Islamic Republic of Pakistan:**

Sd/
For the Swiss Federal Council:"

[C.No.2(67)Int.Taxes/68 (Swiss-DTA)]

(Irfan Nadeem)
Additional Secretary/Member (Direct Taxes)