

# THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

June 2026

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## MODULE 2.05 – INDIA OPTION

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### ADVANCED INTERNATIONAL TAXATION (JURISDICTION)

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TIME ALLOWED – 3¼ HOURS

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This exam paper has **three** parts: **Part A**, **Part B** and **Part C**.

You need to answer **five** questions in total. You will **not** receive marks for any additional answers.

You must answer:

- **Both** questions in **Part A** (25 marks each)
- **One** question from **Part B** (20 marks)
- **Two** questions from **Part C** (15 marks each)

#### Further instructions

- All workings should be made in Indian Rupees (INR), unless otherwise stated. Any monetary calculations should be made to the nearest whole Rupee. Any necessary time apportionments in your calculations should be made to the nearest whole month.
- You must provide appropriate line breaks between each question, and clearly indicate the start of each new question using the formatting tools available.
- Marks may be allocated for presentation.
- The time you spend answering questions should correspond broadly to the number of marks available for that question. You should therefore aim to spend approximately half of your time answering Part A, and the other half answering Parts B and C.
- There is no separate reading time, so you can start typing your answers as soon as the exam begins. However, we recommend that you set aside some time to thoroughly read each question and plan each of your answers.
- You should assume that all regulatory requirements, including those relating to foreign exchange, have been fulfilled in the facts provided in the questions.

For your information this paper includes:

**India-Ireland Double Tax Agreement (selected extracts)**

**India-Mauritius Double Tax Agreement (selected extracts)**

**India-Netherlands Double Tax Agreement (selected extracts)**

**India-Singapore Double Tax Agreement (selected extracts)**

**Synthesised text of the India-United Kingdom Double Tax Agreement**

**India-United States Double Tax Agreement (selected extracts)**

## PART A

**You are required to answer BOTH questions from this Part.**

1. Britton Tech Holdings Ltd (Britton UK), a private limited company incorporated under the laws of the United Kingdom, has a wholly owned subsidiary in India, Britton Tech India Pvt Ltd (Britton India). Britton India has been operating since 2017 and provides back-office support services to Britton UK at a transfer price of cost plus a 15% mark-up.

Up to and including the 2023-24 financial year, Britton UK cross-charged Britton India for the following expenses:

- Travel and out-of-pocket expense reimbursements;
- Corporate credit card expenses incurred by Britton UK personnel for India operations;
- Brand licence fees;
- Software licence recharges; and
- Technical support services rendered by Britton UK to Britton India.

Britton India has settled the recharges of brand licence fees, software licences and technical support services without deducting any Indian withholding tax. The recharges in respect of travel reimbursements and credit card expenses remain outstanding in Britton India's accounts. However, Britton India has claimed a deduction in its tax computation for all the recharged expenses, including those that remain outstanding.

Due to losses at group level, the management has stopped operation of Britton India in the financial year 2024-25 and, as part of the liquidation process, Britton India is writing off the outstanding amounts payable to Britton UK relating to travel reimbursements and credit card recharges in its accounts for the year ending 31 March 2026. Britton UK has already written off the receivables from Britton India in its own 2024 accounts. Britton India incurs administrative costs until the entity is liquidated.

Britton India has not filed its income return since the financial year 2022-23, and Britton UK has never filed an income return in India.

Britton UK's newly appointed head of tax has approached you to evaluate the pending Indian tax consequences for the company.

**You are required to address the following matters, including detailed reasoning in support of your answers:**

- 1) **Discuss the Indian tax consequences for Britton India of the write-off of outstanding recharges due by Britton India, in the 2025-26 financial year. Are there any other potential challenges in undertaking the write-off in the 2025-26 financial year?** (4)
- 2) **Outline the transfer pricing implications for administrative cost incurred by Britton India since the 2024-25 financial year.** (4)
- 3) **Explain the consequences of Britton India's failure to undertake compliances since the 2022-23 financial year, including any potential penalty and interest consequences, and advise on how Britton India can correct the non-compliance.** (9)
- 4) **Discuss the Indian tax consequences for Britton UK relating to income earned from Britton India, and of the failure to file any return of income in India.** (8)

Total (25)

2. Engineering Ltd, a company incorporated and tax resident in the United Kingdom, is engaged in the design and manufacture of precision industrial automation equipment. Engineering Ltd has no office or presence in India; however, due to the large volume of enquiries received from India, its management team is exploring various options to start doing business in India.

The following options are under consideration:

Option 1

Engineering Ltd will enter into a contract with Copper Ltd (Copper), an Indian company, for the installation and commissioning of an automated production line at Copper's manufacturing plant in Pune. Engineering Ltd will send a team of 10-15 engineers and project supervisors to India. The installation and commissioning activities are expected to continue for a period of 220 days. A project site office will be set up at Copper's plant during this period, and Engineering Ltd's staff will have exclusive access to a designated portion of the premises.

Option 2

Engineering Ltd's group entity will set up a 100% subsidiary, Heavy Pvt Ltd (Heavy) and appoint Heavy as its authorised representative in India. Heavy shall negotiate and conclude contracts on behalf of Engineering Ltd with Indian customers, and will be compensated solely by way of a commission based on the value of contracts concluded. Heavy will work exclusively for Engineering Ltd.

Option 3

Depending on the business need, Engineering Ltd will send senior engineers to provide technical advisory and troubleshooting services to clients in India. Based on the company's experience in other countries and regions, it is expected that the engineers will spend 120 days in India during a 12-month period.

Engineering Ltd's head of tax has sought your advice on each of the possible arrangements outlined.

**You are required to address the following matters, including reasoned analysis in support of your conclusions:**

- 1) **For each of the three proposed arrangements, analyse whether a permanent establishment (PE) will be constituted for Engineering Ltd in India under the India-UK double tax agreement (DTA). Discuss the applicable DTA articles, and relevant judicial precedents, for each arrangement. (12)**
- 2) **Assuming that a PE is constituted, explain the methodology to be adopted for attributing profits to the PE in India. If Engineering Ltd pays tax upfront by applying transfer pricing rules, will there be any potential challenge from the tax authorities? (8)**
- 3) **What are the compliance obligations in India upon the constitution of a PE? (5)**

Total (25)

**PART B**

**You are required to answer ONE question from this Part.**

3. Tulip BV, a company incorporated under the laws of the Netherlands, has held a 74% stake in Chemicals Pvt Ltd (Chemicals India), an unlisted Indian company, since 2018. The remaining 26% stake in Chemicals India is held by an unrelated Indian conglomerate, Industries Pvt Ltd (Industries India).

Tulip BV was incorporated in 2018, specifically to hold the investment in Chemicals India. Tulip BV has no operating business and no employees, and operates from a serviced office in Amsterdam. The board of Tulip BV meets twice a year to approve financial statements and any other necessary matters. Tulip BV's day-to-day affairs are managed by professional service providers in the Netherlands. Its shares in Chemicals India are Tulip BV's only material asset.

The ultimate parent company of Tulip BV is Tulip Global Ltd (Tulip UK), a company incorporated under the laws of the United Kingdom. Tulip UK has decided to divest its entire stake in Chemicals India as part of a global restructuring.

The head of tax of Tulip BV is contemplating the following two options for the divestment:

Option 1

- This would be a two-step transaction.
- First, Tulip BV will transfer its 74% stake in Chemicals India to Tulip Asia Pte Ltd (Tulip SG), a wholly owned subsidiary of Tulip UK incorporated in Singapore, at fair market value.
- Subsequently, Tulip SG will immediately sell the same 74% stake in Chemicals India to Industries India at fair market value.
- Tulip SG was incorporated in 2018 and has substantial substance, including 25 employees engaged in regional treasury and shared services functions for the group's Asian operations.

Option 2

- This would be a direct sale.
- Tulip BV will sell its 74% stake in Chemicals India directly to Industries India at fair market value.

Chemicals India has accumulated significant cash reserves over the past few years. Prior to the share transfer under either of the options outlined above, the head of tax of Tulip BV is keen to extract the cash by way of a dividend declaration by Chemicals India to its shareholders. The head of tax has indicated her understanding that the withholding tax rate on the dividend payable by Chemicals India to Tulip BV should be 5%, by virtue of the most favoured nation clause in the India-Netherlands double tax agreement.

**You are required to address the following matters, with detailed reasoning in support of your answers:**

- 1) Evaluate, in detail, the Indian tax implications of each of the two options proposed by Tulip BV's head of tax, and advise on the preferred option from an Indian tax perspective. (12)**
- 2) Determine the correct withholding tax rate applicable on the dividend payable by Chemicals India to Tulip BV. (8)**

Total (20)

4. Palace Holdings plc (Palace UK) is a company incorporated under the laws of the United Kingdom. It has significant operations across the world, with a major portion of its business being undertaken through companies in the Asia-Pacific region. Palace UK has a wholly owned subsidiary in Mauritius, Palace Mauritius Ltd (Palace Mauritius). Palace Mauritius was incorporated in 2010 and holds a tax residency certificate issued by the Mauritius Revenue Authority.

Palace Mauritius has a single investment, consisting of shares in Palace India Pvt Ltd (Palace India), an unlisted Indian company. The shares were acquired in two tranches:

- May 2013 – acquisition of 60% of the equity share capital, for a consideration of INR 600 million; and
- September 2020 – acquisition of an additional 25% of the equity share capital, for a consideration of INR 1,500 million, taking Palace Mauritius's holding to 85%.

Palace Mauritius has no operating business and no full-time employees. It has a registered office in Mauritius and a board of three directors who are all professional consultants, two of whom are based in Mauritius and one in the United Kingdom. All key strategic decisions concerning Palace India are taken by Palace UK. The annual operating expenses of Palace Mauritius amount to approximately US\$15,000.

Palace UK is contemplating the consolidation of all investments in the Asia-Pacific region, either to Palace Singapore Pte Ltd (Palace Singapore) or under Palace Mauritius.

**You are required to address the following matters, with detailed reasoning in support of your answers:**

- 1) **Discuss the Indian tax implications of the proposed sale by Palace Mauritius of its complete shareholding in Palace India to Palace Singapore. You should outline any compliance that needs to be undertaken in relation to this transaction.** (10)
- 2) **If Palace UK consolidates its holdings in Asia Pacific region under Palace Mauritius, what measures should Palace UK undertake to safeguard any potential India tax challenge on a future sale of Palace India by Palace Mauritius?** (10)

Total (20)

**PART C**

**You are required to answer TWO questions from this Part.**

5. Phoenix Inc., a company incorporated under the laws of the United States, is engaged in providing data analytics solutions to enterprise customers around the world. Phoenix Inc. has a wholly owned subsidiary in the Netherlands (Phoenix BV) which holds shares of all companies in the Asia-Pacific region including Phoenix India Pvt Ltd (Phoenix India). Phoenix India contributes less than 3% to the value of Phoenix BV. Phoenix Inc. also directly holds a 45% stake in another Indian private limited company (Tower India).

As part of a global reorganisation, Phoenix Inc. is exploring a possible merger with another US-incorporated group company, NewCo Analytics Inc. (NewCo US). Upon the merger, the entire business and undertaking of Phoenix Inc., including its shareholdings in Phoenix BV and Tower India, will stand transferred to NewCo US. NewCo US will issue its own shares to the shareholders of Phoenix Inc. in consideration of the amalgamation.

You may assume that the transaction is tax neutral in the United States. The shareholders of Phoenix Inc. are all US-resident corporate shareholders.

**You are required to address the following matters, including reasoning in support of your answers:**

- 1) **Discuss the Indian tax implications of Phoenix Inc.'s proposed merger with NewCo US, in relation to its investment in Phoenix India.** (7)
- 2) **Discuss the Indian tax implications of the proposed merger with NewCo US, in relation to Phoenix Inc.'s investment in Tower India. What will the impact be on business loss and unabsorbed depreciation in Tower India's accounts?** (8)

Total (15)

6. Aviation Leasing Ltd (Aviation Ireland), a company incorporated and tax-resident in Ireland, is engaged in the business of leasing aircraft to airline operators around the world. Aviation Ireland is part of a larger Irish-headquartered group, Aviation Group plc (Aviation Group), which owns over 200 commercial aircraft and leases them to airlines across Europe, the Middle East, Asia and Africa.

Aviation Group has identified India as one of its key growth markets, with several Indian carriers being current and prospective lessees. The group is currently evaluating the establishment of an aircraft leasing entity in the International Financial Services Centre (IFSC) at Gujarat International Finance Tec-City (GIFT City) in India.

The Indian entity in the IFSC (IFSC NewCo) would undertake the following activities:

- Acquire aircraft, including those currently held by Aviation Ireland;
- Lease aircraft to Indian airline operators on operating lease and finance lease terms; and
- Provide ancillary aviation services, such as aircraft management and engine leasing services, to Indian and overseas customers.

Aviation Group's head of tax has sought your advice on the Indian tax benefits and considerations of setting up an aircraft leasing entity in the IFSC.

**You are required to outline the Indian tax benefits available to IFSC NewCo, Aviation Ireland and India-based airlines.** (15)

7. Steel Holdings Limited (Steel UK), a company incorporated under the laws of the United Kingdom, established a wholly owned subsidiary in India, Steel India Pvt Ltd (Steel India), in December 2025. Steel India is engaged in the manufacture and sale of specialist steel products for industrial customers in India.

Steel UK's head of tax is keen to establish structured arrangements for cash extraction from Steel India, with a view to managing the group's effective tax rate. The head of tax is contemplating four possible options for cash extraction from Steel India.

Option 1: management services

A periodic charge from Steel UK to Steel India for management services rendered from UK by Steel UK personnel, including senior strategic guidance, oversight of operations, financial controllership and human resources support.

Option 2: recharge of information technology costs

A recharge of common information technology costs incurred by Steel UK on behalf of the group, including ERP systems, cybersecurity systems, email and collaboration tools.

Option 3: brand fee

A royalty payment by Steel India to Steel UK for the use of the 'Steel' brand name, which Steel UK has built up over several decades.

Option 4: interest

A loan provided by Steel UK to Steel India, to enable Steel India to build a manufacturing plant.

**You are required to outline the Indian tax considerations and potential challenges arising for each of the proposed options, including any compliance obligations to be undertaken by Steel India and Steel UK. Your answers should be supported with appropriate reasoning.** (15)

8. Capital Partners plc, a fund established and tax-resident in the United Kingdom, has recently obtained a Foreign Portfolio Investor (FPI) licence in India under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations.

Capital Partners plc's investment management team has identified the following Indian instruments as potential investments:

- a) Equity shares of listed Indian companies, with intended holding periods of less than one year and more than one year;
- b) Equity shares of unlisted Indian companies, with an intended holding period of more than two years;
- c) Listed bonds and debentures issued by Indian companies (rupee denominated);
- d) Government securities issued by the Government of India (rupee denominated);
- e) Units of equity-oriented mutual funds in India;
- f) Derivative instruments (futures and options) in respect of listed Indian securities, traded on Indian recognised stock exchanges; and
- g) Dividend income from listed equity shares.

Capital Partner plc's business and tax teams seek to understand the tax rates that apply in India, in relation to the income earned from each of the instruments listed above.

**You are required to set out the tax rates applicable to income arising from each of the instruments outlined.** (15)

9. Crown Ltd (Crown), a company incorporated under the laws of the United Kingdom, recently sold its entire shareholding in Apex Limited (Apex), an Indian company.

Crown had acquired the shares of Apex in two distinct tranches:

- Tranche 1 – 100,000 equity shares acquired on 5 June 2019 at a cost of INR 200 per share, by way of primary subscription with a remittance of US\$256,410;
- Tranche 2 – 75,000 equity shares acquired on 12 August 2020 at a cost of INR 350 per share, through a secondary market purchase with a remittance of US\$328,125;

The shares were sold for INR 950 per share on 15 November 2025.

Crown is eligible for the benefits of the India-UK double tax agreement and has obtained a tax residency certificate from the UK tax authorities. Crown has no permanent establishment in India.

The cost inflation index for the financial years 2019-20, 2020-21 and 2025-26 may be assumed to be 254, 272 and 363, respectively.

**You are required to compute the capital gains tax liability of Crown on the sale of the Apex shares, applying the relevant provisions of the Income-tax Act 1961 in force at the time of the sale. (15)**

**AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION AND PREVENTION OF FISCAL EVASION WITH IRELAND**

Whereas the annexed Convention between the Government of the Republic of India and the Government of Ireland for the Avoidance of Double Taxation and for the Prevention of Fiscal Evasion with respect to taxes on income and capital gains has entered into force on 26th December, 2001, thirty days after the receipt of the later of the notifications by both the Contracting States to each other of the completion of the procedure required by their respective laws, as required by Article 28 of the said Convention.

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby directs that all the provisions of the said Convention shall be given effect to in the Union of India.

NOTIFICATION: NO. GSR 105(E) [45/2002 (F. NO. 503/6/99-FTD)], DATED 20-2-2002. AS CORRECTED BY NOTIFICATION NO. GSR 212(E) DATED 19-3-2002

**ANNEXURE**

**CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF IRELAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND FOR THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS**

The Government of the Republic of India and the Government of Ireland, desiring to conclude a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on income and capital gains and with a view to promoting economic co-operation between the two countries, have agreed as follows:

**ARTICLE 8**

**SHIPPING AND AIR TRANSPORT**

1. Profits derived by an enterprise of a Contracting State from the operation or rental of ships or aircraft in international traffic and the rental of containers and related equipment which is incidental to the operation of ships or aircraft in international traffic shall be taxable only in that Contracting State.
2. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.
3. For the purposes of this Article, interest on funds connected directly with the operation of ships or aircraft in international traffic shall be regarded as profits derived from the operation of such ships or aircraft; and the provisions of Article 11 shall not apply in relation to such interest, provided that such funds are incidental to that operation.
4. Notwithstanding the preceding provisions of this Article, profits derived by an enterprise of a Contracting State from the operation of ships between the ports of the other Contracting State and the ports of third countries may be taxed in that other Contracting State, but the tax imposed in that other State shall be reduced by an amount equal to two-thirds thereof.

**ARTICLE 12**

**ROYALTIES AND FEES FOR TECHNICAL SERVICES**

1. Royalties or fees for technical services 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 or 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 of the royalties or fees for technical services, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties or fees for technical services.
3. (a) 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 film or films or tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process or for the use of or the right to use industrial, commercial or scientific equipment, other than an aircraft, or for information concerning industrial, commercial or scientific experience;
- (b) The term "fees for technical services" means payment of any kind in consideration for the rendering of any managerial, technical or consultancy services including the provision of services by technical or other personnel but does not include payments for services mentioned in Articles 14 and 15 of this Convention.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties or fees for technical services, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties or fees for technical services 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 or fees for technical services are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Royalties or fees for technical services 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 or fees for technical 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 liability to pay the royalties or fees for technical services was incurred, and such royalties or fees for technical services are borne by such permanent establishment or fixed base, then such royalties or fees for technical services shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties or fees for technical services, 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  
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 also 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 base, may also be taxed in that other State.
3. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in that State.
4. Gains from the alienation of shares of the capital stock of a company the property of which consists directly or indirectly principally of immovable property situated in a Contracting State may be taxed in that State.
5. Gains from the alienation of shares other than those mentioned in paragraph 4 in a company which is a resident of a Contracting State may be taxed in that Contracting State.
6. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3, 4 and 5 shall be taxable only in the Contracting State of which the alienator is a resident.

## **AGREEMENT FOR AVOIDABLE OF DOUBLE TAXATION AND PREVENTION OF FISCAL EVASION WITH MAURITIUS**

Whereas the annexed Convention between the Government of the Republic of India and the Government of Mauritius for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains and for the encouragement of mutual trade and investment has come into force on the notification by both the Contracting States to each other on completion of the procedures required by their respective laws, as required by Article 28 of the said Convention;

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961) and section 24A of the Companies (Profits) Surtax Act, 1964 (7 of 1964), the Central Government hereby directs that all the provisions of the said Convention, shall be given effect to in the Union of India.

NOTIFICATION: NO. GSR 920(E), DATED 6-12-1983 – AS AMENDED BY NOTIFICATION NO.S.O. 2680(E) (NO.68/2016 (F.NO.500/3/2012-FTD-II)), DATED 10-8-2016

### **ANNEXURE**

The Government of the Republic of India and the Government of Mauritius, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains and for the encouragement of mutual trade and investment, have agreed as follows:

#### **CHAPTER III TAXATION OF INCOME**

##### **ARTICLE 13 CAPITAL GAINS**

1. Gains from the alienation of immovable property, as defined in paragraph (2) of article 6, may be taxed in the Contracting State in which such property is situated.
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 together with the whole enterprise) or of such a fixed base, may be taxed in that other State.
3. Notwithstanding the provisions of paragraph (2) of this article, gains from the alienation of ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
- [3A. Gains from the alienation of shares acquired on or after 1st April 2017 in a company which is resident of a Contracting State may be taxed in that State.
- 3B. However, the tax rate on the gains referred to in paragraph 3A of this Article and arising during the period beginning on 1st April, 2017 and ending on 31st March, 2019 shall not exceed 50% of the tax rate applicable on such gains in the State of residence of the company whose shares are being alienated;]
- [4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 3A shall be taxable only in the Contracting State of which the alienator is a resident.]
5. For the purposes of this article, the term "alienation" means the sale, exchange, transfer, or relinquishment of the property or the extinguishment of any rights therein or the compulsory acquisition thereof under any law in force in the respective Contracting States.

#### **CHAPTER V SPECIAL PROVISIONS**

##### **ARTICLE 27A LIMITATION OF BENEFITS**

1. A resident of a Contracting State shall not be entitled to the benefits of Article 13(3B) of this Convention if its affairs were arranged with the primary purpose to take advantage of the benefits in Article 13(3B) of this Convention.

2. A shell/conduit company that claims it is a resident of a Contracting State shall not be entitled to the benefits of Article 13(3B) of this Convention. A shell/conduit company is any legal entity falling within the definition of resident with negligible or nil business operations or with no real and continuous business activities carried out in that Contracting State.
3. A resident of a Contracting State is deemed to be a shell/conduit company if its expenditure on operations in that Contracting State is less than Mauritian Rs. 1,500,000 or Indian Rs. 2,700,000 in the respective Contracting State as the case may be, in the immediately preceding period of 12 months from the date the gains arise.
4. A resident of a Contracting State is deemed not to be a shell/conduit company if:
  - (a) it is listed on a recognized stock exchange of the Contracting State; or
  - (b) its expenditure on operations in that Contracting State is equal to or more than Mauritian Rs. 1,500,000 or Indian Rs. 2,700,000 in the respective Contracting State as the case may be, in the immediately preceding period of 12 months from the date the gains arise.

Explanation: The cases of legal entities not having bona fide business activities shall be covered by Article 27A(1) of the Convention.]

## **AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION AND PREVENTION OF FISCAL EVASION WITH THE NETHERLANDS**

Whereas the annexed convention between the Government of the Republic of India and the Kingdom of the Netherlands for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital has come into force on the 21st day of January, 1989, after the notification by both the Contracting States to each other of the completion of the procedures required under their laws for bringing into force of the said Convention; in accordance with paragraph 1 of the Article 29 of the said Convention;

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961), section 24A of the Companies (Profits) Surtax Act, 1964 (7 of 1964) and section 44A of the Wealth-tax Act, 1957 (27 of 1957), the Central Government hereby directs that all the provisions of the said Convention shall be given effect to in Union of India.

NOTIFICATION: NO. GSR 382(E), DATED 27-3-1989 AS AMENDED BY NOTIFICATION NO. SO 693(E), DATED 30-8-1999 AND NOTIFICATION NO. 2/2013, DATED 14-1-2013

### **ANNEXURE**

#### **CONVENTION BETWEEN THE REPUBLIC OF INDIA AND THE KINGDOM OF THE NETHERLANDS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

The Government of the Republic of India and the Government of the Kingdom of Netherlands. Desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, have agreed as follows:

#### **CHAPTER III TAXATION OF INCOME**

##### **ARTICLE 10 DIVIDENDS**

1. Dividends paid by a company which is a resident of one of the States to a resident of the other 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 10 per cent of the gross amount of the dividends.]
3. The competent authorities of the States shall by mutual agreement settle the mode of application of paragraph 2.
4. The provisions of paragraph 2 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.
5. The term "dividend" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights participating in profits, as well as income from debt-claims participating in profits and income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.
6. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of one of the States, carries on business in the other State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.
7. Where a company which is a resident of one of the States derives profits or income from the other 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.

ARTICLE 13  
CAPITAL GAINS

1. Gains derived by a resident of one of the States from the alienation of immovable property referred to in Article 6 and situated in the other 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 one of the States has in the other State or of movable property pertaining to a fixed base available to a resident of one of the States in the other 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 movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the State in which the place of effective management of the enterprise is situated. For the purposes of this paragraph, the provisions of paragraph 3 of Article 8A shall apply.
4. Gains derived by a resident of one of the States from the alienation of shares (other than shares quoted on an approved stock exchange) forming part of a substantial interest in the capital stock of a company which is a resident of the other State, the value of which shares is derived principally from immovable property situated in that other State other than property in which the business of the company was carried on, may be taxed in that other State. A substantial interest exists when the resident owns 25 per cent or more of the shares of the capital stock of a company.
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 State of which the alienator is a resident.  
However, gains from the alienation of shares issued by a company resident in the other State which shares form part of at least a 10 per cent interest in the capital stock of that company, may be taxed in that other State if the alienation takes place to a resident of that other State. However, such gains shall remain taxable only in the State of which the alienator is a resident if such gains are realised in the course of a corporate organisation, reorganization, amalgamation, division or similar transaction, and the buyer or the seller owns at least 10 per cent of the capital of the other.
6. The provisions of paragraph 3 shall not affect the right of each of the States to levy according to its own law at tax on gains from the alienation of shares or 'jouissance' rights in a company, the capital of which is wholly or partly divided into shares and which under the laws of that State is a resident of that State, derived by an individual who is a resident of the other State and has been a resident of the first-mentioned State in the course of the last five years preceding the alienation of the shares or 'jouissance' rights.

## **AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION AND PREVENTION OF FISCAL EVASION WITH SINGAPORE**

Whereas the annexed Agreement between the Government of the Republic of India and the Government of the Republic of Singapore for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income has entered into force on 27<sup>th</sup> May, 1994 on the notification by both the Contracting States to each other of the completion of the procedures required by their respective laws, as required by the said Agreement;

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby directs that all the provisions of the said Agreement shall be given effect to in the Union of India.

NOTIFICATION: NO. GSR 610(E), DATED 8-8-1994 AS AMENDED BY NOTIFICATION NO. SO 1022(E), DATED 18-7-2005; NO. S.O. 2031(E), DATED 1-9-2011 AND NO. S.O. 935(E), DATED 23-3-2017

### **ANNEXURE**

#### **AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME**

The Government of the Republic of India and the Government of the Republic of Singapore, desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

#### **ARTICLE 13 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 together 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 movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State of which the alienator is a resident.
- 4.
- 4A. Gains from the alienation of shares acquired before 1 April 2017 in a company which is a resident of a Contracting State shall be taxable only in the Contracting State in which the alienator is a resident.
- 4B. Gains from the alienation of shares acquired on or after 1 April 2017 in a company which is a resident of a Contracting State may be taxed in that State.
- 4C. However, the gains referred to in paragraph 4B of this Article which arise during the period beginning on 1 April 2017 and ending on 31 March 2019 may be taxed in the State of which the company whose shares are being alienated is a resident at a tax rate that shall not exceed 50% of the tax rate applicable on such gains in that State.
5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3, 4A and 4B of this Article shall be taxable only in the Contracting State of which the alienator is a resident.]

#### **[ARTICLE 24A**

1. A resident of a Contracting State shall not be entitled to the benefits of paragraph 4A or paragraph 4C of Article 13 of this Agreement if its affairs were arranged with the primary purpose to take advantage of the benefits in the said paragraph 4A or paragraph 4C of Article 13 of this Agreement, as the case may be.
2. A shell or conduit company that claims it is a resident of a Contracting State shall not be entitled to the benefits of paragraph 4A or paragraph 4C of Article 13 of this Agreement. A shell or conduit company is any legal entity falling within the definition of resident with negligible or nil business operations or with no real and continuous business activities carried out in that Contracting State.

3. A resident of a Contracting State is deemed to be a shell or conduit company if its annual expenditure on operations in that Contracting State is less than S\$ 200,000 in Singapore or Indian Rs. 5,000,000 in India, as the case may be:
  - (a) in the case of paragraph 4A of Article 13 of this Agreement, for each of the 12 month periods in the immediately preceding period of 24 months from the date on which the gains arise;
  - (b) in the case of paragraph 4C of Article 13 of this Agreement, for the immediately preceding period of 12 months from the date on which the gains arise.
4. A resident of a Contracting State is deemed not to be a shell or conduit company if:
  - (a) it is listed on a recognised stock exchange of the Contracting State; or
  - (b) its annual expenditure on operations in that Contracting State is equal to or more than S\$ 200,000 in Singapore or Indian Rs. 5,000,000 in India, as the case may be:
    - (i) in the case of paragraph 4A of Article 13 of this Agreement, for each of the 12-month periods in the immediately preceding period of 24 months from the date on which the gains arise;
    - (ii) in the case of paragraph 4C of Article 13 of this Agreement, for the immediately preceding period of 12 months from the date on which the gains arise.
5. For the purpose of paragraph 4(a) of this Article, a recognised stock exchange means:
  - (a) in the case of Singapore, the securities market operated by the Singapore Exchange Limited, Singapore Exchange Securities Trading Limited and The Central Depository (Pte) Limited; and
  - (b) in the case of India, a stock exchange recognised by the Securities and Exchange Board of India.

Explanation: The cases of legal entities not having bona fide business activities shall be covered by paragraph 1 of this Article.]

ARTICLE 13  
CAPITAL GAINS

1. Gains derived by a resident of one of the States from the alienation of immovable property referred to in Article 6 and situated in the other 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 one of the States has in the other State or of movable property pertaining to a fixed base available to a resident of one of the States in the other 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 movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the State in which the place of effective management of the enterprise is situated. For the purposes of this paragraph, the provisions of paragraph 3 of Article 8A shall apply.
4. Gains derived by a resident of one of the States from the alienation of shares (other than shares quoted on an approved stock exchange) forming part of a substantial interest in the capital stock of a company which is a resident of the other State, the value of which shares is derived principally from immovable property situated in that other State other than property in which the business of the company was carried on, may be taxed in that other State. A substantial interest exists when the resident owns 25 per cent or more of the shares of the capital stock of a company.
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 State of which the alienator is a resident. However, gains from the alienation of shares issued by a company resident in the other State which shares form part of at least a 10 per cent interest in the capital stock of that company, may be taxed in that other State if the alienation takes place to a resident of that other State. However, such gains shall remain taxable only in the State of which the alienator is a resident if such gains are realised in the course of a corporate organisation, reorganization, amalgamation, division or similar transaction, and the buyer or the seller owns at least 10 per cent of the capital of the other.
6. The provisions of paragraph 3 shall not affect the right of each of the States to levy according to its own law at tax on gains from the alienation of shares or 'jouissance' rights in a company, the capital of which is wholly or partly divided into shares and which under the laws of that State is a resident of that State, derived by an individual who is a resident of the other State and has been a resident of the first-mentioned State in the course of the last five years preceding the alienation of the shares or 'jouissance' rights.

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

DONE at New Delhi this thirtieth day of July, 1988, in duplicate, in the Hindi, Netherlands and English languages, the three texts being equally authentic. In case of divergence between the Hindi and Netherlands texts, the English text shall be the operative one.

**SYNTHESISED TEXT**  
**OF**  
**THE MLI AND THE CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND**  
**GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND FOR THE**  
**AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO**  
**TAXES ON INCOME AND CAPITAL GAINS**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of India, desiring to conclude a new Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains;

*The following paragraph 1 of Article 6 of the MLI is included in the preamble of this Convention:*

**Article 6 of the MLI — purpose of a covered tax agreement**

*Intending to eliminate double taxation with respect to the taxes covered by [this Convention] without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in [the Convention] for the indirect benefit of residents of third jurisdictions),*

Have agreed as follows:

**ARTICLE 1**  
**SCOPE OF THE CONVENTION**

1. This Convention shall apply to persons who are residents of one or both of the Contracting States.
2. This Convention extends to the territory of each Contracting State, including its territorial sea, and to those areas of the exclusive economic zone or the continental shelf adjacent to the outer limit of the territorial sea of each State over which it has, in accordance with international law, sovereign rights for the purpose of exploration and exploitation of the natural resources of such areas, and references in this Convention to the Contracting State or to either of them shall be construed accordingly.

*The following paragraph 1 of Article 11 of the MLI applies and supersedes the provision of this Convention:*  
**Article 11 of the MLI — application of tax agreements to restrict a party's right to tax its own residents**  
*[This Convention] shall not affect the taxation by a [Contracting State] of its residents, except with respect to the benefits granted [under paragraph 2 of Article 10 and Articles 19, 21, 22, 24, 26, 27 and 29] of [this Convention].*

**ARTICLE 2**  
**TAXES COVERED**

1. The taxes which are the subject of this Convention are:
  - (a) in the United Kingdom:
    - i. the income tax;
    - ii. the corporation tax;
    - iii. the capital gains tax; and
    - iv. the petroleum revenue tax;(hereinafter referred to as "United Kingdom tax");
  - (b) in India:  
the income-tax including any surcharge thereon;  
(hereinafter referred to as "Indian tax").
2. This Convention shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Convention in addition to, or in place of, the taxes of that Contracting State referred to in paragraph (1) of this Article. The competent authorities of the Contracting States shall notify each other of any substantial changes which are made in their respective taxation laws.

**ARTICLE 3**  
**GENERAL DEFINITIONS**

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

- (a) the term “United Kingdom” means Great Britain and Northern Ireland;
  - (b) the term “India” means the Republic of India;
  - (c) the term “tax” means United Kingdom tax or Indian tax, as the context requires but shall not include any amount which is payable in respect of any default or omission in relation to the taxes to which this Convention applies or which represents a penalty imposed relating to those taxes;
  - (d) the term “fiscal year” in relation to Indian tax means “previous year” as defined in the Income-tax Act, 1961 (43 of 1961) and in relation to United Kingdom tax means a year beginning with 6th April in one year and ending with 5th April in the following year;
  - (e) the terms “a Contracting State” and “the other Contracting State” mean India or the United Kingdom, as the context requires;
  - (f) the term “person” includes an individual, a company, a body of persons and any other entity which is treated as a taxable unit under the taxation laws in force in the respective Contracting States;
  - (g) the term “company” means any body corporate or any entity which is treated as a company or body corporate for tax purposes;
  - (h) 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;
  - (i) the term “competent authority” means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative, and, in the case of India, the Central Government in the Ministry of Finance (Department of Revenue) or their authorised representative;
  - (j) the term “international traffic” means only transport by a ship or aircraft operated by an enterprise of a Contracting State except when the ship or aircraft is operated solely between places in the other Contracting State;
  - (k) the term “Government” means the Government of a Contracting State or a political subdivision or local authority thereof. In relation to the United Kingdom, the term “political subdivision” shall include Northern Ireland.
2. [Deleted]
3. As regards the application of this Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

#### ARTICLE 4 FISCAL DOMICILE

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, place of incorporation, or any other criterion of a similar nature, provided, however, that:
- (a) 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; and
  - (b) in the case of income derived or paid by a partnership, estate, or trust, this term applies only to the extent that the income derived by such partnership, estate, or trust is subject to tax in that State as the income of a resident, either in its hands or in the hands of its partners or beneficiaries.
2. Where by reason of the provisions of paragraph (1) of this Article an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:
- (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);
  - (b) if the Contracting 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
  - (c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
  - (d) if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. [Replaced by paragraph 1 of Article 4 of the MLI] [Where by reason of the provisions of paragraph (1) of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated].

*The following paragraph 1 of Article 4 of the MLI replaces paragraph 3 of Article 4 of this Convention:*

**Article 4 of the MLI — Dual Resident Entities**

*Where by reason of the provisions of [this Convention] a person other than an individual is a resident of both [Contracting States], the competent authorities of the [Contracting States] shall endeavour to determine by mutual agreement the [Contracting State] of which such person shall be deemed to be a resident for the purposes of [this Convention], having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by [this Convention] except to the extent and in such manner as may be agreed upon by the competent authorities of the [Contracting States].*

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" shall include especially:
  - (a) place of management;
  - (b) a branch;
  - (c) an office;
  - (d) a factory;
  - (e) a workshop;
  - (f) premises used as a sales outlet or for receiving or soliciting orders;
  - (g) a warehouse in relation to a person providing storage facilities for others;
  - (h) a mine, an oil or gas well, quarry or other place of extraction of natural resources;
  - (i) an installation or structure used for the exploration or exploitation of natural resources;
  - (j) a building site or construction, installation or assembly project or supervisory activities in connection therewith, where such site, project or supervisory activity continues for a period of more than six months, or where such project or supervisory activity, being incidental to the sale of machinery or equipment, continues for a period not exceeding six months and the charges payable for the project or supervisory activity exceed 10 per cent of the sale price of the machinery and equipment;
  - (k) the furnishing of services including managerial services, other than those taxable under Article 13 (Royalties and fees for technical services), within a Contracting State by an enterprise through employees or other personnel, but only if:
    - i. activities of that nature continue within that State for a period or periods aggregating more than 90 days within any twelve-month period; or
    - ii. services are performed within that State for an enterprise within the meaning of paragraph (1) of Article 10 (Associated enterprises) and continue for a period or periods aggregating more than 30 days within any twelve-month period.

Provided that for the purposes of this paragraph an enterprise shall be deemed to have a permanent establishment in a Contracting State and to carry on business through that permanent establishment if it provides services or facilities in connection with, or supplies plant and machinery on hire used or to be used in, the prospecting for, or extraction or production of, mineral oils in that State.

3. **[MODIFIED by paragraph 4 of Article 13 of the MLI]** [The term "permanent establishment" shall not be deemed 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 for 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 or for scientific research, being activities solely of a preparatory or auxiliary character in the trade or business of the enterprise. However, this provision shall not be applicable where the enterprise maintains any other fixed place of business in the other Contracting State for any purpose or purposes other than the purposes specified in this paragraph;

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

*The following paragraph 4 of Article 13 of the MLI applies to paragraph 3 of Article 5 of this Convention:*  
**Article 13 of the MLI — artificial avoidance of permanent establishment status through the specific activity exemptions**

*[Paragraph 3 of Article 5 of this Convention] shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same [Contracting State] and:*

- (a) *that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of [Article 5 of the Convention]; or*
- (b) *the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,*

*provided that the business activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, constitute complementary functions that are part of a cohesive business operation.*

*The following paragraph 1 of Article 15 of the MLI applies to provisions of this Convention:*

**Article 15 of the MLI — definition of a person closely related to an enterprise**

*For the purposes of [Article 5 of the Convention], a person is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, a person shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise.*

4. A person acting in a Contracting State for or on behalf of an enterprise of the other Contracting State—other than an agent of an independent status to whom paragraph (5) of this Article applies—shall be deemed to be a permanent establishment of that enterprise in the first-mentioned State if:
- (a) he has, and habitually exercises in that State, an authority to negotiate and enter into contracts for or on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or
- (b) he habitually maintains in the first-mentioned Contracting State a stock of goods or merchandise from which he regularly delivers goods or merchandise for or on behalf of the enterprise; or
- (c) he habitually secures orders in the first-mentioned State, wholly or almost wholly for the enterprise itself or for the enterprise and other enterprises controlling, controlled by, or subject to the same common control, as that 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, where such persons are acting in the ordinary course of their business. However, if the activities of such an agent are carried out wholly or almost wholly for the enterprise (or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it or are subject to the same common control) he shall not be considered to be an agent of an independent status for the purposes of this paragraph.
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.
7. For the purposes of this Article the term “control”, in relation to a company means the ability to exercise control over the company's affairs by means of the direct or indirect holding of the greater part of the issued share capital or voting power in the company.

## ARTICLE 6

### INCOME FROM IMMOVABLE PROPERTY

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.
- 2.

- (a) The term "immovable property" shall, subject to the provisions of sub-paragraph (b) of this paragraph, be defined in accordance with the law of the Contracting State in which the property in question is situated.
  - (b) The term "immovable property" shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph (1) of this Article shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
  4. The provisions of paragraphs (1) and (3) of this Article shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

## ARTICLE 7 BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that 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. Where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, the profits which that permanent establishment 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 shall be treated for the purposes of paragraph (1) of this Article as being the profits directly attributable to that permanent establishment.
3. 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, that proportion of profits of the enterprise arising out of those contracts which the contribution of the permanent establishment to those transactions bears to that of the enterprise as a whole shall be treated for the purposes of paragraph (1) of this Article as being the profits indirectly attributable to that permanent establishment.
4. Insofar as it has been customary in a Contracting State according to its law 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 paragraphs (1) and (2) of this Article shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be necessary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.
5. Subject to paragraphs (6) and (7) of this Article, in the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business 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, which are allowed under the provisions of and subject to the limitations of the domestic law of the Contracting State in which the permanent establishment is situated.
6. Where the law of the Contracting State in which the permanent establishment is situated imposes a restriction on the amount of the executive and general administrative expenses which may be allowed, and the restriction is relaxed or overridden by any Convention between that Contracting State and a third State which is a member of the Organisation for Economic Co-operation and Development or a State in a comparable stage of development, and that Convention enters into force after the date of entry into force of this Convention, the competent authority of that Contracting State shall notify the competent authority of the other Contracting State of the terms of the relevant paragraph in the Convention with that third State immediately after the entry into force of that Convention and, if the competent authority of the other Contracting State so requests, the provisions of this Convention shall be amended by protocol to reflect such terms.
7. Paragraph (5) of this Article shall not apply to amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on monies lent to the permanent establishment; nor shall account be taken in the determination of the profits of a permanent establishment of amounts charged (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of

a banking enterprise, by way of interest on monies lent to the head office of the enterprise or any of its other offices.

8. 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.
9. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

#### ARTICLE 8 AIR TRANSPORT

1. Profits derived from the operation of aircraft in international traffic by an enterprise of one of the Contracting States shall not be taxed in the other Contracting State.
2. The provisions of paragraph (1) of this Article shall likewise apply in respect of participation in pools of any kind by enterprises engaged in air transport.
3. For the purposes of this Article the term "operation of aircraft" shall include transportation by air of persons, livestock, goods or mail, carried on by the owners or lessees or charterers of aircraft, including the sale of tickets for such transportation on behalf of other enterprises, the incidental lease of aircraft on a charter basis and any other activity directly connected with such transportation.
4. Gains derived by an enterprise of a Contracting State from the alienation of aircraft owned and operated by the enterprise, the income from which is taxable only in that State, shall be taxed only in that State.

#### ARTICLE 9 SHIPPING

1. Income of an enterprise of a Contracting State from the operation of ships in international traffic shall be taxable only in that State.
2. The provisions of paragraph (1) of this Article shall not apply to income from journeys between places which are situated in a Contracting State.
3. For the purposes of this Article, income from the operation of ships includes income derived from the rental on a bareboat basis of ships if such rental income is incidental to the income described in paragraph (1) of this Article.
4. Notwithstanding the provisions of Article 7 (Business profits) of this Convention, the provisions of paragraphs (1) and (2) of this Article shall likewise apply to income of an enterprise of a Contracting State from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise.
5. The provisions of this Article shall apply also to income derived from participation in a pool, a joint business or an international operating agency.
6. Gains derived by an enterprise of a Contracting State from the alienation of ships or containers owned and operated by the enterprise shall be taxed only in that State if either the income from the operation of the alienated ships or containers was taxed only in that State, or the ships or containers are situated outside the other Contracting State at the time of the alienation.

#### ARTICLE 10 ASSOCIATED ENTERPRISES

1. Where:
  - (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
  - (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

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

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

## ARTICLE 11

### DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:
  - (a) 15 per cent of the gross amount of the dividends where those dividends are paid out of income (including gains) derived directly or indirectly from immovable property within the meaning of Article 6 by an investment vehicle which distributes most of this income annually and whose income from such immovable property is exempted from tax;
  - (b) 10 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. The provisions of 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 any other item 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 of this Article 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. In such case the provisions of Article 7 (Business profits) or Article 15 (Independent personal services), as may be the case, 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 situated in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State.
6. [SUPERSEDED by paragraph 1 of Article 7 of the MLI] [No relief shall be available under this Article if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the shares or other rights in respect of which the dividend is paid to take advantage of this Article by means of that creation or assignment].

## ARTICLE 12

### INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such interest may also be taxed in the Contracting State in which it arises and according to the law of that State, provided that where the resident of the other Contracting State is the beneficial owner of the interest the tax so charged shall not exceed 15 per cent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph (2) of this Article:
  - (a) where the interest is paid to a bank carrying on a bona fide banking business which is a resident of the other Contracting State and is the beneficial owner of the interest, the tax charged in the Contracting State in which the interest arises shall not exceed 10 per cent of the gross amount of the interest;
  - (b) where the interest is paid to the Government of one of the Contracting States or a political subdivision or local authority of that State or the Reserve Bank of India, it shall not be subject to tax by the State in which it arises.
4. Notwithstanding the provisions of Article 7 of this Convention and of paragraphs (2) and (3) of this Article:
  - (a) interest arising in India which is paid to and beneficially owned by a resident of the United Kingdom shall be exempt from tax in India if it is paid in respect of a loan made, guaranteed or insured, or any other debt-claim or credit guaranteed or insured by the United Kingdom Export Credits Guarantee Department; and
  - (b) interest arising in the United Kingdom which is paid to and beneficially owned by a resident of India shall be exempt from tax in the United Kingdom if it is paid in respect of a loan made, guaranteed or insured, or any other debt-claim or credit guaranteed or insured by the Export Credits and Guarantee Corporation of India and/or Export-Import Bank of India.

5. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from Government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures but, subject to the provisions of paragraph (9) of this Article, shall not include any item which is treated as a distribution under the provisions of Article 11 (Dividends) of this Convention.
6. The provisions of paragraphs (1), (2) and (3)(a) of this Article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein, or performs in that other 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 (Business profits) or Article 15 (Independent personal services) of this Convention, as the case may be, shall apply.
7. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by that 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.
8. Where, owing to a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest paid exceeds for whatever reason the amount which would have been paid in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.
9. Any provision in the laws of either Contracting State relating only to interest paid to a non-resident company shall not operate so as to require such interest paid to a company which is a resident of the other Contracting State to be treated as a distribution or dividend by the company paying such interest or to be left out of account as a deduction in computing the taxable profits of the company paying the interest. The preceding sentence shall not apply to interest paid to a company which is a resident of one of the Contracting States in which more than 50 per cent of the voting power is controlled, directly or indirectly, by a person or persons who are residents of the other Contracting State.
10. The relief from tax provided for in paragraph (2) of this Article shall not apply if the beneficial owner of the interest:
  - (a) is exempt from tax on such income in the Contracting State of which he is a resident; and
  - (b) sells or makes a contract to sell the holding from which such interest is derived within three months of the date such beneficial owner acquired such holding
11. [SUPERSEDED by paragraph 1 of Article 7 of the MLI] [The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment].

## ARTICLE 13

### ROYALTIES AND FEES FOR TECHNICAL SERVICES

1. Royalties and fees for technical services 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 and fees for technical services may also be taxed in the Contracting State in which they arise and according to the law of that State; but if the beneficial owner of the royalties or fees for technical services is a resident of the other Contracting State, the tax so charged shall not exceed:
  - (a) in the case of royalties within paragraph (3)(a) of this Article, and fees for technical services within paragraph (4)(a) and (c) of this Article;
    - i. during the first five years for which this Convention has effect;
      - (aa) 15 per cent of the gross amount of such royalties or fees for technical services when the payer of the royalties or fees for technical services is the Government of the first-mentioned Contracting State or a political subdivision of that State, and
      - (bb) 20 per cent of the gross amount of such royalties or fees for technical services in all other cases; and
    - ii. during subsequent years, 15 per cent of the gross amount of such royalties or fees for technical services; and

- (b) in the case of royalties within paragraph (3)(b) of this Article and fees for technical services defined in paragraph (4)(b) of this Article, 10 per cent of the gross amount of such royalties and fees for technical services
3. For the purposes of this Article, the term “royalties” means:
- (a) payments of any kind received as a consideration for the use of, or the right to use, any copyright of a literary, artistic or scientific work, including cinematograph films or work on films, tape or other means of reproduction for use in connection with radio or television broadcasting, any patent, trademark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience; and
- (b) payments of any kind received as consideration for the use of, or the right to use, any industrial, commercial or scientific equipment, other than income derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic.
4. For the purposes of paragraph (2) of this Article, and subject to paragraph (5), of this Article, the term “fees for technical services” means payments of any kind to any person in consideration for the rendering of any technical or consultancy services (including the provisions of services of technical or other personnel) which:
- (a) are ancillary and subsidiary to the application or enjoyment of the right, property or information for which a payment described in paragraph (3)(a) of this Article is received; or
- (b) are ancillary and subsidiary to the enjoyment of the property for which a payment described in paragraph (3)(b) of this Article is received; or
- (c) make available technical knowledge, experience, skill, know-how or processes, or consist of the development and transfer of a technical plan or technical design.
5. The definitions of fees for technical services in paragraph (4) of this Article shall not include amounts paid:
- (a) for services that are ancillary and subsidiary, as well as inextricably and essentially linked, to the sale of property, other than property described in paragraph (3)(a) of this Article;
- (b) for services that are ancillary and subsidiary to the rental of ships, aircraft, containers or other equipment used in connection with the operation of ships, or aircraft in international traffic;
- (c) for teaching in or by educational institutions;
- (d) for services for the private use of the individual or individuals making the payment; or
- (e) to an employee of the person making the payments or to any individual or partnership for professional services as defined Article 15 (Independent personal services) of this Convention.
6. The provisions of paragraphs (1) and (2) of this Article shall not apply if the beneficial owner of the royalties or fees for technical services, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties or fees for technical services 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, property or contract in respect of which the royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 (Business profits) or Article 15 (Independent personal services) of this Convention, as the case may be, shall apply.
7. Royalties and fees for technical services shall be deemed to arise in a Contracting State where the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties or fees for technical 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 obligation to make payments was incurred and the payments are borne by that permanent establishment or fixed base, then the royalties or fees for technical services shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.
8. Where, owing to a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties or fees for technical services paid exceeds for whatever reason the amount which would have been paid in the absence of such relationship, the provisions of this Article shall apply only to the last mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.
9. [SUPERSEDED by paragraph 1 of Article 7 of the MLI] [The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the rights in respect of which the royalties or fees for technical services are paid to take advantage of this Article by means of that creation or assignment].

#### ARTICLE 14 CAPITAL GAINS

Except as provided in Article 8 (Air transport) and 9 (Shipping) of this Convention, each Contracting State may tax capital gains in accordance with the provisions of its domestic law.

## ARTICLE 15

### INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual, whether in his own capacity or as a member of a partnership, who is a resident of a Contracting State in respect of professional services or other independent activities of a similar character may be taxed in that State. Such income may also be taxed in the other Contracting State if such services are performed in that other State and if:
  - (a) he is present in that other State for a period or periods aggregating 90 days in the relevant fiscal year; or
  - (b) he, or the partnership, has a fixed base regularly available to him, or it, in that other State for the purpose of performing his activities;but in each case only so much of the income as is attributable to those services.
2. For the purposes of paragraph (1) of this Article an individual who is a member of a partnership shall be regarded as being present in the other State during days on which, although he is not present, another individual member of the partnership is so present and performs professional services or other independent activities of a similar character in that State.
3. The term "professional services" includes independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, surgeons, lawyers, engineers, architects, dentists and accountants.

## ARTICLE 16

### DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 17 (Directors' fees), 18 (Artistes and athletes), 19 (Governmental remuneration and pensions), 20 (Pensions and annuities), 21 (Students and trainees) and 22 (Teachers) of this Convention, 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) of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall not be taxed in that other State if:
  - (a) he is present in that other State for a period or periods not exceeding in the aggregate 183 days during the relevant fiscal year;
  - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of that other State; and
  - (c) the remuneration is not deductible in computing the profits of an enterprise chargeable to tax in that other State.
3. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State of which the person deriving the profits from the operation of the ship or aircraft is a resident.

## ARTICLE 17

### DIRECTORS' FEES

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

## ARTICLE 18

### ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 15 (Independent personal services) and 16 (Dependent personal services) of this Convention, income derived by entertainers (such as stage, motion picture, radio or television artistes and musicians) or athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.
2. Where income arising from personal activities as such exercised in a Contracting State by an entertainer or athlete accrues not to that entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7 (Business profits), 15 (Independent personal services) and 16 (Dependent personal services) of this Convention, be taxed in that Contracting State.
3. The provisions of paragraphs (1) and (2) of this Article shall not apply if the visit to a Contracting State of the entertainer or the athlete is directly or indirectly supported, wholly or substantially, from the public funds of the other Contracting State, including a political subdivision or local authority of that other State.

## ARTICLE 19

### GOVERNMENTAL REMUNERATION AND PENSIONS

1. Remuneration, other than a pension, paid by the Government of a Contracting State to any individual who is a national of that State in respect of services rendered in the discharge of governmental functions in the other Contracting State shall be exempt from tax in that other Contracting State.
2. Any pension paid by the Government of a Contracting State to any individual in respect of services rendered to that Government shall be taxable only in that Contracting State.
3. The provisions of this Article shall not apply to remuneration or pensions in respect of services rendered in connection with any trade or business.

## ARTICLE 20

### PENSIONS AND ANNUITIES

1. Any pension, other than a pension referred to in Article 19(2) of this Convention, or annuity paid to 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 performance of employment or any payments made under the social security legislation of either Contracting State.
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 21

### STUDENTS AND TRAINEES

1. An individual who is a resident of a Contracting State or was a resident of that State immediately before visiting the other Contracting State and who is temporarily present in that other State for the primary purpose of:
  - (a) studying at a university or other accredited or recognised educational institution in that other Contracting State; or
  - (b) securing training required to qualify him to practise a profession or a professional speciality; or
  - (c) studying or doing research as a recipient of a grant, allowance, or award from a governmental, religious, charitable, scientific, literary or educational organisation;shall not be subject to tax by that other Contracting State in respect of:
  - i. gifts from abroad for the purposes of his maintenance, education, study, research or training;
  - ii. the grant, allowance or award; and
  - iii. income from personal services rendered in that other Contracting State (other than any rendered by an article clerk or other person undergoing professional training to the person or partnership to whom he is articulated or who is providing the training) not exceeding the sum of 750 pounds sterling or its equivalent in Indian currency during any fiscal year.
2. The exemptions under paragraph (1) of this Article shall only extend for such period of time as may be reasonably or customarily required for the purpose of the visit, but in no event shall any individual have the benefit of paragraph (1) of this Article for more than 5 years.
3. An individual who is a resident of a Contracting State or was a resident of that State immediately before visiting the other Contracting State and who is temporarily present in that other State for a period not exceeding 12 months, as an employee of, or under contract with, a resident of the first-mentioned Contracting State, for the primary purpose of:
  - (a) acquiring technical, professional or business experience from a person other than that resident of the first-mentioned Contracting State; or
  - (b) studying at a university or other accredited or recognised institution in that other Contracting State;shall not be subject to tax by that other Contracting State on his income from personal services performed in the other Contracting State for that period in an amount not exceeding 1,500 pounds sterling or its equivalent in Indian currency.
4. An individual who is a resident of a Contracting State or was a resident of that State immediately before visiting the other Contracting State and who is temporarily present in that other State for a period not exceeding 12 months as a participant in a programme sponsored by the Government of the other Contracting State, for the primary purpose of training, research or study, shall not be subject to tax by that other Contracting State in respect of payments made by the Government of the first-mentioned Contracting State for the purposes of his maintenance, training, research, or study.

## ARTICLE 22

### TEACHERS

1. An individual who visits a Contracting State for a period not exceeding two years for the purpose of teaching or engaging in research at a university, college or other recognised educational institution in that State, and who was immediately before that visit a resident of the other Contracting State, shall be exempted from tax by the first mentioned Contracting State on any remuneration for such teaching or research for a period not exceeding two years from the date he first visits that State for such purpose.
2. This Article shall only apply to income from research if such research is undertaken by the individual in the public interest and not primarily for the benefit of some other private person or persons.

## ARTICLE 23

### OTHER INCOME

1. Subject to the provisions of paragraph (2) of this Article, items of income beneficially owned by a resident of a Contracting State, wherever arising, other than income paid out of trusts or the estates of deceased persons in the course of administration, which are not dealt with in the foregoing Articles of this Convention, shall be taxable only in that State.
2. The provisions of paragraph (1) shall not apply to income, other than income from immovable property as defined in paragraph (2) of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 15 of this Convention, as the case may be, shall apply.
3. Notwithstanding the provisions of paragraphs (1) and (2) of this Article, 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 24

### ELIMINATION OF DOUBLE TAXATION

1. Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom (which shall not affect the general principle hereof):
  - (a) Indian tax payable under the laws of India and in accordance with the provisions of this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within India (excluding, in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits, income or chargeable gains by reference to which the Indian tax is computed.
  - (b) In the case of a dividend paid by a company which is a resident of India to a company which is a resident of the United Kingdom and which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend, the credit shall take into account (in addition to any Indian tax for which credit may be allowed under the provisions of sub-paragraph (a) of this paragraph) the Indian tax payable by the company in respect of the profits out of which such dividend is paid.
2. Subject to the provisions of the law of India regarding the allowance as a credit against Indian tax of tax paid in a territory outside India (which shall not affect the general principle hereof), the amount of the United Kingdom tax paid, under the laws of the United Kingdom and in accordance with the provisions of this Convention, whether directly or by deduction, by a resident of India, in respect of income from sources within the United Kingdom which has been subjected to tax both in India and the United Kingdom shall be allowed as a credit against the Indian tax payable in respect of such income but in an amount not exceeding that proportion of Indian tax which such income bears to the entire income chargeable to Indian tax.

For the purposes of the credit referred to in this paragraph, where the resident of India is a company by which surtax is payable, the credit to be allowed against Indian tax shall be allowed in the first instance against the income tax payable by the company in India and, as to the balance, if any, against the surtax payable by it in India.
3. Subject to paragraph (5) of this Article, for the purposes of paragraph (1) of this Article the term "Indian tax payable" shall be deemed to include:
  - (a) any amount which would have been payable as Indian tax but for a deduction allowed in computing the taxable income or an exemption or reduction of tax granted for that year in question under the provisions of the Income-tax Act 1961 (43 of 1961) referred to in paragraph (4)(a) or (b) of this Article;
  - (b) that proportion of any amount which would have been payable as Indian tax by a resident of India but for a deduction allowed in computing the taxable income or an exemption or reduction granted for the

year in question under the provisions of the Income-tax Act 1961 (43 of 1961) referred to in paragraph (4)(c) of this Article which corresponds to the proportion of that resident's total production in that year which was actually sold in the Indian Domestic Tariff Area under Orders issued by the Chief Controller of Imports and Exports bearing Nos. 21/90-93, 22/90-93, 23/9093, 25/9093, 26/90-93, 27/90-93 dated 30th March 1990 and similar Orders from time to time published in the Official Gazette by the Central Government under power conferred to it by Section 3 of the Import and Export (Control) Act, 1947 (18 of 1947).

4. The provisions referred to in this paragraph are:
  - (a) sections 10(4), 10(4B), 10(6)(viiia), 10(15)(iv), 33AB, 80HHD, 80I and 80IA; (b) any other provision which may subsequently be enacted granting an exemption or reduction from tax which is agreed by the competent authorities of the Contracting States to be of a substantially similar character to a provision referred to in subparagraph (a) of this paragraph, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character; (c) sections 10A and 10B.
5. Relief from United Kingdom tax shall not be given by virtue of this paragraph (3) of this Article in respect of income from any source if the income relates to a period starting more than 10 fiscal years after the deduction in computing taxable income or exemption from, or reduction of, Indian tax is first granted to the resident of the United Kingdom or to the resident of India, as the case may be, in respect of that source.
6. Income which in accordance with the provisions of this Convention is not to be subjected to tax in a Contracting State may be taken into account for calculating the rate of tax to be imposed in that Contracting State on other income.
7. For the purposes of paragraphs (1) and (2) of this Article profits, income and chargeable gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with the provisions of this Convention shall be deemed to arise from sources in that other Contracting State.

#### ARTICLE 25 PARTNERSHIPS

[DELETED]

#### ARTICLE 26 NON-DISCRIMINATION

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities in the same circumstances or under the same conditions. This provision shall not be construed as preventing a Contracting State from charging the profits of a permanent establishment which an enterprise of the other Contracting State has in the first mentioned State at a rate of tax which is higher than that imposed on the profits of a similar enterprise of the first-mentioned Contracting State, nor as being in conflict with the provisions of paragraph (4) of Article 7 of this Convention.
3. Nothing contained in this Article shall be construed as obliging a Contracting State to grant to individuals not resident in that State any personal allowances, reliefs and reductions for taxation purposes which are by law available only to individuals who are so resident.
4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.
5. In this Article, the term "taxation" means taxes which are the subject of this Convention.

#### ARTICLE 27 MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

*The following second sentence of paragraph 1 of Article 16 of the MLI applies and supersedes the provisions of this Convention:*

**Article 16 of the MLI — Mutual Agreement Procedure**

*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 an appropriate 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 not in accordance with the Convention.

*The following second sentence of paragraph 2 of Article 16 of the MLI applies to this Convention:*

**Article 16 of the MLI — Mutual Agreement Procedure**

*Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of [the Contracting States].*

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

*The following second sentence of paragraph 3 of Article 16 of the MLI applies to this Convention:*

**Article 16 of the MLI — Mutual Agreement Procedure**

*[The Contracting States] 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 28

### EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information (including documents or certified copies of the documents) as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws of the Contracting States concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Convention. The exchange of information is not restricted by Articles 1 and 2 of this Convention.
2. Any information received under paragraph 1 of this Article by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to, the taxes referred to in paragraph 1 of this Article, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.
3. In no case shall the provisions of paragraphs 1 and 2 of this Article 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 of the other Contracting State;
  - (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.
4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 of this Article but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.
5. In no case shall the provisions of paragraph 3 of this Article be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

ARTICLE 28A

TAX EXAMINATION ABROAD

1. At the request of the competent authority of a Contracting State (the “requesting State”), the competent authority of the other Contracting State (the “requested State”) may allow representatives of the competent authority of the requesting State to enter its territory to interview individuals and examine records with the prior written consent of the persons concerned. The competent authority of the requesting State shall notify the competent authority of the requested State of the time and place of the meeting with the individuals concerned.
2. At the request of the competent authority of the requesting State, the competent authority of the requested State may allow representatives of the competent authority of the requesting State to be present at the appropriate part of a tax examination in the territory of the requested State.
3. If the request referred to in paragraph 2 of this Article is acceded to, the competent authority of the requested State conducting the examination shall, as soon as possible, notify the competent authority of the requesting State about the time and place of the examination, the authority or official designated to carry out the examination and the procedures and conditions required by the requested State for the conduct of the examination. All decisions with respect to the conduct of the tax examination shall be made by the requested State conducting the examination.

ARTICLE 28B

ASSISTANCE IN THE COLLECTION OF TAXES

1. The Contracting States shall lend assistance to each other in the collection of revenue claims in respect of taxes covered by the Convention. This assistance is not restricted by Article 1. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.
2. The term “revenue claim” as used in this Article means an amount owed in respect of taxes covered by this Convention, insofar as the taxation thereunder is not contrary to this Agreement or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.
3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State.
4. When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection.
5. When a Contracting State may, under its law, take interim measures of conservancy by freezing of assets before a revenue claim is raised against a person, the competent authority of the other Contracting State, if requested by the competent authority of the first mentioned State, shall take measures for freezing the assets of that person in that Contracting State in accordance with the provisions of its law.
6. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State.
7. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State.
8. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be:
  - (a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, or
  - (b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request.

9. In no case shall the provisions of this Article 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 carry out measures which would be contrary to public policy;
  - (c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice;
  - (d) to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State.”

[REPLACED by paragraph 1 of Article 7 of the MLI]

#### [ARTICLE 28C

#### LIMITATION OF BENEFITS

1. Benefits of this Convention shall not be available to a resident of a Contracting State, or with respect to any transaction undertaken by such a resident, if the main purpose or one of the main purposes of the creation or existence of such a resident or of the transaction undertaken by him, was to obtain benefits under this Convention.
2. Where by reason of this Article a resident of a Contracting State is denied the benefits of this Convention in the other Contracting State, the competent authority of that other Contracting State shall notify the competent authority of the first-mentioned Contracting State.]

#### ARTICLE 29

#### DIPLOMATIC AND CONSULAR OFFICIALS

1. Nothing in this Convention shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.
2. Notwithstanding the provisions of paragraph (1) of Article 4 (Fiscal domicile) of this Convention, an individual who is a member of the diplomatic, consular or permanent mission of a Contracting State which is situated in the other Contracting State and who is subject to tax in that other State only if he derives income from sources therein, shall not be deemed to be a resident of that other State for the purposes of this Convention.

*The following paragraph 1 of Article 7 of the MLI replaces Article 28C of this Convention*

#### **Article 7 of the MLI — Prevention of Treaty Abuse (Principal purposes test provision)**

*Notwithstanding any provisions of [this Convention], a benefit under [this Convention] shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of [this Convention].*

#### ARTICLE 30

#### ENTRY INTO FORCE

1. Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Convention. This Convention shall enter into force on the date of the later of these notifications and shall thereupon have effect:
  - (a) in the United Kingdom:
    - i. in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6th April in the calendar year next following that in which the later of the notifications is given;
    - ii. in respect of corporation tax, for any financial year beginning on or after 1st April in the calendar year next following that in which the later of the notifications is given;
    - iii. in respect of petroleum revenue tax, for any chargeable period beginning on or after 1st January in the calendar year next following that in which the later of the notifications is given;
  - (b) in India, in respect of income arising in any fiscal year beginning on or after the first day of April next following the calendar year in which the later of the notifications is given.
2. Subject to the provisions of paragraph (3) of this Article, the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of India for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains signed in New Delhi on 16th April 1981 (hereinafter referred to as “the 1981 Convention”) shall terminate and cease to be effective from the date upon which this Convention has effect in respect of the taxes to which this Convention applies in accordance with the provisions of paragraph (1) of this Article.

3. Where any provisions of the 1981 Convention would have afforded any greater relief from tax than is due under this Convention, any such provision as aforesaid shall continue to have effect:
- (a) in the United Kingdom, for any year of assessment or financial year; and
  - (b) in India, for any fiscal year;
- beginning, in either case, before the entry into force of this Convention.

ARTICLE 31  
TERMINATION

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention, through the diplomatic channel, by giving notice of termination at least six months before the end of any calendar year beginning after the expiration of ten years from the date of entry into force of the Convention. In such event, the Convention shall cease to have effect:

- (a) in the United Kingdom:
  - i. in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6th April in the calendar year next following that in which the notice is given;
  - ii. in respect of corporation tax, for any financial year beginning on or after 1st April in the calendar year next following that in which the notice is given;
  - iii. in respect of petroleum revenue tax, for any chargeable period beginning on or after 1st January in the calendar year next following that in which the notice is given;
- (b) in India, in respect of income arising in any fiscal year beginning on or after the first day of April next following the calendar year in which the notice is given.

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

Done on this 25th day of January 1993, in New Delhi on two original copies each in the English and Hindi languages, both texts being equally authentic. In case of divergence between the two texts, the English text shall be the operative one.

Nicholas Fenn  
For the Government of Great Britain and Northern Ireland

S. Ramamurti  
For the Government of the Republic of India

**AGREEMENT FOR AVOIDANCE OF DOUBLE TAXATION OF INCOME WITH THE USA**

Whereas the annexed Convention between the Government of the United States of America and the Government of the Republic of India for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income has entered into force on the 18<sup>th</sup> December, 1990 after the notification by both the Contracting States to each other of the completion of the procedures required under their laws for bringing into force of the said Convention in accordance with paragraph 1 of Article 30 of the said Convention;

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961) and section 24A of the Companies (Profits) Surtax Act, 1964 (7 of 1964), the Central Government hereby directs that all the provisions of the said Convention shall be given effect to in the Union of India.

Further in exercise of the powers conferred by section 44A(b) of the Wealth-tax Act, 1957 (27 of 1957) and section 44(b) of the Gift-tax Act, 1958 (18 of 1958), the Central Government also directs that the provisions of Article 28 of the said Convention shall be given effect to in the Union of India.

NOTIFICATION: NO. GSR 990 (E), DATED 20-12-1990

**ANNEXURE**

**CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF INDIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME**

The Government of the United States of America and the Government of the Republic of India, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

**ARTICLE 13**

**GAINS**

Except as provided in Article 8 (Shipping and Air Transport) of this Convention, each Contracting State may tax capital gains in accordance with the provisions of its domestic law.