

SYNTHESISED TEXT
OF THE MLI AND THE CONVENTION BETWEEN
THE POLISH PEOPLE’S REPUBLIC
AND
THE ISLAMIC REPUBLIC OF PAKISTAN
FOR THE AVOIDANCE OF DOUBLE TAXATION OF INCOME

This document presents the synthesized text for the application of the Convention between the Polish People’s Republic and the Islamic Republic of Pakistan for the avoidance of double taxation of income signed at Warsaw on 25 October 1974 (the “Convention”), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by Poland and by Pakistan on 7 June 2017 (the “MLI”).

This document was prepared in consultation with the competent authorities of Pakistan and represents the shared understanding of the modifications made to the Convention by the MLI.

The document was prepared on the basis of the MLI positions submitted to the Depositary upon the deposit of the ratification instrument:

- by Poland on 23 January 2018; and
- by Pakistan on 18 December 2020.

The effects of the MLI on the application of the Convention can change over time as the MLI is a living instrument and Parties can partially modify their MLI positions in the future.

The purpose of this document is to facilitate the application of the MLI. It constitutes an auxiliary tool only, aimed at documenting the impact of the MLI on the Convention. This document does not constitute a source of law. The authentic legal texts of the Convention and the MLI remain the only sources of law.

For legal purposes, the provisions of the MLI must be interpreted alongside the Convention, in light of the interaction of the MLI positions of the Contracting States.

The provisions of the MLI that are applicable with respect to the provisions of the Convention are included in boxes throughout the text of this document in the context of the relevant provisions of the Convention. The boxes containing the provisions of the MLI have generally been inserted in accordance with the ordering of the provisions of the 2017 OECD Model Tax Convention.

Changes to the text of the provisions of the MLI have been made to conform the terminology used in the MLI to the terminology used in the Convention (such as “Covered Tax Agreement” and “Convention”, “Contracting Jurisdictions” and “Contracting States”), to ease the comprehension of the provisions of the MLI. The changes in terminology are intended to increase the readability of the document and are not intended to change the substance of the provisions of the MLI.

Entry into force and entry into effect of the MLI

Entry into force of the MLI:

- for Poland: 1 July 2018; and
- for Pakistan: 1 April 2021.

The provisions of the MLI applicable to the Convention do not take effect on the same dates as the original provisions of the Convention. Each of the provisions of the MLI could take effect on different dates, depending on the types of taxes involved (taxes withheld at source on non-residents' income or other taxes levied) and on the choices made by the Contracting States in their MLI positions.

Pursuant to Article 35(2) of the MLI, solely for the purpose of its own application of Article 35(1)(a) and 5(a), Pakistan chose to substitute "taxable period" for "calendar year".

Hence, unless it is stated otherwise elsewhere in this document, in accordance with Article 35(1) of the MLI, the provisions of Article 4(1), Article 5(6), Article 6(1), Article 7(1), Article 8(1), Article 9(4), Article 11(1) and Article 17(1) of the MLI have effect with respect to the application of the Convention by Poland:

- with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2022; and
- with respect to all other taxes levied by Poland, for taxes levied with respect to taxable periods beginning on or after 1 October 2021;

and

in accordance with Article 35(1) and 35(2) of the MLI, the provisions of Article 4(1), Article 5(6), Article 6(1), Article 7(1), Article 8(1), Article 9(4), Article 11(1) and Article 17(1) of the MLI have effect with respect to the application of the Convention by Pakistan:

- with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after the first day of the next taxable period that begins on or after 1 April 2021; and
- with respect to all other taxes levied by Pakistan, for taxes levied with respect to taxable periods beginning on or after 1 October 2021.

However, in accordance with Article 35(4) of the MLI, the second sentence of Article 16(1) and the second sentence of Article 16(2) of the MLI have effect with respect to the Convention for a case presented to the competent authority on or after 1 April 2021 (except for cases that were not eligible to be presented as of that date under the Convention prior to its modification by the MLI, without regard to the taxable period to which the case relates).

References

The authentic legal text of the MLI can be found on the MLI Depository (OECD) webpage:

- in English: <http://www.oecd.org/tax/treaties/multilateral-convention-to-implement-tax-treaty-related-measures-to-prevent-BEPS.pdf>; and
- in French: <http://www.oecd.org/fr/fiscalite/conventions/convention-multilaterale-pour-la-mise-en-oeuvre-des-mesures-relatives-aux-conventions-fiscales-pour-prevenir-le-BEPS.pdf>.

The Polish text of the MLI was published in the Journal of Laws from 2018 item 1369 (as amended).

The governmental announcement on the entry into force of the MLI was published in the Journal of Laws from 2018 item 1370 (as amended).

The governmental announcement on the entry into force of the MLI between Poland and Pakistan was published in the Journal of Laws from 2021 item 451.

The MLI positions of the Contracting States can be found on the OECD webpage: <http://www.oecd.org/tax/treaties/beps-ml-signatories-and-parties.pdf>.

The MLI Matching Database is publicly available on the OECD webpage: <http://www.oecd.org/tax/treaties/ml-matching-database.htm>.

CONVENTION
BETWEEN
THE POLISH PEOPLE'S REPUBLIC
AND
THE ISLAMIC REPUBLIC OF PAKISTAN
FOR THE AVOIDANCE
OF DOUBLE TAXATION OF INCOME

The Polish People's Republic and the Islamic Republic of Pakistan;

Desiring to conclude a Convention for the Avoidance of Double Taxation;

The following preamble text described in 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:

CHAPTER I
Scope of the Convention

Article 1
Personal scope

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

The following paragraph 1 of Article 11 of the MLI applies and supersedes the provisions of this Convention:

ARTICLE 11 OF THE MLI – APPLICATION OF TAX AGREEMENTS
TO RESTRICT A PARTY’S RIGHT TO TAX ITS OWN RESIDENTS

[The Convention] shall not affect the taxation by a [Contracting State] of its residents, except with respect to the benefits granted under [Article 18, Article 19, Article 20, Article 22, Article 23, Article 24 and Article 26 of the Convention].

Article 2
Taxes covered

1. This Convention shall apply to taxes on income imposed on behalf of each Contracting State irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income, or any elements of income including taxes on gains from the alienation of movable or immovable property and taxes on the total amounts of wages or salaries paid by enterprises.

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

/a/ in the case of the Polish People's Republic:

income tax /podatek dochodowy/
tax on salaries and wages /podatek od wynagrodzeń/
equalization tax /podatek wyrównawczy/

/hereinafter referred to as the Polish Tax/.

/b/ in the case of Islamic Republic of Pakistan:

the income Tax, Supertax and the surcharge

/hereinafter referred to as the Pakistan Tax/.

4. The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of the existing taxes. At the end of each year the competent authorities of the Contracting States shall notify each other any changes which have been made in their respective Taxation Laws.

CHAPTER II Definitions

Article 3 General definitions

1. In this Convention, unless the context otherwise requires:
 - /a/ the term "a Contracting State" and "the other Contracting State" means the Polish People's Republic or the Islamic Republic of Pakistan as the context requires;
 - /b/ the term "person" includes an individual, a company or juridical person and all other entities which are treated as taxable units under the tax laws in force in either Contracting State;
 - /c/ the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes under the laws of either Contracting State;
 - /d/ the term "enterprise of a Contracting State" and "enterprise of the other Contracting State" means 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;
 - /e/ the term "competent authority" means:
 - 1/ in the Polish People's Republic - Minister of Finance;
 - 2/ in the Islamic Republic of Pakistan - the Central Board of Revenue.

2. As regards the application of the 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 the Convention.

Article 4 Fiscal domicile

1. For the purpose of this Convention, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or by any other criterion of a similar nature, applied under the tax laws of that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then this case 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 closest /centre of vital interest/.
- b/ If the Contracting State in which he has his centre of vital interest 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 the question of residence cannot be determined according to the preceding sub-paragraphs "a" and "b" the competent authorities of the Contracting States shall settle the question by mutual agreement.

[REPLACED by paragraph 1 of Article 4 of the MLI]

~~[3.— Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the 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 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 in which the business of the enterprise is wholly or partly carried on.

2. The term "permanent establishment" shall include especially:
 - a/ a place of management;
 - b/ a branch;
 - c/ an office;
 - d/ a factory;
 - e/ a workshop or warehouse;
 - f/ a mine, quarry or other place of extraction of natural resources;
 - g/ a building site or construction or assembly project which exists for more than twelve months.
3. 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, display or delivery;
 - c/ the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
 - d/ the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information or for scientific research for the enterprise.
4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State - other than an agent of an independent status to whom paragraph 5 applies - shall be deemed to be a permanent establishment in the first-mentioned State, if:
 - /a/ he has and habitually exercises in that State an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for that enterprise.
 - /b/ he has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.
5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an

independent status, where such persons are acting in the ordinary course of their business.

6. The fact that a company which is resident of a Contracting State has a subsidiary which is a resident of the other Contracting State, or which carries on a trade or business in that other Contracting State /whether through a permanent establishment or otherwise/ shall not of itself make that subsidiary a permanent establishment of its parent company.

CHAPTER III Taxation of income

Article 6 Income from immovable property

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

2. The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property is situated. The term shall in any case include property accessory to immovable property, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircrafts shall not be regarded as immovable property.

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

4. The provisions of paragraphs 1 and 3 shall apply also to the income from the immovable property of an enterprise and the income from immovable property used for the performance of professional 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 entire income of such enterprise from business within that other State may be taxed in that other State.

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

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

However, no such deduction shall be allowed in respect of amounts, if any, paid /otherwise than towards reimbursement of actual expenses/ by the permanent establishment of the head office of the enterprise or any of its other offices, by way of royalties, fees or any 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 money lent to the permanent establishment.

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

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

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

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

Article 8

Shipping and air transport

1. Profits derived by an enterprise of a Contracting State from the operation of aircraft owned or chartered by that enterprise shall be exempt from tax in the other Contracting State, unless the aircraft is operated wholly or mainly between places within such other State.

2. Profits derived from the operation of ships owned or chartered by an enterprise of one of the Contracting States shall be exempt from tax in the other Contracting State unless the ships are operated wholly or mainly between places within the other Contracting State.

3. The provisions of paragraphs 1 and 2 shall likewise apply in respect of profits derived from participation in pools of any kind by enterprises engaged in sea or air transport.

Article 9 Associated enterprises

Where

- a/ an enterprise of a Contracting State participates directly 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 these conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

The following paragraph 1 of Article 17 of the MLI applies and supersedes the provisions of this Convention:

ARTICLE 17 OF THE MLI – CORRESPONDING ADJUSTMENTS

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

Article 10 Dividends

[MODIFIED by paragraph 1 of Article 8 of the MLI]

1. *Where a Polish company or enterprise owns not less than one third of the capital of a Pakistan company, the rate of Pakistan supertax payable in respect of the dividends declared and paid by such Company shall be 15 percent of the gross amount when such dividends are derived from the income of an industrial undertaking.*

2. *The rate of Polish tax on dividends paid to a Pakistan Company by a Polish industrial enterprise not less than one third of the capital of which is owned by the former company shall be 15 percent.]*

The following paragraph 1 of Article 8 of the MLI applies to paragraphs 1 and 2 of Article 10 of this Convention¹:

ARTICLE 8 OF THE MLI – DIVIDEND TRANSFER TRANSACTIONS

[Paragraphs 1 and 2 of Article 10 of the Convention] shall apply only if the ownership conditions described in those provisions are met throughout a 365 day period that includes the day of the payment of the dividends (for the purpose of computing that period, no account shall be taken of changes of ownership that would directly result from a corporate reorganisation, such as a merger or divisive reorganisation, of the company that holds the shares or that pays the dividends);

3. Where a company or enterprise, which is a resident of a Contracting State, derives profits from sources within the other Contracting State, there shall not be imposed in that other Contracting State any form of taxation on dividends paid by the company or enterprise to a person not resident in that other State, unless such dividend is attributable to a permanent establishment maintained in that other State by a person not resident in that other State, or any tax in the nature of an undistributed profits tax on undistributed profits of the company or enterprise.

4. In paragraphs 1 and 2 of this Article, the term "Industrial undertaking" means an undertaking falling under any of the clauses mentioned below if it is set up or commenced after the present Convention comes into effect or if the shares of the company engaged therein are acquired by an enterprise of the other Contracting State after that date.

- /a/ The manufacture of goods or materials or the subjection of goods or materials to any process which results in substantially changing their original conditions;
- /b/ Ship-building;
- /c/ Electricity, hydraulic power, gas and water supply;
- /d/ Mining including working of an Oil-well or the source by any mineral deposit;
and
- /e/ Any other undertaking which may be declared by the competent authorities to be an industrial undertaking for the purposes of this Article.

5. This Article shall not affect the taxation of the company or enterprise in respect of the profits out of which the dividends are paid.

¹ In practice it means that the application of Article 10(1) and 10(2) of the Convention is modified by adding the condition of a minimum holding period (365 days), which is provided in Article 8(1) of the MLI.

Article 11 Interest

1. Interest on bonds, securities, notes, debentures or any other form of indebtedness derived from sources within a Contracting State by a resident of the other Contracting State shall be subject to tax only in the first-mentioned State.
2. Notwithstanding the provisions of the preceding paragraph interest paid by a resident of Pakistan to a Polish Company or enterprise on loans approved by the Ministry of Finance of the Government of Pakistan shall be exempt from Pakistan tax payable thereon.
3. The State Bank of Pakistan shall be exempt from Polish tax with respect to interest from sources within Poland.
4. The Bank Handlowy w Warszawie S.A. shall be exempt from Pakistan tax with respect to interest from sources within Pakistan.

Article 12 Royalties

1. Royalties derived from sources within a Contracting State by a resident of the other Contracting State shall be subject to tax only in the first-mentioned State, but the rate of tax shall not exceed twenty percent of the gross amount in the case of royalties as defined in Paragraph 2/a/ and fifteen percent of the gross amount of royalties as defined in Paragraph 2/b/.
2. The term "royalties" as used in this Article means:
 - /a/ payment of any kind received as a consideration for the use of, or the right to use, any copyright, 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 and includes payments of any kind in respect of motion picture films and works on films or videotapes for use in connection with television;
 - /b/ payments received as consideration for technical know-how or information concerning industrial, commercial or scientific experience.
3. The provisions of paragraph 1 shall not apply if the recipient of the royalties being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property, giving rise to the royalties is effectively connected. In such a case, the provisions of Article 7 shall apply.
4. Where, owing to a special relationship between the payer and the recipient or between both of them and some other persons, the amount of the royalties paid, having regard to the use, right of information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned

amount. In that case, 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.

Article 13 Capital gains

1. Subject to the provisions of paragraph 3 gains from the sale, exchange or transfer of a capital asset being movable property shall be taxable only in the Contracting State in which such property is situated at the time of sale of property. For this purpose the situs of the shares of a company shall be deemed to be in a Contracting State in which the company is incorporated.
2. The expression "capital asset" as used in paragraph 1 of this Article does not include movable property in the form of personal effects like wearing apparel, jewellery and furniture held for personal use of the owner or dependent member of his family.
3. Capital gains derived the sale, exchange or transfer of a capital asset being a ship or aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise owning the ship or aircraft is situated.

The following paragraph 4 of Article 9 of the MLI applies and supersedes Article 13 of this Convention².

ARTICLE 9 OF THE MLI – CAPITAL GAINS FROM ALIENATION OF SHARES OR INTERESTS OF ENTITIES DERIVING THEIR VALUE PRINCIPALLY FROM IMMOVABLE PROPERTY

For purposes of [*the Convention*], gains derived by a resident of a [*Contracting State*] from the alienation of shares or comparable interests, such as interests in a partnership or trust, may be taxed in the other [*Contracting State*] if, at any time during the 365 days preceding the alienation, these shares or comparable interests derived more than 50 per cent of their value directly or indirectly from immovable property (real property) situated in that other [*Contracting State*].

Article 14 Independent personal services

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character performed in the other Contracting State may be taxed in that other State only if he is present in that State for a period or periods exceeding in the aggregate 183 days in the relevant fiscal year and only to the extent the income is attributable to such services or activities in that State.

² In practice it means that the application of Article 13 of the Convention is supplemented by adding to the Convention the real-estate clause, which is provided in Article 9(4) of the MLI.

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

Article 15 **Dependent personal services**

1. Subject to the provisions of Articles 16 and 18 salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1 remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- a/ the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned; and
- b/ the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- c/ remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic, or aboard a boat engaged in inland waterways transport may be taxed only in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16 **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 17 **Artists and athletes**

1. Notwithstanding the provisions of Articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artists, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

2. The provisions of paragraph 1 shall not apply in the case of cultural and sports programmes sponsored by or on behalf of each of the Contracting States.

Article 18
Government functions

1. Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or a political sub-division or a local authority thereof to any individual in respect of services rendered to that State or sub-division or local authority thereof in the discharge of functions of a governmental nature may be taxed in that State.
2. The remuneration of Articles 15 and 16 shall apply to remuneration in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or a political sub-division or a local authority thereof.

Article 19
Students

An individual of one of the Contracting States, who is temporarily present in the other Contracting State solely:

- /a/ as a student at a university, college or school in the other Contracting State,
- /b/ as a business or technical apprentice, or
- /c/ as the recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific or educational organisation

shall not be taxed in the other Contracting State in respect of remittances from abroad for the purposes of his maintenance, education or training or in respect of a scholarship grant. The same shall apply to any amount representing remuneration for services rendered in that other State, provided that such services are in connection with his studies or practical training or are necessary for the purpose of his maintenance.

Article 20
Professors

A professor or a teacher from one of the Contracting States who receives remuneration for teaching or scientific research, during a period of temporary residence not exceeding two years, at a university, college, technical school or other institutions for higher education in the other Contracting State, shall not be taxed in either of the Contracting States.

Article 21
Income not expressly mentioned

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Convention shall be taxable only in that State.

CHAPTER IV
Methods for elimination of double taxation

Article 22
Exemption and credit methods

[REPLACED by paragraph 6 of Article 5 of the MLI]

~~[1. — Where a person being a resident of a Contracting State derives income from the other Contracting State and that income, in accordance with the provisions of this Convention, shall be taxable only in that other Contracting State, or may be taxed in that other Contracting State, the first-mentioned State shall, subject to the provisions of paragraph 2, exempt such income from tax but may, in calculating tax on the remaining income of that person, apply the rate of tax which would have been applicable if the exempted income had not been so exempted.]~~

The following paragraph 6 of Article 5 of the MLI replaces paragraph 1 of Article 22 of this Convention:

ARTICLE 5 OF THE MLI – APPLICATION OF METHODS FOR
ELIMINATION OF DOUBLE TAXATION (Option C)

Where a resident of a [Contracting State] derives income which may be taxed in [the other Contracting State] in accordance with the provisions of [this Convention] (except to the extent that these provisions allow taxation by [the other Contracting State] solely because the income is also income derived by a resident of [that other Contracting State]), [the first mentioned State] shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in [that other Contracting State].

Such deduction shall not, however, exceed that part of the income tax as computed before the deduction is given, which is attributable to the income which may be taxed in [that other Contracting State].

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

2. Where a person being a resident of a Contracting State derives income from the other Contracting State and that income, in accordance with the provisions of Article 10 may be taxed in that other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that person an amount equal to the tax paid in that other Contracting State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income derived from that other Contracting State.

Article 23

Non-discrimination

1. A citizen of a Contracting State who is resident in the other 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 citizens of that other Contracting State in the same circumstances are or may be subjected.

2. A permanent establishment which a resident of one of the Contracting States has in the other Contracting State shall not be subjected in that other Contracting State to more burdensome taxation than a permanent establishment of a resident of a third State carrying on the same activities. However, this paragraph shall not require a Contracting State to grant to permanent establishments of residents of that other Contracting State tax benefits granted by special agreements to permanent establishments of the third State.

3. A company of one of the Contracting States, 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 with taxation which is other or more burdensome than the taxation and requirements to which a company of the first-mentioned Contracting State carrying on the same activities, the capital of which is wholly or partly owned or controlled by one or more residents of a third State, is or may be subjected. However, this paragraph shall not require a Contracting State to grant to companies which are wholly or partly owned by residents of the other Contracting State tax benefits granted by special agreements to companies which are wholly or partly owned by residents of a third State.

4. Nothing contained in paragraphs 1 to 3 of this Article shall be construed as obliging a Contracting State to grant residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents or shall be construed as affecting the law of Pakistan relating to the grant of rebate of tax to companies fulfilling specific requirements regarding the deduction and payments of dividends.

Article 24

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 to 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 objections appear 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. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraph; when it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through representatives of the competent authorities of the Contracting States.

Article 25 **Exchange of information**

1. The competent authorities of the Contracting States shall, upon request, exchange such information /being information available under the respective taxation laws of the Contracting States/ as is necessary for carrying out the provisions of this Convention, or for the prevention of fraud, or the like, in relation to the taxes which are the subject of this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of taxes which are the subject of this Convention. No

information shall, however, be exchanged which would disclose any trade, business, industrial or professional secret or any trade process.

2. In no case shall the provisions of paragraph 1 be construed so as to impose upon either of the Contracting States the obligation to carry out administrative measures at variance with the regulations and practice of either Contracting State or which would be contrary to its sovereignty, security or public policy or to supply particulars which are not procurable under the legislation of either State.

Article 26 **Diplomatic and consular officials**

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

The following paragraph 1 of Article 7 of the MLI applies and supersedes the provisions of this Convention³:

ARTICLE 7 OF THE MLI – PREVENTION OF TREATY ABUSE (Principal purposes test provision)

Notwithstanding any provisions of [*the Convention*], a benefit under [*the Convention*] shall not be granted in respect of an item of income 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 [*the Convention*].

CHAPTER V **Final provisions**

Article 27 **Entry into force**

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

2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall thereupon have effect in respect of taxes which are the subject of this Convention:

³ Article 7(1) of the MLI applies to all of the provisions of this Convention (as in practice it is added to the Convention).

- a/ In the Polish People's Republic, on any income arising on or after the first day of January, 1973.
- b/ In the Islamic Republic of Pakistan, on any income arising on or after the first day of July, 1973.

Provided that in the case of profits from shipping referred to in Article 8, the application of this Convention from the earlier date may be settled through the provisions of Article 24.

Article 28 Termination

This Convention shall continue in effect indefinitely but either of the Contracting States may, on or before the 30th day of June in any calendar year not earlier than the year 1977, give to the other Contracting State written notice of termination and, in such event, the Convention shall cease to be effective in both the Contracting State in respect of income arising on or after three months from the date on which written notice of termination is given.

Done at Warsaw in two original copies, each in duplicate, in the Polish and the English Languages, the two texts having equal authority, this 25th day of October, 1974.