



नेपाल राजपत्र

श्री ५ को सरकारद्वारा प्रकाशित

खण्ड ५१) काठमाडौं, साउन १५ गते २०५८ साल (संख्या १५)

भाग ५

श्री ५ को सरकार

कानून, न्याय तथा संसदीय व्यवस्था मन्त्रालयको
सूचना

नेपाल अधिराज्य तथा गणतन्त्र अष्ट्रिया बीच सम्बत् २०५७ साल मार्ग ३० गते तदनुसार डिसेम्बर १५, २००० का दिन सम्पन्न आयमा लाग्ने करका सम्बन्धमा द्वैध कराधान मुक्ति तथा वित्तीय छल निरोध सम्बन्धी सम्झौता (Agreement Between the Kingdom of Nepal and the Republic of Austria for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income) को अंग्रेजी भाषाको प्रामाणिक प्रति, श्री ५ को सरकार, नेपाल तथा इस्लामिक गणतन्त्र पाकिस्तान सरकार बीच सम्बत् २०५७ साल माघ १२ गते तदनुसार जनवरी २५, २००१ का दिन सम्पन्न आयमा लाग्ने करका सम्बन्धमा द्वैध कराधान मुक्ति तथा वित्तीय छल निरोध सम्बन्धी सम्झौता (Agreement Between His Majesty's Government of Nepal and the Government of the Islamic Republic of Pakistan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income) को अंग्रेजी भाषाको प्रामाणिक प्रति तथा श्री ५ को सरकार, नेपाल तथा जनवादी गणतन्त्र चीन सरकार बीच सम्बत् २०५८ साल जेष्ठ १ गते तदनुसार मे १४, २००१ का दिन सम्पन्न आयमा लाग्ने करका सम्बन्धमा द्वैध कराधान मुक्ति तथा वित्तीय छल निरोध सम्बन्धी सम्झौता (Agreement Between His Majesty's Government of Nepal and the Government of the People's Republic of China for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income) को अंग्रेजी तथा नेपाली भाषाका प्रामाणिक प्रतिहरु नेपाल सन्धि ऐन, २०४७ को दफा १२ को प्रयोजनको लागि प्रकाशन गरिएको छ ।

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएको छ, मात्र लागु हुनेछ।

खण्ड ५१ संख्या १५ नेपाल राजपत्र भाग ५ मिति २०५८।४।१५

**AGREEMENT
BETWEEN
THE KINGDOM OF NEPAL
AND
THE REPUBLIC OF AUSTRIA
FOR
THE AVOIDANCE OF DOUBLE TAXATION
AND
THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME**

**HIS MAJESTY'S GOVERNMENT OF NEPAL
AND
THE REPUBLIC OF AUSTRIA
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:**

(२)

आधिकारिकता सुदण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

Article 1

PERSONS COVERED

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

ARTICLE 2

TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Agreement shall apply are in particular:
 - a) in Austria :
 - i) the income tax (die Einkommensteuer) :
 - ii) the corporation tax (die Koerperschaftsteuer)
(hereinafter referred to as "Austrian Tax")
 - b) in Nepal:
the Income Tax imposed under the Income Tax Act and the Finance Act.
(hereinafter referred to as "Nepal Tax")
4. The Agreement shall apply also to any identical or substantially similar taxes on income which are imposed after the date of signature of the Agreement in addition to, or in place of, those referred to in paragraph 3. The competent authorities of the Contracting States shall notify each other of any substantial changes, which have been made in their respective taxation laws.

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:
 - a) i) the term "Austria" means the Republic of Austria;
 - ii) the term "Nepal" means the Kingdom of Nepal;

- b) the term "a Contracting State" and "the other Contracting State" mean Nepal or Austria, as the context requires;
 - c) the term "person" includes an individual, a company and any other body of persons;
 - d) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - e) 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;
 - f) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State except, when the ship or aircraft is operated solely between places in the other Contracting State;
 - g) the term "competent authority" means
 - i) in Austria: the Federal Minister of Finance or his authorized representative;
 - ii) in Nepal: the Minister of Finance or his authorized representative;
 - h) the term "national" means:
 - i) any individual possessing the nationality of a Contracting State;
 - ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State.
2. As regards the application of the Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4

RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:
 - a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);
 - b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
 - c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
 - d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall endeavor to settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1, a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
 - a) a place of management;
 - b) a branch;
 - c) an office;
 - d) a factory;
 - e) a workshop;
 - f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
 - g) a warehouse, and
 - h) a farm or plantation.

The term "permanent establishment" likewise encompasses;

- a) a building site, construction, assembly or installation project, or an installation or drilling rig or ship used for the exploration or development of natural resources, including supervisory activities in connection therewith, but only if that site, project, or use lasts or those activities last more than six months;
- b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than 183 days within any twelve month period.
4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:
- a) the use of facilities solely for the purpose of storage, display or delivery 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 stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
5. Notwithstanding the provision of paragraphs 1 and 2, where a person - other than agent of an independent status to whom paragraph 7 applies - is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person;
- a) has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or
- b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he delivers goods or merchandise on behalf of the enterprise.
6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except with regard to reinsurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.

7. An enterprise 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 State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or principally on behalf of that enterprise, he shall not be considered an agent of an independent status within the meaning of this paragraph, if it is shown that the transactions between the agent and the enterprise were not made under arm's length conditions.

8. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar condition and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions, expenses allowable under the provisions of the domestic law and 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. 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 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 moneys lent to the permanent establishment. Likewise no account shall be taken, in the determination of the profits of a permanent establishment, for 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 moneys lent to the head office of the enterprise or any of its other offices.
4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

SHIPPING AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.
3. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

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 Agreement and the competent authorities of the Contracting States shall, if necessary, consult each other.

Article 10
DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:
 - a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the shares of the company paying the dividends;
 - b) 10 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the shares of the company paying the dividends;
 - c) 15 per cent of the gross amount of 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, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other 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.
5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent

establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of interest the tax so charged shall not exceed 15 per cent of the gross amount of the interest. Provided, however, that where the interest is paid to a bank carrying on 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.
3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and derived by the Government of the other Contracting State, including a local authority thereof, the Central Bank or any financial institution controlled by that Government, shall be exempt from tax in the first-mentioned State.
4. For the purpose of paragraph 3, the terms "the Central Bank" and "Financial institution controlled by the Government" mean;
 - a) In the case of Austria:
 - i) the Oesterreichische Nationalbank (Central Bank of Austria), and
 - ii) the Oesterreichische Kontrollbank AG;
 - b) In the case of Nepal:
 - i) Nepal Rastra Bank (Central Bank of Nepal);
 - ii) any organisation established in Nepal after the date of signature of this Agreement which is of a similar nature as the organisation established in Austria and referred to in sub-subparagraph ii) of subparagraph a). The competent authorities shall by mutual agreement determine whether such organisations are of a similar nature;
 - iii) any other financial institution, the capital of which is wholly owned by His Majesty's Government of Nepal, as may be agreed upon from time to time between the competent authorities of the Contracting States.
5. Interest arising in a Contracting State on a loan guaranteed by any of the bodies mentioned or referred to in paragraph 4, subparagraph a) or subparagraph b) and paid to a resident of the other Contracting State shall be taxable only in that other State.

6. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
7. The provisions of paragraph 1 and 2 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 cases, the provisions of Article 7 or Article 14, as the case may be, shall apply.
8. 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 such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
9. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 12

ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 15 per cent of the gross amount of the royalties.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematograph films or films or tapes used for radio or television broadcasting, any patent, trademark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right, property or contract in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such cases the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority, or a resident of that State. Where, however, the person paying the royalties whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties, are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right on information for which they are paid, exceeds the amount which would have been paid in the absence of such relationship, the provisions of this Article shall apply 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 Agreement.

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 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 of movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities or he is present in that other State for a period or periods exceeding in the aggregate 183 days in any twelve month period. If he has a fixed base or is present in that other State for the aforesaid period or periods the income may be taxed in that other State but only so much of it as is attributable to that fixed base or is derived in that other State during the aforesaid period or periods.
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, 18, 19 and 20, 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 within any twelve month period, and
 - b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
 - c) the remuneration is not borne by a permanent establishment or a fixed base, which the employer has in the other State.

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

Article 16

DIRECTORS' FEES

Director's fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the Board of Directors or any other similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 7, 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.
3. Notwithstanding the provisions of paragraphs 1 and 2 income derived from activities referred to in paragraph 1 performed under a cultural agreement or arrangement between the Contracting States, shall be exempt from tax in the Contracting State in which the activities are exercised if the visit to that State is wholly or substantially supported by funds of either Contracting State, a local authority or public institution thereof.

Article 18

PENSIONS AND SOCIAL SECURITY PAYMENTS

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment may be taxed in that State.

खण्ड २१ संख्या १५ नेपाल राजपत्र भाग ५ मिति २०५८।४।१५

2. However, such pensions and other similar remuneration may also be taxed in the other Contracting State if the payment is made by a resident of that other State or a permanent establishment situated therein.
3. Notwithstanding the provisions of paragraphs 1 and 2, pensions paid and other payments made under a public scheme which is part of the social security system of a Contracting State or political subdivision or a local authority thereof shall be taxable only in that State.

Article 19

GOVERNMENT SERVICE

1. a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - i) is a national of that State; or
 - ii) did not become a resident of that State solely for the purpose of rendering the services.
2. a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20

STUDENTS AND TRAINEES

An individual who, immediately before visiting a Contracting State, was a resident of the other Contracting State and whose visit to the first mentioned Contracting State is solely for the purpose of:

- a) studying at a university, college or school or other recognised educational institution, or
- b) securing training to qualify him to practice a profession or trade, or

खण्ड ५१ संख्या १५ नेपाल राजपत्र भाग ५ मिति २०५८।४।१५

c) studying or carrying out research as a recipient of a grant, allowance or award from a governmental, religious, charitable, scientific, literary or educational organisation, shall be exempt from tax in the first-mentioned State on:

- i) remittance from abroad for the purpose of this maintenance, education, study, research, or training;
- ii) the grant, allowance or award; and
- iii) income which he derives from an employment which he exercises in this State for the purposes of practical training for not longer than a total of six months in any taxable year.

Article 21

OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement 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 14, as the case may be, shall apply.
3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement and arising in the other Contracting State may also be taxed in that other State.
4. Income derived by a resident of a Contracting State from the other Contracting State under a legal claim to maintenance may not be taxed in the first-mentioned State if such income would be exempt from tax according to the laws of the other Contracting State.

Article 22

ELIMINATION OF DOUBLE TAXATION

1. In the case of Austria double taxation shall be eliminated as follows:
 - a) Where a resident of Austria derives income which in accordance with the provisions of this Agreement may be taxed in Nepal, Austria shall, subject to the provisions of subparagraphs b) and c) exempt such income from tax.

खण्ड ५१ संख्या १५ नेपाल राजपत्र भाग ५ मिति २०५८।४।१५

b) Where a resident of Austria derives items of income which in accordance with the provisions of paragraphs 2 of Articles 10, 11, 12 and 18 and paragraph 3 of Article 21 may be taxed in Nepal, Austria shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Nepal. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from Nepal.

c) Where in accordance with any provision of the Agreement income derived by a resident of Austria is exempt from tax in Austria, Austria may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

2. In the case of Nepal double taxation shall be eliminated as follows:

Where a resident of Nepal derives income from Austria which in accordance with the provisions of this Agreement, may be taxed in Austria the amount of Austrian tax payable in respect of that income, shall be allowed as a credit against the Nepal tax imposed on that resident in respect of that income. The credit shall not, however, exceed that part of the Nepal tax, which is attributable to such income.

3. For the purposes of this Article, the term "tax" means Nepal tax or Austrian tax, as the context requires, but shall not include any amount which is payable in respect of any default or omissions in relation to the taxes to which this Agreement applies or which represents a penalty imposed relating to these taxes.

4. For the purpose of allowance as credit in a Contracting State, the tax paid in the other Contracting State shall be deemed to include the tax which is otherwise payable in that other State but has been reduced or waived by that State under its legal provisions for tax incentives.

Article 23

NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation of a permanent establishment, which an enterprise of a Contracting State has in the other Contracting State, shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State

(१८)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

खण्ड ५१ संख्या १५ नेपाल राजपत्र भाग ५ मिति २०५८।४।१५

any personal allowances, relief and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 9 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.
4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome in the taxation and connected requirements to which other similar enterprise of the first-mentioned State are or may be subjected.
5. In this Article the term "taxation" means taxes which are the subject of this Agreement.

Article 24

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Agreement.
2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual Agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Agreement. 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 endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.
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. The competent authorities, through consultations, shall develop appropriate bilateral procedures, conditions,

खण्ड ५१ संख्या १५ नेपाल राजपत्र भाग ५ मिति २०५८।४।१५

methods and techniques for the implementation of the mutual agreement procedure provided for in this Article.

Article 25

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of this Agreement. Such persons or authorities shall use the information only for such purposes but may disclose the information in public court proceedings, or in judicial decisions. Even in such cases the confidentiality of person-related data may be waived only insofar as this is necessary to safeguard predominant and legitimate interests of another person or predominant public interests.
2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:
 - a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
 - b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
 - c) to supply information, which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public) or to the basic rights granted by a State, in particular in the area of data protection.
3. Notwithstanding the provisions of paragraph 1 any exchange of information as is necessary for carrying out the provisions of the domestic laws of the Contracting States concerning taxes covered by this Agreement can be carried out only if an administrative arrangement between the Ministers of Finance is concluded which will also settle the mode of application of such exchange of information.

खण्ड ५१ संख्या १५ नेपाल राजपत्र भाग ५ मिति २०५८।४।१५

Article 26

DIPLOMATIC AGENTS AND CONSULAR OFFICERS

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

Article 27

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 entering into force of this Agreement. This Agreement shall enter into force on the first day of the third month next following that in which the later of these notifications took place.
2. This Agreement shall have effect:
 - a) in Austria:
in respect of the taxes levied for any fiscal year following the calendar year in which the Agreement enters into force;
 - b) in Nepal:
in respect of income derived on or after the first day of Nepalese fiscal year next following that to the entry into force of the Agreement.

Article 28

TERMINATION

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving written notice of termination on or before the thirtieth day of June of any calendar year following after the period of five years from the year in which the Agreement enters into force. In such case, the Agreement shall cease to have effect;

- (a) in Austria:
in respect of the taxes levied for any fiscal year beginning after December 31 in the calendar year in which the notice of termination has been given;
- (b) in Nepal:
in respect of income derived on or after the first day of the Nepalese fiscal year next following that in which the notice of termination is given.

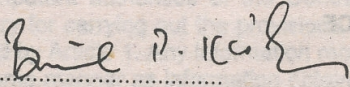
खण्ड ५१ संख्या १५ नेपाल राजपत्र भाग ५ मिति २०५८।४।१५

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

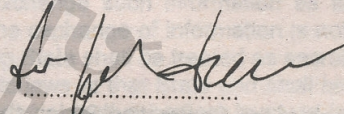
DONE in duplicate in Kathmandu on the 15th day of December 2000 in the English language.

For His Majesty's Government of Nepal.

For the Republic of Austria.



Dr. Bimal Prasad Koirala
Secretary
Ministry of Finance
His Majesty's Government of Nepal.



Dr. Johann DEMEL
Ambassador
Ministry of Foreign Affairs
Republic of Austria.

आधिकारिकतः मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

PROTOCOL

At the moment of signing the Agreement between the Republic of Austria and the Kingdom of Nepal for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect to Taxes on Income the undersigned have agreed that the following provisions shall form an integral part of the Agreement.

1. Referring to the interpretation of the Agreement

It is understood that provisions of the Agreement which are drafted according to the corresponding provisions of the OECD-Model Convention on Income and on Capital or the United Nations Model Double Taxation Convention between Developed and Developing Countries with respect to Taxes on Income shall generally be expected to have the same meaning as expressed in the OECD or UN Commentary thereon. The understanding in the preceding sentence will not apply with respect to any contrary interpretation agreed to by the competent authorities after the entry into force of the Agreement.

The Commentaries-as they may be revised from time to time-constitute a means of interpretation in the sense of the Vienna Convention of 23rd May 1969 on the Law of Treaties. In case of any divergence in the interpretation as expressed in the commentaries of the OECD and the UN Model, a common interpretation would have to be sought by mutual agreement according to Article 24, if necessary.

2. Referring to Article 5, paragraph 2, subparagraph h):

It is understood that this provision only refers to activities which are treated as business income in the sense of Article 7 of this Agreement.

3. Referring to Article 7:

It is understood that the term "profits" as used in this Article includes the profits derived by any partner from his participation in a partnership and in any other body of persons which is treated in the same way for tax purposes, and in the case of Austria, from a participation in a sleeping partnership (Stille Gesellschaft) created under Austrian law.

खण्ड ५१ संख्या १५ नेपाल राजपत्र भाग ५ मिति २०५८।४।१५

4. Referring to Article 22 paragraph 4:

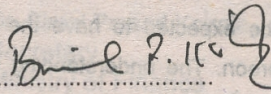
It is understood that paragraph 4 of Article 22 will not apply if the form of a transaction giving rise for the application of those provisions was mainly chosen with a view to avoid taxes.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed the present Protocol.

DONE in duplicate in Kathmandu this 15th day of December 2000 in the English language.

For His Majesty's Government of Nepal.

For the Republic of Austria.


.....
Dr. Bimal Prasad Koirala
Secretary
Ministry of Finance
His Majesty's Government of Nepal.


.....
Dr. Johann DEMEL
Ambassador
Ministry of Foreign Affairs
Republic of Austria.

(२४)

आधिकारिकता मूद्रा विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

खण्ड ५१ संख्या १५ नेपाल राजपत्र भाग ५ मिति २०५८।४।१५

AGREEMENT

BETWEEN

HIS MAJESTY'S GOVERNMENT OF NEPAL

AND

**THE GOVERNMENT OF THE
ISLAMIC REPUBLIC OF PAKISTAN**

FOR

THE AVOIDANCE OF DOUBLE TAXATION

AND

**THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME**

(२५)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

खण्ड ५१ संख्या १५ नेपाल राजपत्र भाग ५ मिति २०५८।४।१५

His Majesty's Government of Nepal and the Government of the Islamic Republic of Pakistan, 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 1
Persons Covered**

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

**Article 2
Taxes Covered**

1. This Agreement shall apply to taxes on income imposed on behalf of a 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 on elements of income, including taxes on gains from the alienation of movable or immovable property.
3. The existing taxes to which the Agreement shall apply are:
 - (a) in Nepal:
Income tax imposed under the
Income Tax Act;
(hereinafter referred to as "Nepal tax").
 - (b) in Pakistan:
 - (i) the income tax;
 - (ii) the super tax; and
 - (iii) the surcharge;(hereinafter referred to as "Pakistan tax"); and
4. The Agreement shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Agreement in addition to, or in place of, the taxes referred to paragraph 3. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws.

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आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

Article 3
General Definitions

1. For the purposes of this Agreement, unless the context otherwise requires:
 - (a) the term "Pakistan" when used in a geographical sense means Pakistan as defined in the Constitution of the Islamic Republic of Pakistan and includes any area outside the territorial waters of Pakistan which under the laws of Pakistan and international law is an area within which Pakistan exercises sovereign rights and exclusive jurisdiction with respect to the natural resources of the seabed, subsoil and superjacent waters;
 - (b) the term "Nepal" means the Kingdom of Nepal;
 - (c) the terms "a Contracting State" and "the other Contracting State" mean Pakistan or Nepal as the context requires;
 - (d) the term "company" means any body corporate or any entity which is treated as a company or body corporate for tax purposes;
 - (e) the term "competent authority" means:
 - (i) in Pakistan, the Central Board of Revenue or its authorized representative, and
 - (ii) in Nepal the authorized representative of the Minister for finance;
 - (f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
 - (g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
 - (h) the term "national" means:
 - (i) any individual possessing the citizenship or nationality of a Contracting State;
 - (ii) any legal person or association deriving its status as such from the laws in force in a Contracting State;
 - (i) the term "person" includes an individual, a company and any other body of persons which is treated as an entity for tax purposes; and
 - (j) the term "tax" means Pakistan tax or Nepal tax, as the context requires.

खण्ड ५१ संख्या १५ नेपाल राजपत्र भाग ५ मिति २०५८।४।१५

2. As regards the application of the Agreement by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to taxes which are the subject of this Agreement.

**Article 4
Resident**

1. For the purposes of this Agreement the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reasons of his domicile, residence, place of management or any other criterion of a similar nature.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:
- (a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
 - (b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
 - (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the 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. Where by reason of the provisions of paragraph 1, a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

**Article 5
Permanent Establishment**

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
- (a) a place of management;
 - (b) a branch;
 - (c) an office;

- (d) a factory;
- (e) a workshop;
- (f) a warehouse;
- (g) a sales outlet;
- (h) a farm or plantation; and
- (i) a mine, an oil or gas well, a quarry or any other place of extraction or exploitation of natural resources.

3. The term "permanent establishment" likewise encompasses:

- (a) a building site, a construction, assembly or installation project or any supervisory activities in connection with such site or project, but only where such site, project or activity continues for a period or periods aggregating 183 days within any twelve months period;
- (b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by an enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the Contracting State for a period or periods aggregating more than 183 days within any twelve months period.

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

- (a) the use of facilities solely for the purpose of storage, or display of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, or display;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character; and
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person other than an agent of an independent status to whom paragraph 7 applies is acting in a Contracting State on behalf of an

enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:

- (a) has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or
 - (b) has no such authority, but habitually maintains in the first - mentioned State a stock of goods or merchandise from which he delivers goods or merchandise on behalf of the enterprise.
6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to reinsurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person than an agent of an independent status to whom paragraph 7 applies.
7. 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 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, when the activities of such an agent are devoted wholly or principally on behalf of that enterprise, he shall not be considered an agent of an independent status within the meaning of this paragraph.
8. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

Income from Immovable Property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the

- working of, or the right to work, mineral deposits, sources and other natural resources. Ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting or use in any other form of immovable property.
 4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7
Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to (a) that permanent establishment; (b) sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or (c) other business activities carried on in that other State of the same or similar kind as those effected through that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In 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. 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 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 moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for 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

खण्ड ५१ संख्या १५ नेपाल राजपत्र भाग ५ मिति २०५८।४।१५

for management, or, except in the case of banking enterprise by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

Shipping and Air Transport

1. Profits from the operation of ships and aircraft in international traffic shall be taxable only in the Contracting State of which the enterprise operating the ships or aircraft is a resident.
2. Notwithstanding the provisions of paragraph 1, the profits of an enterprise of a contracting state from operation of ships in international traffic from sources within the other contracting state may be taxed in the other state in accordance with domestic laws provided that the tax so charged shall be reduced by an amount equal to fifty percent thereof.
3. The provisions of paragraphs 1 and 2 shall also apply to profits from participation in a pool, a joint business or an international operating agency.

Article 9

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 Agreement and the competent authorities of the Contracting States shall, if necessary, consult each other.

Article 10 Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:
- (a) 10 percent of the gross amount of the dividends if the beneficial owner is a company which holds at least 10 percent of the capital of the company paying the dividends; or
- (b) 15 percent of the gross amount of the dividends in all other cases.

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

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 the Article means income from shares or other rights, not being debt-claims participating in profits, as well as income from other corporate rights which is

खण्ड ५१ संख्या १५ नेपाल राजपत्र भाग ५ मिति २०५८।४।१५

subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other 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.
5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on 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 11
Interest

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of interest the tax so charged shall not exceed:
 - (a) 10 per cent of the gross amount of the interest if the beneficial owner is a financial institution, an insurance company or an investment company receiving income from financial investments;
 - (b) 15 per cent of the gross amount of the interest in all other cases.
3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and derived by a Government of the other Contracting State, including a local authority thereof, the Central Bank or any financial institution controlled by that Government shall be exempt from tax in the first mentioned State.
4. For the purposes of paragraph 3 the terms "the Central Bank" and "Financial Institution controlled by that Government" means:
 - (a) in the case of Nepal:
 - (i) Nepal Rastra Bank (Central Bank of Nepal);

- (ii) such other financial institution the capital of which is wholly owned by His Majesty's Government of Nepal, as may be agreed upon from time to time between the Governments of the Contracting States.
- (b) in the case of Pakistan:
- (i) State Bank of Pakistan (Central Bank of Pakistan);
- (ii) such other financial institution the capital of which is wholly owned by the Government of the Islamic Republic of Pakistan, as may be agreed upon from time to time between the Governments of the Contracting States.
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. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
6. The provisions of paragraphs 1 and 2 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 (a) such permanent establishment or fixed base, or with (b) business activities referred to under (c) of paragraph 1 of Article 7. In such case, the provisions of Article 7 or Article 14, 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 local authority, or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
8. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon 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 Agreement.

Article 12
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 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 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 15 percent of the gross amount of the royalties or fees for technical services.
3. The term "royalties" as used in this Article means any consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematograph films and films, tape or discs used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of or the right to use, industrial, commercial or scientific equipment or for information concerning industrial, commercial or scientific experience.
4. The term "fees for technical services" as used in this Article means any consideration for the provision or rendering of any managerial, technical or consultancy services by a resident of a Contracting State in the other Contracting State but does not include consideration for any activities mentioned in paragraph 3 of Article 5, Article 14 or Article 15.
5. 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.
6. 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 fee 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 with which the right, property or contract in respect of which the royalties or fees for technical services are paid is effectively connected, and such royalties or fees or 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.
7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the 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 Agreement.

**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 with the whole enterprise) or of such fixed base, may be taxed in that other State.
3. Gains derived by a resident 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 representing a participation of 25 per cent or more in a company which is a resident of a Contracting State may be taxed in that State.
6. Gains from the alienation of any property other than that referred to in paragraph 1,2,3,4 and 5 shall be taxable only in the Contracting State of which the alienator is a resident.

**Article 14
Independent Personal Services**

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities or he is present in that other State for a period or periods exceeding in the aggregate

183 days in any twelve month period. If he has such a fixed base or is present in that other State for the aforesaid period or periods, the income, may be taxed in that other State but only so much of it as is attributable to that fixed base or is derived in that other State during the aforesaid period or periods.

2. Notwithstanding the provisions of paragraph 1, income derived by a resident of Contracting State in respect of professional services or other activities of an independent character performed in the other Contracting State, may be taxed in that other State if the remuneration for those services or activities is paid by a resident of that other State or is borne by permanent or a fixed base situated in that other State.
3. 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 Article 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first mentioned State if:
 - (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period; and
 - (b) the remuneration is paid by or on behalf of an employer who is not a resident of the other State; and
 - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provision of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State.

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290

Article 16
Directors' Fees

1. Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or any other similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.
2. Salaries, wages and other similar remuneration derived by a resident of a Contracting State in his capacity as an official in a top-level managerial position of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17
Entertainers and Sports persons

1. Notwithstanding the provisions of Articles 7, 14 and 15, income derived by a resident of a Contracting State as an entertainer such as a theater, motion picture, radio or television artiste, or a musician, or as a sports person, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sports person in his capacity as such accrues not to the entertainer or sports person himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sports person are exercised.
3. Income derived by a resident of a Contracting State from activities exercised in the other Contracting State as envisaged in paragraphs 1 and 2 of this Article, shall be exempt from tax in that other state if the visit to that other State is supported wholly or mainly by public funds of the first mentioned Contracting State, a political subdivision or a local authority thereof, or takes place under a cultural agreement or arrangement between the Government of the Contracting State.

Article 18
Pensions and Social Security Payments

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of the other Contracting State in consideration of past employment shall be taxable only in that State.
2. Notwithstanding the provisions of paragraph 1, pension paid and other payments made under a public scheme which is part of the social security system of a Contracting State or a political sub-division or a local authority thereof shall be taxable only in that state.

Article 19
Government Service

1. (a) Salaries, wages and similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
- (b) However, such salaries, wages and similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2. (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
- (b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages and similar remuneration, and to pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20
Students, Apprentices and Trainees

1. Payments which a student, apprentice or business trainee who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first mentioned State for the purpose of his education or training receives from the purpose of his maintenance, education, training shall not be taxed in that State provided that such payments arise from sources outside that State.
2. An individual who is a resident of one of the Contracting States and is temporarily present in the other Contracting State as an employee of or under contract with a resident of the first-mentioned State or as a participant in a programme sponsored by the Government of the other State or by any international organization for the primary purpose of:
 - (a) acquiring technical, professional or business experience from a person other than that resident of the first mentioned State or other than a person related to such resident; or

(b) studying at a university or other recognized educational institution in that other State;

Shall be exempt from tax in that other State for a period not exceeding one year with respect to his income from personal services if the aggregate amount is not in excess of US \$ 3000 or its equivalent in Pakistan rupees or Nepalese rupees, as the case may be.

Article 21
Other Income

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable 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 14, as the case may be, shall apply.
3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement and arising in the other Contracting State may also be taxed in that other State.

Article 22
Elimination of Double Taxation

1. Double taxation shall be eliminated as follows:
 - (a) In Pakistan, where a resident of Pakistan derives income which, in accordance with the provisions of this Agreement, may be taxed in Nepal, Pakistan shall allow as a deduction from the tax on the income of that resident, an amount equal to the Nepal tax paid. Such deduction shall not, however, exceed that part of the tax on income, as computed before the deduction is given, which is attributable to the income which may be taxed in Nepal;
 - (b) In Nepal, where a resident of Nepal derives income which, in accordance with the provisions of this Agreement, may be taxed in Pakistan, Nepal shall allow as a deduction from the tax on the income of that resident, an amount equal to the Pakistan tax paid. Such deduction shall not, however, exceed that part of the tax on income, as computed before the deduction is given, which is attributable to the income which may be taxed in Pakistan;

2. For the purposes of paragraph 1 of this Article, the terms "Pakistan tax paid" and "Nepal tax paid" shall be deemed to include the amount of tax which would have been paid in Pakistan or Nepal as the case may be, but for an exemption or reduction granted in accordance with laws designed to promote economic development in that Contracting State.
3. A grant given by a Contracting State or a political subdivision thereof to a resident of the other Contracting State in accordance with laws designed to promote economic development in that first-mentioned State, shall not be taxable in the other State.

Article 23
Non-discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
3. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first mentioned State are or may be subjected.
4. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11 or paragraph 7 of Article 12 apply, interest, royalties, fees for technical services and other disbursement paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first mentioned State.

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 provisions of

this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within two years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Agreement. 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 endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.
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. The competent authorities, through consultations, shall develop appropriate bilateral procedures, conditions, methods, and techniques for the implementation of the mutual agreement procedure provided for in this Article.

Article 25

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement in so far as the taxation thereunder is not contrary to the Agreement as well as to prevent fiscal evasion in relation to such taxes. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic law 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, or the determination of appeals in relation to, the taxes covered by this Agreement. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.
2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:
 - (a) to carry out administrative measures at variance with the laws or the 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 (*ordre public*).

Article 26

Members of Diplomatic Missions and Consular Posts

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

Article 27

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 Agreement. The Agreement shall enter into force on the date of receipt of the later of these notifications:
2. The provisions of this Agreement shall apply:-
 - (a) in Nepal:
in respect of income derived on or after the first day of Nepalese fiscal year next following the date upon which this Agreement enters into force.
 - (b) in Pakistan:
 - (i) with regard to taxed withheld at source, in respect of amounts paid or credited on or after the first day of July next following the date upon which this Agreement enters into force; and
 - (ii) with regard to other taxes, in respect of taxable years beginning on or after the first day of July next following the date upon which this Agreement enters into force.

Article 28

Termination

1. This Agreement shall remain in force indefinitely but either of the Contracting States may terminate the Agreement through the diplomatic channel, by giving to the other Contracting State written notice of termination not later than 30 June of any calendar year starting five years after the year in which the Agreement entered into force.

खण्ड ५१ संख्या १५ नेपाल राजपत्र भाग ५ मिति २०५८।४।१५

2. In such event, the Agreement shall cease to apply:

(a) In Nepal:

in respect of income derived on or after the first day of the Nepalese fiscal year next following that in which the notice of termination is given.

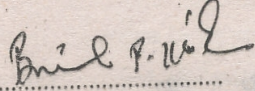
(b) in Pakistan:

- (i) with regard to taxes withheld at source, in respect of amounts paid or credited after the end of the calendar year in, which such notice is given; and
- (ii) with regard to other taxes, in respect of taxable years beginning after the end of the calendar year in which such notice is given.

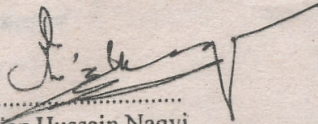
IN WITNESS WHEREOF the undersigned, duly authorized thereto, have signed this Agreement.

DONE in duplicate in Kathmandu on the 25th day of January 2001 in the English language.

For His Majesty's Government
of Nepal


.....
Dr. Bimal Prasad Koirala
Secretary
Ministry of Finance

For the Government of the
Islamic Republic of Pakistan


.....
Mr. Riaz Hussain Naqvi
Secretary Revenue Division
Chairman Central Board of Revenue

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आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

276

खण्ड ५१ संख्या १५ नेपाल राजपत्र भाग ५ मिति २०५८।४।१५

श्री ५ को सरकार, नेपाल

तथा

जनवादी गणतन्त्र चीन सरकार बीच

आयमा लाग्ने करहरूका सम्बन्धमा

द्वैध कराधान मुक्ति तथा वित्तीय छल निरोधका लागि सम्पन्न

सम्झौता

(४६)
आधिकारिकता मद्रुण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

खण्ड ५१ संख्या १५ नेपाल राजपत्र भाग ५ मिति २०५८।४।१५

श्री ५ को सरकार, नेपाल र जनवादी गणतन्त्र चीन सरकार, आयमा लाग्ने करहरूका सम्बन्धमा द्वैध कराधान मुक्ति र वित्तीय छल निरोधका लागि सम्झौता गर्न इच्छुक हुदै,

देहाय बमोजिम गर्न सहमत भएका छन् :

धारा १

समेटीएका व्यक्तिहरु

यो सम्झौता संविदाकारी राष्ट्रहरु मध्ये एक वा दुबै राष्ट्रहरुका बासिन्दाहरुलाई लागू हुनेछ ।

धारा २

समेटीएका करहरु

१. कुनै एक संविदाकारी राष्ट्रको वा त्यसको स्थानीय निकायहरुका तर्फबाट जुनसुकै तैरिकाबाट लगाइएको भएता पनि प्रस्तुत सम्झौता आयमा लाग्ने करहरुमा लागू हुनेछ ।
२. कूल आय वा आयका तत्वहरुमा लगाईएका सम्पूर्ण करहरु, चल वा अचल सम्पत्तिको बेच विखनबाट प्राप्त लाभमा लगाइएको कर वा पूँजीको मूल्यको वृद्धिमा लाग्ने कर समेतलाई आयमा लाग्ने कर मानिनेछ ।
३. यो सम्झौता लागू हुने विद्यमान करहरु विशेषतः देहाय बमोजिम छन् :
 - (क) नेपालमा:

आयकर ऐन अन्तर्गत लगाईएको आयकर
(यस पछि "नेपाल कर" भनिएको)
 - (ख) चीनमा :
 - (१) व्यक्तिगत आयकर
 - (२) विदेशी लगानी भएको उद्यमहरु र विदेशी उद्यमहरुको आयकर
(यस पछि "चिनियाँ कर" भनिएको)
४. यो सम्झौता विद्यमान करहरुका अतिरिक्त वा तिनीहरुको बदलामा सम्झौतामा हस्ताक्षर भएको मिति पश्चात लगाइएका कुनै समान वा मूलभूत रुपमा उस्तै करहरुका हकमा समेत लागू हुनेछ । संविदाकारी राष्ट्रहरुका सक्षम अधिकारीहरुले आ-आफ्ना कर कानूनहरुमा गरिएका मूलभूत परिवर्तनहरुको जानकारी त्यस्तो परिवर्तन भएको उचित समय भित्रमा एक अर्कालाई दिनेछन् ।

(४७)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागू हुनेछ।

धारा ३

सामान्य परिभाषाहरु

१. प्रसंगले अर्को अर्थ नलागेमा, यस सम्झौताको प्रयोजनका लागि :

- (क) "नेपाल" भन्नाले नेपाल अधिराज्य सम्झनुपर्छ ।
- (ख) "चीन" भन्नाले जनवादी गणतंत्र चीन र भौगोलिक अर्थमा प्रयोग गरिँदा प्रादेशिक समुद्र लगायत जनवादी गणतंत्र चीनको सम्पूर्ण प्रादेशिक क्षेत्र, जसमा करहरु सम्बन्धी चिनियाँ कानून लागू हुन्छ र अन्तर्राष्ट्रिय कानून अनुसार, चीनको प्रादेशिक समुद्र भन्दा परको सामुद्रिक पिंघ, जमीन तलको माटो र जोडिएको जलस्रोतहरुको उत्खनन र उपभोगमा जनवादी गणतंत्र चीनको सार्वभौम अधिकार छ, लगायतका इलाका सम्झनुपर्छ ।
- (ग) "एउटा संविदाकारी राष्ट्र" र "अर्को संविदाकारी राष्ट्र" भन्नाले सन्दर्भ अनुसार नेपाल वा चीन सम्झनुपर्छ ।
- (घ) "कर" भन्नाले सन्दर्भ अनुसार नेपाल कर वा चिनियाँ कर सम्झनुपर्छ ।
- (ङ) "व्यक्ति" भन्नाले व्यक्ति, कम्पनी र व्यक्तिहरुको अन्य कुनै निकाय समेतलाई जनाउँछ ।
- (च) "कम्पनी" भन्नाले कर प्रयोजनहरुका लागि संगठित संस्थाको रुपमा व्यवहार गरिने कुनै संगठित संस्था वा निकाय सम्झनुपर्छ ।
- (छ) "एउटा संविदाकारी राष्ट्रको प्रतिष्ठान" र "अर्को संविदाकारी राष्ट्रको प्रतिष्ठान" भन्नाले क्रमशः एउटा संविदाकारी राष्ट्रको वासिन्दाबाट संचालित प्रतिष्ठान र अर्को संविदाकारी राष्ट्रको वासिन्दाबाट संचालित प्रतिष्ठान सम्झनुपर्छ ।
- (ज) "नागरिक" भन्नाले :
 - (१) एउटा संविदाकारी राष्ट्रको राष्ट्रियता धारण गरेको कुनै प्राकृतिक व्यक्ति ;
 - (२) एउटा संविदाकारी राष्ट्रमा बहाल रहेका कानून अन्तरगत सो हैसियत प्राप्त कुनै कानूनी व्यक्ति, साभेदारी र संस्था सम्झनुपर्छ ।
- (झ) "अन्तर्राष्ट्रिय आवत जावत" भन्नाले अर्को संविदाकारी राष्ट्रका स्थानहरु बीच मात्र कुनै पानीजहाज वा हवाईजहाज संचालन गरिएकोमा बाहेक एउटा संविदाकारी राष्ट्रको कुनै प्रतिष्ठानबाट संचालित पानीजहाज वा हवाईजहाजबाट गरिने कुनै यातायात सम्झनुपर्छ ।
- (ञ) "सक्षम अधिकारी" भन्नाले :
 - (१) नेपालमा, अर्थ मन्त्री वा निजको अख्तियार प्राप्त प्रतिनिधि सम्झनु पर्छ ।
 - (२) चीनमा, करको राज्य प्रशासन वा यसको अख्तियार प्राप्त प्रतिनिधि सम्झनु पर्छ ।

२. एउटा संविदाकारी राष्ट्रबाट कुनै पनि समयमा यस सम्झौताको प्रयोगका सम्बन्धमा, प्रसंगले अन्यथा अर्थ लागेकोमा बाहेक, यस सम्झौतामा परिभाषित नगरिएका कुनै शब्दको अर्थ यो सम्झौता लागू हुने करहरुको प्रयोजनहरुका लागि सो संविदाकारी राष्ट्रको कानून अनुसार सो समयमा गरिएको परिभाषा बमोजिम हुनेछ ।