

भाग ५

श्री ५ को सरकार

कानून तथा न्याय मन्त्रालयको

सूचना १

श्री ५ को सरकार, नेपाल तथा प्रजातान्त्रिक समाजवादी गणतन्त्र श्रीलंका सरकार बीच २०५६ साल आषाढ २२ गते तदनुसार जुलाई ६, १९९९ का दिन सम्पन्न आयमा लाग्ने करका सम्बन्धमा दोहोरो करबाट मुक्ति तथा वित्तीय छल निरोध सम्बन्धी सम्झौता (Agreement between His Majesty's Government of Nepal and the Government of the Democratic Socialist Republic of Sri Lanka for the Avoidance of Double Taxation and the prevention of Fiscal Evasion with respect to Taxes on Income) का मंग्रेजी तथा नेपाली भाषाका प्रामाणिक प्रतिहरु नेपाल सन्धि ऐन, २०४७ को दफा १२ को प्रयोजनका लागि प्रकाशन गरिएको छ।

AGREEMENT

BETWEEN

HIS MAJESTY'S GOVERNMENT OF NEPAL

AND

**THE GOVERNMENT OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA**

FOR

THE AVOIDANCE OF DOUBLE TAXATION

AND

THE PREVENTION OF FISCAL EVASION

WITH RESPECT TO TAXES ON INCOME

(३)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

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HIS MAJESTY'S GOVERNMENT OF NEPAL,

AND

**THE GOVERNMENT OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA**

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 :

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आधिकारिकता सुदूर विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

Article 1

PERSONAL SCOPE

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 Sri Lanka;
the income tax, including the income tax based on the turnover of enterprises licensed by the Board of Investment,
(hereinafter referred to as "Sri Lanka tax")
 - (b) in Nepal
Income tax imposed under The Income Tax Act;
(hereinafter referred to as "Nepal Tax")
4. This Agreement shall also apply 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 purpose of this Agreement, unless the context otherwise requires:
 - a) (i) the term "Sri Lanka " means the territory which constitutes the Democratic Socialist Republic of Sri Lanka,
 - (ii) the term "Nepal" means the Kingdom of Nepal;
 - b) the terms "a Contracting State" and " the other Contracting State" mean Sri Lanka or Nepal 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 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 of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
 - g) the term "nationals" means;
 - i) all individuals possessing the nationality of a Contracting State;
 - ii) all legal persons, partnerships and associations deriving status as such from the laws in force in a Contracting State;
 - h) the term " competent authority " means
 - i) in the case of Sri Lanka, the Commissioner General of Inland Revenue;
 - ii) in the case of Nepal, the authorised representative of the Minister for Finance;
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 the 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 reason of his domicile, residence, place of management or any other criterion of a similar nature.
2. Where by reasons of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:
 - a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
 - b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
 - c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the state of which he is a national;
 - d) if he is a national of both 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 mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
 - g) a warehouse;
 - h) a farm or plantation;
3. 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, use lasts or those activities last more than 90 days;
 - b) the furnishing of services, including technical, managerial or 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 90 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 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.
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; or
 - c) habitually secures orders in the first- mentioned State for the enterprise and other enterprises which are controlled by it or have a controlling interest in it;
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, 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, 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 from immovable property may be taxed in the Contracting State in which such property is situated.
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

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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 also apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraph 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 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 monies 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 monies 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. 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.
6. 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 derived in a Contracting State by an enterprise of the other Contracting State from the operation of ships in international traffic may be taxed in the first-mentioned State, but the tax so charged shall be reduced by an amount equal to 50 percent thereof.
2. Profits from the operation of aircraft in international traffic shall be taxable only in the Contracting State of which the enterprise operating the aircraft is a resident.
3. The provisions of paragraph 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 the 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 15 percent of the gross amount of the dividends.

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The provisions of this paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as 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 the interest, the tax so charged shall not exceed 15 percent of the gross amount of the interest. Provided, however, that where the interest is paid to a bank carrying on bonafide 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 percent of the gross amount of 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 purposes of paragraph 3, the terms "the Central Bank" and "financial institution controlled by that Government" mean;
 - (a) In the case of Sri Lanka;
 - (i) the Central Bank of Sri Lanka;
 - (ii) such other financial institutions, the capital of which is wholly owned by the Government of Democratic Socialist Republic of Sri Lanka, as may be agreed upon from time to time between the competent authorities of the two Contracting States;
 - (b) 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 competent authorities of the two Contracting States.
5. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by a 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 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 percent 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, 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 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 case, 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 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 stocks and shares of a company representing a participation of 25 percent or more may be taxed in the Contracting State in which they have been issued.
5. Gains from the alienation of any property other than that referred to in the preceding paragraphs shall be taxable only in the Contracting State of which the alienator is a resident.
6. The term "alienation" means the sale, exchange, transfer, or relinquishment of the property or the extinguishment of any rights therein or the compulsory acquisition thereof under any law in force in the respective Contracting States.

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 90 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. 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 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 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 that other State for a period or periods not exceeding in the aggregate 90 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 by an enterprise of a Contracting State shall be taxable only in that State.

Article 16

DIRECTORS' FEES

1. Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the Board of Directors 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

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 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 & SOCIAL SECURITY PAYMENTS

1. Subject to the provisions of paragraph 2 of Article 19, any pensions or other similar remuneration paid to a resident of one of the Contracting States from a source in the other Contracting State in consideration of past employment or services in that other Contracting State and any annuity paid to such a resident from such a source may be taxed in that other State.
2. The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.
3. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under a public scheme which is part of the social security systems of a Contracting State shall be taxable only in that State.

Article 19

GOVERNMENT SERVICE

1. (a) Remuneration, other than a pension, paid by the Government or a local authority of a Contracting State, to an individual in respect of services rendered to that State or authority shall be taxable only in that State.
(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other 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 such services.
2. Any pension paid by, or out of funds created by a Contracting State or a local authority thereof to an individual in respect of services rendered to that State or authority shall be taxable only in that State.

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3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a local authority thereof.
4. For the purpose of this Article, the term "Government" shall include any State Government or local authority of either Contracting State, and the Central Bank of either Contracting State.

Article 20

TEACHERS AND RESEARCHERS

1. A professor, teacher or researcher who makes a temporary visit to a Contracting State for the purpose of teaching or conducting research at a university, college, school or other recognised educational institution and who is, or immediately before such visit was, a resident of the other Contracting State shall be exempted from tax in the first-mentioned State for a period not exceeding two years in respect of remuneration for such teaching or research.
2. This Article shall not apply to remuneration which a professor or teacher receives for conducting research if the research is undertaken primarily for the private benefit of a specific person or persons.

Article 21

STUDENTS 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 for 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 at the time he becomes temporarily present in the other Contracting State and who 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;

(२०)

आधिकारिक मूद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

- (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 Sri Lanka rupees or Nepalese rupees.

Article 22

OTHER INCOME

The laws in force in either of the Contracting States shall continue to govern the taxation of income except when express provisions to the contrary are made in this Agreement.

Article 23

ELIMINATION OF DOUBLE TAXATION

1. The laws in force in either of the Contracting States shall continue to govern the taxation of income in the respective Contracting States. When income is subject to tax in both Contracting States, relief from double taxation shall be given in accordance with the following paragraphs of this Article.
2. Where a resident of Nepal derives income from Sri Lanka which in accordance with the provisions of this Agreement, may be taxed in Sri Lanka the amount of Sri Lanka 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. Where a resident of Sri Lanka derives income from Nepal which in accordance with the provisions of this Agreement may be taxed in Nepal, the amount of Nepal tax payable in respect of that income shall be allowed as a credit against the Sri Lanka tax imposed on that resident in respect of that income. The credit shall not, however, exceed that part of the Sri Lanka tax which is attributable to such income.

4. For the purpose of allowance as a 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 24

NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.
2. The taxation of 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. Enterprise of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.
4. In this Article, the term "taxation" means taxes which are the subject of this Agreement.

Article 25

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 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 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 endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual Agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Agreement.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual Agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the 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 26

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, insofar 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 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 the Agreement. Such persons or authorities shall use their information only for such purposes but 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 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).

Article 27

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 28

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. The Agreement shall enter into force on the date of the later of these notifications.
2. The provisions of this Agreement shall apply:
 - (a) in Sri Lanka, in respect of income derived on or after the first day of April of the year next following that of the entry into force of this Agreement; and
 - (b) in Nepal, in respect of income derived on or after the first day of Nepalese fiscal year next following that of the entry into force of this Agreement.

Article 29

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 this Agreement enters into force. In such case, the Agreement shall cease to have effect;

(a) in Sri Lanka;

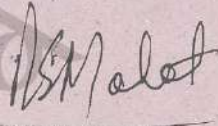
in respect of income derived on or after the first day of April of the year next following that in which the notice of termination is given.

(b) in Nepal;

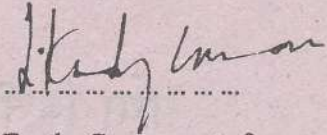
in respect of income derived on or after the first day of the Nepalese fiscal year next following that in which the notice of termination is given.

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

DONE in duplicate at Kathmandu this 6th day of July 1999 in the Nepali, Sinhala and English Languages, all texts being equally authentic. In the case of divergence in interpretation, the English text shall prevail.



For His Majesty's Government of Nepal.



For the Government of
the Democratic Socialist
Republic of Sri Lanka.

श्री ५ को सरकार, नेपाल

र

प्रजातान्त्रिक समाजवादी गणतन्त्र श्रीलंका सरकार

बीच

आयमा लाग्ने करहरूका सम्बन्धमा द्वैध कराधान मुक्ति

तथा वित्तीय छल निरोध सम्बन्धमा भएको

सम्झौता

(२६)

आधिकारिकता मद्रास विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

श्री ५ को सरकार, नेपाल

र

प्रजातान्त्रिक समाजवादी गणतन्त्र श्रीलंका सरकार

आयमा लाग्ने करहरूका सम्बन्धमा द्वैध कराधान

मुक्ति तथा वित्तीय छल निरोधका सम्बन्धमा

सम्झौता सम्पन्न गर्न इच्छुक हुँदै देहाय बमोजिम

गर्न मन्जुर गर्दछन् :

(२७)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

धारा १

वैयक्तिक क्षेत्र

यो सम्झौता दुई संविदाकारी देशहरु मध्ये एक वा दुवै देशमा बसोबास गर्ने व्यक्तिहरुलाई लागू हुनेछ ।

धारा २

सम्झौता अन्तर्गत पर्ने करहरु

१. यो सम्झौता कुनै संविदाकारी देशका तर्फबाट आयमा लगाइएका करहरुका हकमा जुनसुकै तरिकाबाट उठाइएको भए तापनि लागू हुनेछ ।
२. कूल आम्दानी वा आम्दानीका तत्वहरुमा लगाइएका सबै करहरु, चल अचल सम्पत्ति विक्री-हस्तान्तरणबाट प्राप्त लाभमा लगाइएको कर समेतलाई आयमा लाग्ने कर मानिने छ ।
३. यस सम्झौता अन्तर्गत देहायका वर्तमान करहरु पर्नेछन्:

(क) श्रीलंकामा,

लगानी बोर्डबाट इजाजतपत्र प्राप्त उच्चमहरुको कारोबारको आधारमा लगाइने आयकर सहितको आयकर,
(यसपछि "श्रीलंका कर" भनिने)

(ख) नेपालमा,

आयकर ऐन अन्तर्गत लगाइएको आयकर,
(यसपछि "नेपाल कर" भनिने)

४. यस सम्झौतामा हस्ताक्षर भएको मिति पश्चात् कुनै संविदाकारी देशले लागू गरेका उपधारा ३ मा उल्लिखित करको अतिरिक्त वा त्यसको बदलामा त्यस्तै प्रकारको वा अधिकांश रुपमा समान प्रकारका करहरुको सम्बन्धमा समेत यो सम्झौता लागू हुनेछ । संविदाकारी देशहरुका सक्षम अधिकारीहरुले आ-आफ्नो कर कानूनमा भएका उल्लेखनीय परिवर्तनहरुको जानकारी एक अर्कालाई दिनेछन् ।

धारा ३

सामान्य परिभाषा

१. विषय वा प्रसंगले अर्को अर्थ नलागेमा यस सम्झौतामा:

(क) (१) "श्रीलंका" भन्नाले प्रजातान्त्रिक समाजवादी गणतन्त्र श्रीलंकाको क्षेत्र जनाउनेछ ।

(२) "नेपाल" भन्नाले नेपाल अधिराज्य जनाउनेछ ।

(२८)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागू हुनेछ।

- (ख) "संविदाकारी देश" र अर्को संविदाकारी देश" भन्नाले प्रसंग अनुसार श्रीलंका वा नेपाल जनाउनेछ,
- (ग) "व्यक्ति" भन्नाले प्राकृतिक व्यक्ति, कम्पनी र अन्य कुनै व्यक्तिहरुको समूह जनाउनेछ,
- (घ) "कम्पनी" भन्नाले कुनै स्वशासित संस्था वा कर प्रयोजनको लागि स्वशासित संस्था मानिने कुनै पनि निकाय जनाउनेछ,
- (ङ) "संविदाकारी देशको उद्यम" र "अर्को संविदाकारी देशको उद्यम" भन्नाले क्रमशः संविदाकारी देशको बासिन्दाद्वारा संचालित उद्यम र अर्को संविदाकारी देशको बासिन्दाद्वारा संचालित उद्यम जनाउनेछ,
- (च) "अन्तर्राष्ट्रिय आवत जावत" भन्नाले अर्को संविदाकारी देशभित्रका एकबाट अर्को ठाउँहरुमा मात्र पानीजहाज वा हवाई उडान गर्ने बाहेक संविदाकारी देशका कुनै उद्यमीद्वारा संचालित पानीजहाज वा हवाई यातायात जनाउनेछ,
- (छ) "नागरिक" भन्नाले,
- (१) संविदाकारी देशको नागरिकता प्राप्त सबै प्राकृतिक व्यक्तिहरु,
- (२) संविदाकारी देशमा लागू रहेको कानून अन्तर्गत गठित सबै कानूनी व्यक्ति, साभेदारी तथा संघ संस्था जनाउनेछ,
- (ज) "सक्षम अधिकारी" भन्नाले,
- (१) श्रीलंकाको सम्बन्धमा, अन्तर्देशिय राजश्वका प्रमुख आयुक्त
- (२) नेपालको सम्बन्धमा अर्थ मन्त्रिबाट अधिकार प्राप्त प्रतिनिधि,
२. कुनै संविदाकारी देशद्वारा सम्झौता लागू गर्ने सन्दर्भमा यदि कुनै शब्द परिभाषित गरिएको नपाइएमा, विषय वा प्रसंगले अर्को अर्थ नलागेमा, यो सम्झौता लागू हुने संविदाकारी देशको कर सम्बन्धी कानूनको परिभाषा नै यो सम्झौताको लागि पनि परिभाषित मानिनेछ ।

धारा ४

बासिन्दा

१. यो सम्झौताको प्रयोजनको लागि "संविदाकारी देशको बासिन्दा" भन्नाले आफ्नो निवास, बसोबास, व्यावसायिक स्थल वा यस्तै प्रकृतिका अन्य कारणबाट त्यस देशको कानून अनुसार कर तिर्नु पर्ने दायित्व भएको व्यक्तिलाई सम्झनु पर्छ ।
२. उपधारा १ को व्यवस्थाको कारणबाट कुनै प्राकृतिक व्यक्ति दुबै संविदाकारी देशको बासिन्दा भएमा उसको स्थिति देहाय बमोजिम निश्चित गरिनेछ:-

आधिकारिकता मुद्रण विभाग (२०५६) प्रमाणित गरिएको छि मात्र लागू हुनेछ।

- (क) निज त्यस संविदाकारी देशको बासिन्दा मानिनेछ जहाँ उसको स्थायी निवासस्थान रहेकोछ, यदि दुबै देशमा उसको स्थायी निवासस्थान रहेछ भने जुन देशमा उसको वैयक्तिक तथा आर्थिक सम्बन्ध निकट (अत्याधिक महत्व केन्द्रित) रहेको हुन्छ सोही देशको बासिन्दा भएको मानिनेछ,
- (ख) यदि उसको (अत्याधिक महत्व केन्द्रित) भएको देश निर्धारण हुन नसकेमा वा यदि कुनै पनि संविदाकारी देशमा स्थायी निवासस्थान नभएमा ऊ साधारणतः बसोबास गर्ने गरेको देशको बासिन्दा मानिनेछ,
- (ग) यदि दुबै देशमा साधारणतः बसोबास गर्ने रहेछ अथवा दुबैमा साधारणतः बसोबास नगर्ने रहेछ भने निज जुन देशको नागरिक रहेकोछ सोही देशको बासिन्दा मानिनेछ,
- (घ) यदि ऊ दुबै संविदाकारी देशको नागरिक रहेछ अथवा दुबैको नागरिक रहेनछ भने, संविदाकारी देशका सक्षम अधिकारीहरु ले आपसी सहमतिद्वारा सो प्रश्नको समाधान गर्नेछन् ।
३. उपधारा १ को व्यवस्थाको कारणबाट प्राकृतिक व्यक्ति बाहेक अन्य कुनै व्यक्ति दुबै संविदाकारी देशको बासिन्दा भएमा निज उसको प्रभावकारी व्यवस्थापन स्थल रहेको देशको बासिन्दा मानिने छ ।

धारा ५

स्थायी संस्थापन

१. यस सम्झौताको प्रयोजनको लागि "स्थायी संस्थापन" भन्नाले उद्यमको कारोबार पूर्ण वा आंशिक रुपमा सञ्चालन गरिने निश्चित कारोवार स्थल सम्भन्ध पछि,
२. "स्थायी संस्थापन" भन्ने शब्दभित्र विशेष गरी निम्नलिखित कुराहरु पर्दछन्:-
- (क) व्यावस्थापन स्थल,
 - (ख) शाखा,
 - (ग) कार्यालय,
 - (घ) कारखाना,
 - (ङ) कार्यशाला,
 - (च) खानी, तेल वा ग्यासको कुवा, दुइखानी वा प्राकृतिक सम्पदाहरुको उत्खननका अन्य स्थल,
 - (छ) गोदाम
 - (ज) फार्म वा बगान,

३. यसैगरी "स्थायी संस्थापन" भन्ने शब्दभित्र निम्नलिखित कुराहरु सम्मिलित रहनेछन्:-

(क) भवन निर्माणस्थल, निर्माण, जडान वा संस्थापन परियोजना अथवा प्राकृतिक सम्पदाहरुको अन्वेषण वा विकासको लागि संस्थापित वा प्वालपार्ने यन्त्र वा पानी जहाज को प्रयोग, सो संग सम्बद्ध सुपरीवेक्षण क्रियाकलापहरु, तर यदि सो स्थल, परियोजना वा ती क्रियाकलापहरु ९० दिन भन्दा बढी अवधिसम्म प्रयोग वा कायम रहेमा ।

(ख) कुनै उद्यमले आफ्ना कर्मचारीहरु वा अन्य जनशक्ति मार्फत प्रदान गर्ने सेवा प्राविधिक, व्यवस्थापकीय वा परामर्श सेवा सहित, यदि यस प्रकृतिका क्रियाकलापहरु (सोही परियोजना वा सम्बद्ध परियोजनाको लागि) सो देशभित्र कुनै वाइ महीनाको अवधिभित्र जम्माजम्मी ९० दिनभन्दा बढी अवधिसम्म कायम रहेमा ।

४. यस धाराको उपरोक्त व्यवस्थाहरुमा जुनसुकै कुरा लेखिएको भए तापनि "स्थायी संस्थापन" भन्ने शब्दभित्र निम्नलिखित कुराहरु परेको मानिने छैन:-

(क) कुनै उद्यमको स्वामित्वमा रहेको बस्तु अथवा व्यापारिक सामग्री प्रदर्शन वा संचयको प्रयोजनको लागि मात्र सुविधाहरुको प्रयोग भएकोमा,

(ख) संचय वा प्रदर्शनको लागि मात्र उद्यमको स्वामित्वमा रहेको बस्तु अथवा व्यापारिक सामग्री मौज्दात राखेकोमा,

(ग) कुनै अर्को उद्यमले प्रशोधन गर्ने प्रयोजनको लागि मात्र केवल उद्यमको स्वामित्वमा बस्तु वा व्यापारिक सामग्रीको मौज्दात राखेकोमा,

(घ) उद्यमको निमित्त बस्तु वा व्यापारिक सामग्री खरिद गर्ने वा सूचनाहरु संकलन गर्ने मात्र प्रयोजनको लागि कुनै कारोबारको निश्चित स्थल स्थापना गरेकोमा,

(ङ) उद्यमको निमित्त प्रारम्भिक वा सहायक प्रकृतिका कुनै क्रियाकलापहरु संचालन गर्ने उद्देश्यका लागि मात्र कुनै कारोबारको निश्चित स्थल स्थापना गरेकोमा ।

५. उपधारा १ र २ का व्यवस्थाहरुमा जुनसुकै कुरा लेखिएको भए तापनि उपधारा ७ लागू हुने स्वतन्त्र स्थितिको एजेन्ट बाहेकको कुनै व्यक्तिले कुनै संविदाकारी देशमा अर्को संविदाकारी देशको कुनै उद्यमको तर्फबाट काम गरिरहेको भए त्यस्तो व्यक्तिले सो उद्यमको निमित्त गर्ने क्रियाकलापहरुका सम्बन्धमा पहिलो उल्लेखित संविदाकारी देशमा त्यस्तो उद्यमको स्थायी संस्थापना भएको मानिनेछ, यदि सो व्यक्ति,

(क) सो देशमा उक्त उद्यमको नामबाट करार गर्ने अधिकार राख्दछ र सो अधिकार प्रयोग गर्दछ, तर त्यस्तो व्यक्तिको क्रियाकलाप व्यवसायको निश्चित स्थानबाट भएको भएपनि उपधारा ४ मा उल्लिखित कुराहरुमा सीमित भएमा त्यस्तो व्यवसायको निश्चित स्थान सो उपधाराको प्रावधान अनुसार स्थायी संस्थापन मानिने छैन, अथवा

(ख) उद्यमको तर्फबाट करार गर्ने अधिकार नभएको तर सो उद्यमको तर्फबाट पहिलो

उल्लेखित देशमा बस्तु अथवा व्यापारिक सामग्रीको मौज्दात राख्दछ र सोबाट उस्ले बस्तु वा व्यापारिक सामग्री सो उद्यमको तर्फबाट आपूर्ति गर्दछ, अथवा

(ग) उक्त उद्यम र सो उद्यमद्वारा नियन्त्रित वा सोमा नियन्त्रण गर्ने अधिकार भएको अन्य उद्यमको लागि पहिलो-उल्लेखित देशमा माल पठाउने आदेश प्राप्त गर्दछ ।

६. यस धाराको उपरोक्त व्यवस्थाहरुमा जेसुकै लेखिएको भए तापनि कुनै संविदाकारी देशको कुनै बीमा उद्यमले पुनर्विमाको सम्बन्धमा बाहेक, अर्को संविदाकारी देशको क्षेत्रमा बीमा प्रिमियम संकलन गर्दछ वा उपधारा ७ को प्रावधान लागू हुने स्वतन्त्र हैसियत भएको एजेन्ट बाहेकको कुनै व्यक्तिद्वारा त्यहाँ रहेको जोखिमको बीमा गराउँदछ भने अर्को संविदाकारी देशमा स्थायी संस्थापन भएको मानिनेछ ।
७. कुनै संविदाकारी देशको कुनै उद्यमलाई अर्को संविदाकारी देशमा कुनै दलाल, साधारण कमिशन एजेन्ट वा स्वतन्त्र हैसियतवाला अन्य कुनै एजेन्टको माध्यमबाट त्यस्तो व्यक्तिले सामान्यरूपमा गरेको कारोबारको कारणले मात्र स्थायी संस्थापन भएको मानिने छैन । तर यस्ता एजेन्टको क्रियाकलापहरु पूर्ण रूपमा वा मुख्यतया: त्यस्ता उद्यमका लागि समर्पित छन् र यदि एजेन्ट र उद्यम बीचका कारोबारहरु निकटस्थ शर्त अन्तर्गत गरिदैनन् भने यो उपधाराको प्रयोजनका लागि स्वतन्त्र हैसियतवाला एजेन्ट मानिने छैन ।
८. एक संविदाकारी देशको बासिन्दा भएको कम्पनी अर्को संविदाकारी देशको बासिन्दा भएको कम्पनीलाई नियन्त्रण गरेको वा आफू नियन्त्रित भएको भएमा वा जो त्यो अर्को देशमा (चाहे कुनै स्थायी संस्थापनको माध्यमबाट होस् वा अन्यथा होस्) कारोबार गर्दछ भने ती कुनै पनि कम्पनी स्वतः अर्को कम्पनीको स्थायी संस्थापन हुनेछैन ।

धारा ६

अचल सम्पत्तिबाट हुने आय

१. अचल सम्पत्तिबाट हुने आयमा त्यस्तो सम्पत्ति रहेको संविदाकारी देशमा कर लगाउन सकिने छ ।
२. "अचल सम्पत्ति" भन्नाले त्यस्तो सम्पत्ति रहेको संविदाकारी देशको कानून अनुसारको सम्पत्ति मान्नु पर्नेछ । यस शब्दभित्र कुनै पनि अवस्थामा अचल सम्पत्तिको अंगको रूपमा रहेको सम्पत्ति, कृषि र वनमा प्रयुक्त पशुधन र उपकरण, भू-सम्पत्ति सम्बन्धी सामान्य कानूनमा भएका व्यवस्था लागू हुने अधिकारहरु तथा काम गरे बापत परिवर्तनीय वा स्थिर रूपमा भुक्तानी पाउने अधिकार अथवा काम गर्न पाउने अधिकार, खनिज भण्डारका स्रोतहरु वा अन्य प्राकृतिक स्रोतहरु पर्नेछन् । पानीजहाज, ढुंगा र हवाईजहाज अचल सम्पत्ति मानिने छैनन् ।
३. उपधारा १ को व्यवस्था अचल सम्पत्तिको प्रत्यक्ष प्रयोग, भाडामा लगाएको वा अन्य कुनै प्रकारले प्रयोग गरेबाट हुने आयमा पनि लागू हुनेछ ।
४. उपधारा १ र ३ को व्यवस्थाहरु कुनै उद्यमको अचल सम्पत्तिको आय र स्वतन्त्र वैयक्तिक सेवाहरुको संचालनको निमित्त प्रयोग गरिने अचल सम्पत्तिको आयमा पनि लागू हुनेछ ।

आधिकारिकता मुद्रा (१६) भागबाट प्रमाणित गरिएपछि मात्र लागू हुनेछ।

धारा ७

व्यापार मुनाफा

१. कुनै संविदाकारी देशको उद्यमले अर्को संविदाकारी देशमा रहेको स्थायी संस्थापनको माध्यमबाट कारोबार नचलाएसम्म सो उद्यमको मुनाफामा त्यस संविदाकारी देशमा मात्र कर लगाइनेछ । यदि सो उद्यमले माथि भनिए अनुसार कारोबार गरेमा उद्यमको मुनाफामा देहाय बाट आर्जन गरेको आय जतिमा मात्र अर्को देशमा कर लगाइनेछ-
- (क) सो स्थायी संस्थापन,
 - (ख) अर्को देशमा विक्री गरिएको माल वा व्यापारीक वस्तु जुन स्थायी संस्थापनको माध्यमबाट विक्री गरे जस्तै उही वा उस्तै प्रकारको छ, अथवा
 - (ग) त्यस्तो अर्को देशमा संचालन गरिएको अन्यव्यापारीक कारोबार जुन स्थायी संस्थापनको माध्यमबाट गरिएजस्तै उही वा उस्तै प्रकारको रहेको छ ।
२. उपधारा ३ को प्रावधानको अधिनमा रही यदि कुनै संविदाकारी देशको उद्यमले अर्को संविदाकारी देशमा अवस्थित स्थायी संस्थापनको माध्यमद्वारा व्यवसाय गर्दछ भने प्रत्येक संविदाकारी देशमा त्यस्तो स्थायी संस्थापनलाई यदि सो संस्थापन अलग अस्तित्व भएको छुट्टै संस्थापन भई उही वा उस्तै परिस्थितिमा उही वा उस्तै क्रियाकलापमा लागी पूर्णतया स्वतन्त्र रूपमा आफु स्थायी संस्थापन भएको उद्यमसंग कार्य गरे सरह नाफा कमाएको मानिनेछ ।
३. कुनै स्थायी संस्थापनको मुनाफा निर्धारण गरिँदा त्यस्तो स्थायी संस्थापन रहेको देशमा वा अन्यत्र भएको भएपनि सो को कार्यकारी तथा सामान्य प्रशासनिक खर्चहरु सहित त्यस्तो स्थायी संस्थापनको कारोबारको प्रयोजनको लागि भएका सबै खर्चहरु आफ्नो देशको कानूनमा व्यवस्था भए अनुसार कटौत गर्न स्वीकृति दिइने छ । तथापि (वास्तविक खर्चहरु सोधभर्ना गरेकोमा बाहेक) स्थायी संस्थापनद्वारा उद्यमको आफ्नो प्रमुख कार्यालय वा अन्य कार्यालयलाई प्याटेन्ट वा कुनै अधिकार प्रयोग गरे बापतको रोयल्टी, शुल्क वा यस्तै प्रकारको अन्य भुक्तानीहरु अथवा कमिशनको रूपमा व्यवस्थापनको निमित्त कुनै खास सेवा प्रदान गरे बापत अथवा वैकिङ्ग उद्यमको लागि बाहेक स्थायी संस्थापनले सापटी लिएको रुपैयाँको व्याज बापत तिरेको रकमहरु भने खर्च बापत कटौत गर्न दिइने छैन । यसैगरी (वास्तविक खर्चहरु सोधभर्ना गरेकोमा बाहेक) स्थायी संस्थापनद्वारा उद्यमको आफ्नो प्रमुख कार्यालय वा अन्य कार्यालयहरुलाई प्याटेन्ट वा कुनै अधिकार प्रयोग गरे बापतको रोयल्टी, शुल्क वा यस्तै प्रकारको अन्य भुक्तानीहरु अथवा कमिशनको रूपमा व्यवस्थापनको निमित्त कुनै खास सेवा प्रदान गरे बापत अथवा वैकिङ्ग उद्यमको सम्बन्धमा बाहेक स्थायी संस्थापनले उद्यमको प्रमुख कार्यालय वा यसका अन्य कार्यालयहरुबाट लिएको ऋणमा तिरेको व्याज रकमहरु खर्च लेखेपनि स्थायी संस्थापनको मुनाफा निर्धारण गर्दा मान्यता दिइने छैन ।
४. कुनै संविदाकारी देशमा उद्यमको कूल आय र मुनाफामा उद्योगको सम्पूर्ण आयहरुलाई कुनै प्रतिशत अनुपातको आधारमा वा विभिन्न अंगमा विभाजन हुने आधारमा कुनै स्थायी संस्थापनको निमित्त अनुपातिक आय र मुनाफाको प्रतिशत निश्चित गर्ने व्यवस्था रहेको अवस्थामा यस धाराको

उपधारा २ को कुनै पनि व्यवस्थाले त्यस संविदाकारी देशको यस्तो प्रचलित विभाजन अनुपातको आधारमा मुनाफा निर्धारण गर्ने कामलाई बाधा पुऱ्याएको मानिने छैन, तर यस्तो अनुपात छुट्याउने पद्धतिको नतिजा यस धारामा निहित सिद्धान्तहरु अनुरूपको हुनेछ।

५. उपर्युक्त उल्लिखित उपधाराहरुको उद्देश्यका लागि स्थायी संस्थापनको मुनाफा निर्धारण उचित तथा पर्याप्त कारणले अन्यथा हुनेमा वाहेक प्रत्येक वर्ष उही तरिकाबाट गरिनेछ।
६. मुनाफामा समावेश आयका कलमहरु जुन यस संभौताको अन्य धाराहरु वमोजिम छुट्टै रुपमा हेरिने हुन्छ त्यस्ता धाराका व्यवस्थाहरुलाई यस धाराका व्यवस्थाहरुले कुनै असर पार्ने छैनन्।

धारा ८

हवाई यातायात तथा पानी जहाज ढुवानी

१. एउटा संविदाकारी देशमा दोस्रो संविदाकारी देशको उच्चमले अन्तर्राष्ट्रिय परिवहनमा पानीजहाज संचालनगरी प्राप्त गरेको मुनाफामा सो पहिलो देशमा कर लगाउन सकिने छ तर यसरी लगाइएको करमा ५० प्रतिशत बराबरको रकमले घटाइनेछ।
२. अन्तर्राष्ट्रिय परिवहनमा हवाईजहाज संचालन गर्दा प्राप्त मुनाफामा हवाईजहाज संचालन गर्ने उच्चम जुन देशको बासिन्दा रहेको छ सोही संविदाकारी देशमा मात्र कर लगाइनेछ।
३. उपधारा १ र २ को व्यवस्था संयुक्त स्वामित्वको एकीकृत सम्पत्ती वा कोष (पुल) मा सहभागिता, संयुक्त व्यवसाय अथवा कुनै अन्तर्राष्ट्रिय संचालन निकायसंग को सहभागीताबाट प्राप्त मुनाफामा समेत लागू हुनेछ।

धारा ९

सम्बद्ध उच्चमहरु

१. (क) यदि, एक संविदाकारी देशको कुनै उच्चमले दोस्रो संविदाकारी देशको कुनै उच्चमको व्यवस्थापन, नियन्त्रण अथवा पूँजीमा प्रत्यक्ष वा अप्रत्यक्ष रुपले भाग लिन्छ, अथवा
- (ख) सोही व्यक्तिहरु एक संविदाकारी देशको उच्चमको व्यवस्थापन नियन्त्रण अथवा पूँजीमा प्रत्यक्ष वा अप्रत्यक्ष रुपले भाग लिन्छन तथा अर्को संविदाकारी देशको उच्चममा भाग लिन्छन्, र

उक्त दुवै अवस्थामा व्यापारिक एवं वित्तीय सम्बन्धको बारेमा दुई उच्चमहरु बीच यस्ता शर्तहरु राखिएको अथवा लगाइएको हुन्छ जुन स्वतन्त्र उच्चमीहरुका बीच लगाइने शर्त भन्दा भिन्नै हुन्छ तथा त्यस्तो शर्तहरु नभएको अवस्थामा ती उच्चमहरुमध्ये कुनै एक उच्चमलाई त्यसबाट हुने कुनै मुनाफा प्राप्त हुने रहेछ भने ती शर्तहरुको कारणले गर्दा यसरी मुनाफा प्राप्त नभएको भए तापनि त्यस्तो उच्चमको मुनाफामा समावेश गर्न सकिनेछ तथा त्यस्तोमा तदनुसार कर लगाइनेछ।

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आधिकारिकता मूद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागू हुनेछ।

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२. कुनै संविदाकारी देशले सो देशको कुनै उद्यमको मुनाफा समावेसगरी कर लगाएकोमा त्यस्तो मुनाफामा अर्को संविदाकारी देशको उद्यमलाई सो अर्को संविदाकारी देशमा कर लगाईदा त्यसरी समावेस गरेको मुनाफा दुई उद्यम बीच तय गरिएका शर्तहरू स्वतन्त्र उद्यमहरू बीच गरिने जस्तै भई पहिलो-उल्लेखित देशको उद्यमले आर्जित गरे सरह मानी त्यस्तो अर्को देशमा त्यस्तो मुनाफामा लगाइएको करमा उचित समायोजन गरिनेछ । यस्तो समायोजन तय गरिदा, यस संभौताका अन्य व्यवस्थालाई उचित ध्यान दिइनेछ र आवश्यकता अनुसार दुवै संविदाकारी देशका सक्षम अधिकारीहरूले एक आपसमा परामर्श गर्नेछन् ।

धारा १०

लाभांश

१. एक संविदाकारी देशको बासिन्दा कम्पनीले अर्को संविदाकारी देशको बासिन्दालाई तिरेको लाभांशमा अर्को संविदाकारी देशमा कर लगाउन सकिनेछ ।
२. तर यस प्रकारको लाभांशमा लाभांश वितरण गर्ने बासिन्दा कम्पनी भएको संविदाकारी देशमा त्यस देशको कानून अनुसार कर लगाउन सकिनेछ । तर लाभांश प्राप्त गर्नेवाला लाभांशको मालिक हो भने यस प्रकार लगाइने करको रकम कूल लाभांशको १५ प्रतिशत भन्दा बढी हुनेछैन ।
- यस उपधाराका व्यवस्थाहरूले लाभांश वितरण गरिने नाफामा कम्पनीलाई कर लगाउन कुनै बाधा पर्ने छैन ।
३. यो धारामा "लाभांश" भन्नाले त्यस्तो शेयरहरू अथवा अन्य अधिकारबाट प्राप्त ऋण दावी बाहेकको आय, मुनाफामा समावेश हुने तथा अन्य कर्पोरेट अधिकारबाट प्राप्त आय जसलाई मुनाफा वितरण गर्ने कम्पनी बासिन्दा भएको देशको कानूनले शेयरबाट हुने आम्दानीमा कर लगाए सरह लगाइने आयलाई समेत सम्भन्नु पर्छ ।
४. उपधारा १ र २ को व्यवस्था लाभांश प्राप्त गर्ने मालिक एउटा संविदाकारी देशको बासिन्दा भई अर्को संविदाकारी देश जहाँ लाभांश वितरण गर्ने कम्पनी बासिन्दा रहेकोमा कुनै स्थायी संस्थापनको माध्यमबाट कारोबार संचालन गरेको छ अथवा त्यो दोस्रो देशमा रहेको एउटा निश्चित स्थानबाट स्वतन्त्र व्यक्तिगत सेवाहरू सम्पन्न गर्दछ र त्यो धारण गरेवापत लाभांश भुक्तानी गरिएको र त्यो यस्तो प्रकारको स्थायी संस्थापन अथवा निश्चित स्थानबाट प्रभावकारी रूपमा सम्बन्धित भएको अवस्थामा लागू हुनेछैन । यस्ता स्थितिमा अवस्थानुसार धारा ७ र १४ को व्यवस्थाहरू लागू हुनेछन् ।
५. कुनै कम्पनी एक संविदाकारी देशको बासिन्दा भई अर्को संविदाकारी देशबाट आय वा मुनाफा प्राप्त गर्दछ भने, अर्को देशको बासिन्दालाई भुक्तानी दिएको हदसम्मको लाभांश वा अर्को देशमा अवस्थित निश्चित स्थल वा स्थायी संस्थापनसंग प्रभावकारी सम्बन्ध रहेको लाभांशको भुक्तानी, कम्पनीको अवितरित मुनाफा मध्ये कर नलागेको कम्पनीको अवितरित मुनाफा तथा त्यस्तो अर्को देशमा आर्जित आय वा नाफामा पूर्ण वा आंशिक रूपमा समावेस भएको लाभांश वा अवितरित मुनाफा बाहेक, कम्पनीले तिरेको लाभांशमा त्यस्तो अर्को देशमा कर लाग्नेछैन ।

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आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागू हुनेछ।

धारा ११

व्याज

१. एउटा संविदाकारी देशमा आर्जन गरेको व्याज अर्को संविदाकारी देशको बासिन्दालाई भुक्तानी गरिएमा दोस्रो संविदाकारी देशमा कर लगाउन सकिनेछ ।

२. माथि जेसुकै भनिए तापनि, त्यस्तो व्याजमा व्याज आर्जन हुने संविदाकारी देशमा त्यो देशको कानून अनुसार कर लगाउन सकिनेछ । तर व्याज प्राप्त गर्ने अख्तियार प्राप्त व्यक्तिलाई यसरी लगाइने कर कूल व्याजको १५ प्रतिशत भन्दा बढी हुनेछैन ।

तर, माथि जे भनिए तापनि त्यस्तो व्याज प्राप्त गर्ने मालिक वास्तविक रुपमा वैकिङ्ग कारोबार गर्ने अर्को संविदाकारी देशको बासिन्दा बैंक रहेछ भने कूल व्याजको १० प्रतिशत भन्दा बढी कर लगाइनेछैन ।

३. माथि उपधारा २ मा जे सुकै उल्लेख भए तापनि कुनै संविदाकारी देशमा आर्जित व्याज अर्को संविदाकारी देशको सरकार, सो को स्थानीय निकाय, केन्द्रीय बैंक वा सो सरकारको नियन्त्रणमा रहेको कुनै वित्तिय संस्थाले प्राप्त गरेमा पहिला-उल्लेखित देशमा कर लाग्ने छैन ।

४. उपधारा ३ को प्रयोजनको लागि "केन्द्रीय बैंक" तथा "सो सरकारको नियन्त्रणमा रहेको वित्तिय संस्था" भन्नाले,-

(क) श्रीलंकाको सम्बन्धमा,

(१) श्रीलंकाको केन्द्रीय बैंक,

(२) दुवै संविदाकारी देशका सक्षम अधिकारीहरु बीच समय समयमा मंजुर गरिए अनुसारका यस्ता अन्य वित्तिय संस्थाहरु जस्को पूँजी प्रजातान्त्रिक समाजवादी गणतन्त्र श्रीलंकाको पूर्ण स्वामित्वमा रहेको हुन्छ ।

(ख) नेपालको सम्बन्धमा,

(१) नेपाल राष्ट्र बैंक (नेपालको केन्द्रीय बैंक)

(२) दुवै संविदाकारी देशका सक्षम अधिकारीहरु बीच समय समयमा मंजुर गरिए अनुसारका यस्ता अन्य वित्तिय संस्थाहरु जस्को पूँजी श्री ५ को सरकार, नेपालको पूर्ण स्वामित्वमा रहेको हुन्छ ।

५. यस धारामा "व्याज" भन्नाले बन्धकपत्रद्वारा सुरक्षित गरिएको वा नगरिएको अथवा चाहे ती ऋणदातालाई मुनाफामा हिस्सेदारीको अधिकार प्राप्त भएको वा नभएको हरेक किसिमको ऋण दावीबाट प्राप्त आयलाई जनाउनेछ, तथा खासगरी सरकारी प्रतिभूति (सेक्युरिटी) बाट प्राप्त आय तथा बन्धकपत्र वा ऋणपत्रबाट प्राप्त आय, जसमा यस्तो प्रतिभूतिहरु (सेक्युरिटीहरु), बन्धकपत्रहरु वा डिबेन्चरहरु वापत दिइने प्रिमियम अथवा पुरस्कारलाई समेत जनाउनेछ । यो दफाको प्रयोजनको लागि बिलम्ब शुल्कलाई व्याज मानिने छैन ।

६. उपधारा १ र २ को व्यवस्था व्याज प्राप्त गर्ने मालिक एउटा संविदाकारी देशको बासिन्दा भई अर्को संविदाकारी देश जहाँ व्याज आर्जन हुन्छ, मा रहेको कुनै स्थायी संस्थापनको माध्यमबाट कारोबार संचालन गरेको छ अथवा त्यो दोस्रो देशमा रहेको एउटा निश्चित स्थानबाट स्वतन्त्र व्यक्तिगत सेवाहरु सम्पन्न गर्दछ र त्यस्तो ऋणदावी जस बापतको व्याज भुक्तानी प्रभावकारी रुपमा सम्बन्धित हुन्छ भने निम्नलिखित अवस्थामा लागू हुने छैन:-

(क) त्यस्तो स्थायी संस्थापन अथवा निश्चित स्थानसंग, वा

(ख) धारा ७ को उपधारा १ को खण्ड (ग) मा उल्लिखित व्यापारिक क्रियाकलापहरुसंग ।

त्यस्तो अवस्थामा स्थिति अनुसार धारा ७ वा १४ का व्यवस्थाहरु लागू हुनेछन् ।

७. कुनै संविदाकारी देशमा व्याज त्यस बखत आर्जन भएको मानिनेछ जव त्यो देश आफै, सो संविदाकारी देशको कुनै स्थानीय निकाय अथवा त्यो देशको बासिन्दाबाट व्याज भुक्तानी हुन्छ । तर, जब व्याज भुक्तानी गर्ने व्यक्ति त्यो संविदाकारी देशको बासिन्दा रहेछ वा रहेनछ भने पनि त्यस संविदाकारी देशमा कुनै स्थायी संस्थापन अथवा निश्चित स्थान रहेछ र जसको सम्बन्धमा त्यो ऋण लिइएको र त्यसमा व्याज भुक्तानी गरिएको रहेछ तथा यस प्रकारको व्याज त्यो स्थायी संस्थापन अथवा निश्चित स्थानबाट व्यहोरिन्छ भने त्यस अवस्थामा यस्तो प्रकारको व्याज त्यस्तो देशमा आर्जन भएको मानिनेछ जसमा त्यो स्थायी संस्थापन अथवा निश्चित स्थान अवस्थित छ ।
८. जहाँ व्याज भुक्तानी गर्ने तथा प्राप्त गर्नेहरुबीच अथवा ती दुबैको बीच अथवा कुनै अर्को व्यक्तिको बीच विशेष प्रकारको सम्बन्ध भएको कारणबाट भुक्तानी गरिएको व्याजको रकम, त्यस्तो ऋणदावीलाई ध्यानमा राखेर जसको लागि व्याजको रकम भुक्तानी गरिएको छ त्यो रकम भन्दा बढी हुन्छ जसको लागि यस्तो प्रकारको सम्बन्ध नभएको स्थितिमा भुक्तानी गरिने अथवा प्राप्त गर्ने बीच सहमति हुने रकम, त्यस अवस्थामा यस धाराको व्यवस्था केवल अन्त्यमा उल्लेख गरिएको रकममा मात्र लागू हुनेछ । त्यस अवस्थामा भुक्तानीको अतिरिक्त भाग यस सम्झौताको अन्य धाराहरुको अधीनमा रही प्रत्येक संविदाकारी देशहरुको आ-आफ्नो कानून अनुसार करयोग्य हुनेछ ।

धारा १२

रोयल्टी

१. एउटा संविदाकारी देशमा आर्जन भएर अर्को संविदाकारी देशको बासिन्दालाई भुक्तानी गरिने रोयल्टीहरुमा त्यस्तो अर्को देशमा कर लगाउन सकिनेछ ।
२. तर त्यस्तो रोयल्टी आर्जन हुने संविदाकारी देशको कानून अनुसार पनि कर लगाउन सकिनेछ तर यदि रोयल्टी प्राप्तकर्ता रोयल्टीको अख्तियार प्राप्त मालिक भएमा यसरी लगाइने कर कूल रोयल्टीको १५ प्रतिशत भन्दा बढी हुने छैन ।
३. यस धारामा "रोयल्टी" भन्ने शब्दले साहित्यिक, कलात्मक वा वैज्ञानिक कार्यहरु, जस्मा चलचित्र

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फिल्म, फोनोग्राफिक रेकर्डहरू वा रेडियो वा दूरदर्शन प्रसारणको लागि फिल्महरू वा टेप, कुनै पनि प्रतिलिपि अधिकार, कुनै पनि पेटेन्ट ट्रेडमार्क, डिजाइन अथवा मोडेल, योजना, गोप्य सुत्र अथवा प्रकृत्याको प्रयोग अथवा प्रयोगाधिकारको प्रतिफलको रूपमा अथवा औद्योगिक व्यापारिक अथवा वैज्ञानिक उपकरणको प्रयोगको लागि अथवा प्रयोगाधिकारको लागि अथवा औद्योगिक व्यापारिक अथवा वैज्ञानिक अनुभवसंग सम्बन्धित जानकारी समेतको लागि प्राप्त भएको कुनै प्रकारको भुक्तानीलाई जनाउँछ ।

४. उपधारा १ र २ का व्यवस्था, यदि रोयल्टी प्राप्तकर्ता एउटा संविदाकारी देशको बासिन्दा भई अर्को संविदाकारी देशमा जस्मा रोयल्टी वितरण गर्ने कम्पनी बासिन्दा छ, त्यहाँ रहेको कुनै स्थायी संस्थापनको माध्यमबाट कारोबार संचालन गर्दछ अथवा त्यो दोस्रो देशमा रहेको एउटा निश्चित स्थानबाट स्वतन्त्र वैयक्तिक सेवाहरू सम्पन्न गर्दछ र अधिकार, सम्पत्ति वा करार बापत रोयल्टी भुक्तानी गरिएको र त्यो यस्तो प्रकारको स्थायी संस्थापन अथवा निश्चित स्थानबाट प्रभावकारी रूपमा सम्बन्धित छ भने त्यस्तो स्थितिमा लागू हुने छैन । त्यस्तो अवस्थामा धारा ७ वा १४ का व्यवस्थाहरू लागू हुनेछन् ।
५. कुनै संविदाकारी देशमा रोयल्टी त्यस बखत आर्जन भएको मानिनेछ जब रोयल्टी भुक्तानीकर्ता देश आफैँ कुनै राजनैतिक उप-विभाजन, कुनै स्थानीय प्रशासकीय निकाय अथवा त्यो देशको बासिन्दा हुन्छ । तर जब रोयल्टी भुक्तानी गर्ने व्यक्ति त्यो संविदाकारी देशको बासिन्दा भई वा नभई त्यस संविदाकारी देशमा कुनै स्थायी संस्थापन अथवा निश्चित स्थान रहेको कारणबाट त्यस्तो रोयल्टी प्राप्त गर्दछ भने र त्यस्तो रोयल्टी त्यस्ता स्थायी संस्थापन वा निश्चित स्थानबाट व्यहोरिन्छ भने त्यस्तो अवस्थामा यस्तो प्रकारको रोयल्टी त्यस्तो संविदाकारी देशमा आर्जन भएको मानिनेछ जस्मा त्यो स्थायी संस्थापन अथवा निश्चित स्थान अवस्थित छ ।
६. रोयल्टी भुक्तानी गर्ने तथा प्राप्त गर्नेहरूबीच अथवा ती दुबै थरी र अन्य व्यक्तिहरू बीच विशेष सम्बन्ध भएको कारणले रोयल्टीको रकम प्रयोगको अधिकार वा सूचना बापत तिर्नु पर्ने कुरालाई हृदयंगम गर्दै रोयल्टी भुक्तानी गर्ने तथा प्राप्त गर्ने व्यक्तिहरूबीच त्यस्तो विशेष सम्बन्ध नभएको अवस्थामा मन्जुर गरिने रकम भन्दा बढी हुन गएको अवस्थामा यो धाराको प्रावधानहरू पछिल्लो रकमको सम्बन्धमा मात्र लागू हुनेछन् । यस अवस्थामा, त्यस्तो बढी रकममा अन्य धाराका व्यवस्थाहरूलाई मध्ये नजर राख्दै प्रत्येक संविदाकारी देशको कानून अनुसार कर लगाइनेछ ।

धारा १३

पूँजीगत लाभ

१. कुनै संविदाकारी देशको बासिन्दाले धारा ६ मा उल्लिखित तथा अर्को संविदाकारी देशमा रहेको अचल सम्पत्तिको विक्री-हस्तान्तरणबाट प्राप्त गरेको लाभमा त्यस्तो अर्को देशमा कर लगाउन सकिनेछ ।
२. एउटा संविदाकारी देशको उद्यमको अर्को संविदाकारी देशमा रहेको स्थायी संस्थापनको व्यापारीक सम्पत्तिको भागको रूपमा रहेको चल सम्पत्तिको विक्री-हस्तान्तरणबाट प्राप्त लाभ अथवा निश्चित कारोवारस्थलसंग सम्बद्ध चल सम्पत्तिको सम्बन्धमा, जुन निश्चित कारोवार स्थल एउटा

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- संविदाकारी देशको वासिन्दालाई अर्को संविदाकारी देशमा स्वतन्त्र वैयक्तिक सेवा संचालन निमित्त उपलब्ध छ, त्यस्तो निश्चित कारोबार स्थल वा त्यस्तो स्थायी संस्थापन (एकल वा सम्पूर्ण उद्यम सहित) को विक्री हस्तान्तरणबाट प्राप्त लाभमा सो अर्को देशमा कर लगाउन सकिनेछ ।
३. कुनै संविदाकारी देशको वासिन्दाले अन्तर्राष्ट्रिय परिवहनमा संचालनमा रहेको पानीजहाज वा हवाईजहाजको विक्री हस्तान्तरणबाट वा सो पानीजहाज वा हवाईजहाजको संचालनसंग सम्बन्धित चल सम्पत्तिबाट प्राप्त गरेको लाभमा त्यस देशमा मात्र कर लाग्नेछ ।
 ४. पच्चिस प्रतिशत वा सो भन्दा बढि सहभागिताको प्रतिनिधित्व गर्ने कुनै कम्पनीको स्टक वा शेयरहरुको विक्री-हस्तान्तरणबाट प्राप्त लाभमा त्यस संविदाकारी देशमा कर लगाउन सकिनेछ जाहाँ तिनीहरु जारी भएकाछन् ।
 ५. माथिका उपधाराहरुमा उल्लेख भए बाहेकका अन्य सम्पत्तिको विक्री-हस्तान्तरणबाट प्राप्त लाभमा विक्री-हस्तान्तरणकर्ता वासिन्दा रहेको संविदाकारी देशमा मात्र कर लाग्नेछ ।
 ६. "विक्री-हस्तान्तरण" भन्नाले सम्बन्धित संविदाकारी देशहरुको प्रचलित कानून अन्तर्गत कुनै सम्पत्तिको बिक्री, आदान-प्रदान, हस्तान्तरण वा त्याग वा त्यस्मा कुनै अधिकारको समाप्ती वा त्यस्को अनिवार्य प्राप्ती सम्भन्नु पर्छ ।

धारा १४

स्वतन्त्र वैयक्तिक सेवाहरु

१. कुनै व्यवसायिक सेवाहरु अथवा स्वतन्त्र प्रकृतिका अन्य क्रियाकलापहरुबाट कुनै संविदाकारी देशको कुनै वासिन्दाले आय आर्जन गरेमा र यदि अर्को संविदाकारी देशमा उसको क्रियाकलापहरु चलाउन नियमित रुपमा निश्चित स्थान उपलब्ध छैन वा ऊ सो अर्को देशमा बाह्र महिनाको अवधिभित्र जम्मा जम्मी ९० दिन भन्दा बढी अवधि वा अवधिहरुसम्म बसोबास गरेको छैन भने त्यहि देशमा मात्र कर लाग्नेछ । यदि उसको अर्को देशमा त्यस्तो निश्चित स्थान भएमा वा माथि उल्लिखित अवधि वा अवधिहरुसम्म बसोबास गरेको भए उसको आयमा अर्को देशमा लगाउन सकिनेछ तर यसरी कर लगाउँदा सो निश्चित स्थानबाट हुनेआय वा उपयुक्त बमोजिमको समयावधिमा अर्को देशमा गरेको आय जति सम्ममा मात्र कर लगाइने छ ।
२. "व्यवसायिक सेवा" भन्नाले विशेष गरी स्वतन्त्र वैज्ञानिक, साहित्यिक, कलात्मक, शैक्षिक अथवा अध्यापन सम्बन्धी क्रियाकलाप तथा चिकित्सक, वकील, इन्जिनियर, वास्तुविद, दन्त चिकित्सक तथा लेखापालको रुपमा गरिने स्वतन्त्र क्रियाकलापलाई जनाउँछ ।

धारा १५

आश्रित वैयक्तिक सेवाहरु

१. धारा १६, १८ र १९ को अधीनमा रही कुनै संविदाकारी देशको वासिन्दाले कुनै रोजगारीको

सम्बन्धमा प्राप्त गरेको तलब, ज्याला तथा यस्तै प्रकारको अन्य पारिश्रमिकमा वा रोजगारी अर्को संविदाकारी देशमा रोजगारी नगरेसम्म केवल त्यसै देशमा मात्र कर लाग्न सक्नेछ । यदि यस प्रकारको रोजगारी अर्को संविदाकारी देशमा गरिएको छ भने त्यसबाट प्राप्त त्यस्तो पारिश्रमिकमा त्यस्तो अर्को संविदाकारी देशमा पनि कर लगाउन सकिनेछ ।

२. उपधारा १ मा जुसुकै व्यवस्था गरिएको भए तापनि एउटा संविदाकारी देशको कुनै बासिन्दाद्वारा दोस्रो संविदाकारी देशमा गरिएको रोजगारीको सम्बन्धबाट प्राप्त पारिश्रमिकमा केवल पहिलो उल्लेखित देशमा मात्र कर लाग्नेछ, यदि,
 - (क) प्राप्तकर्ता कुनै बाह्र महिनाको अवधिभित्र जम्मा ९० दिन भन्दा कम अवधि वा अवधिहरूको लागि दोस्रो देशमा बसोबास गरेको भए, र
 - (ख) पारिश्रमिकको भुक्तानी त्यस्तो रोजगारदाता जो दोस्रो देशको वासिन्दा होइन वा निजको तर्फबाट दिएको भए, र
 - (ग) पारिश्रमिक रोजगारदाताको दोस्रो देशमा अवस्थित कुनै स्थायी संस्थापन वा निश्चित स्थानद्वारा बहन गरिदैन ।
३. यस धाराको उपर्युक्त व्यवस्थाहरूमा जे सुकै उल्लेख भएको भए तापनि कुनै संविदाकारी देशको उच्चमद्वारा अन्तर्राष्ट्रिय यातायातमा परिचालित पानीजहाज वा हवाईजहाजमा गरेको रोजगारीबाट प्राप्त गरेको पारिश्रमिकमा केवल त्यही संविदाकारी देशमा मात्र कर लाग्नेछ ।

धारा १६

संचालकहरूको शुल्क

१. एउटा संविदाकारी देशको कुनै बासिन्दाद्वारा अर्को संविदाकारी देशको बासिन्दा रहेको कम्पनीको संचालक समितिको सदस्यको हैसियतमा प्राप्त गरेको शुल्क तथा त्यस्तै प्रकारको भुक्तानीहरूमा दोस्रो संविदाकारी देशमा कर लाग्न सक्नेछ ।
२. एउटा संविदाकारी देशको कुनै बासिन्दाद्वारा अर्को संविदाकारी देशको बासिन्दा रहेको कम्पनीको उच्च तहको व्यवस्थापकीय पदको अधिकारीको हैसियतमा प्राप्त गरेको तलब, ज्याला तथा यस्तै प्रकारको अन्य पारिश्रमिकमा दोस्रो संविदाकारी देशमा कर लाग्न सक्नेछ ।

धारा १७

कलाकार एवं खेलाडीहरू

१. धारा १४ र १५ मा जेसुकै व्यवस्था गरिएको भए तापनि, सार्वजनिक प्रमोदक जस्तै थिएटर, चलचित्र, रेडियो वा टेलिभिजन कलाकार तथा संगितज्ञ वा खेलाडीहरूले अर्को संविदाकारी देशमा प्रदर्शित आफ्नो यस्तो प्रकारको व्यक्तिगत क्रियाकलापबाट प्राप्त आयमा सो अर्को देशमा कर लाग्न सक्नेछ ।

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२. जब कुनै प्रमोदक वा खेलाडीले आफ्नो यस प्रकारको क्रियाकलापको सम्बन्धमा प्राप्त गरेको आय स्वयं प्रमोदक वा खेलाडीलाई प्राप्त नभई कुनै व्यक्तिलाई प्राप्त भएमा त्यस्तो आयमा धारा ७, १४ र १५ मा जेसुकै लेखिएको भए तापनि त्यस्तो संविदाकारी देशमा कर लाग्नेछ जस्मा प्रमोदक वा खेलाडीले आफ्नो कौशल प्रदर्शन गरेको हुन्छ ।
३. उपधारा १ र २ मा जेसुकै व्यवस्था गरिएको भए तापनि संविदाकारी देशहरु बीचको कुनै साँस्कृतिक सम्झौता वा प्रबन्ध अन्तर्गत कुनै देशमा उपधारा १ मा उल्लिखित क्रियाकलापबाट आर्जन गरेको आयमा यदि, सो देशको भ्रमणको लागि संविदाकारी देश, स्थानीय निकाय वा सार्वजनिक संस्थाले पूर्ण वा तहाँको अधिकांश खर्च व्यहोरेको भए, त्यस्तो क्रियाकलाप भएको संविदाकारी देशमा कर छुट दिइनेछ ।

धारा १८

निवृत्तिभरण तथा सामाजिक सुरक्षा सम्बन्धी भुक्तानी

१. धारा १९ को उपधारा २ को अधिनमा रही एउटा संविदाकारी देशको कुनै बासिन्दालाई अर्को संविदाकारी देशको स्रोतबाट विगतमा सो देशमा गरेको नोकरी वा सेवाहरु बापत कुनै निवृत्तिभरण वा यस्तै प्रकारको पारिश्रमिक भुक्तानी गरिदा र त्यस्तो बासिन्दालाई त्यस्तो स्रोतबाट भुक्तानी गरिएको कुनै वार्षिक वृत्तिमा त्यस्तो अर्को देशमा कर लाग्न सक्नेछ ।
२. "वार्षिक वृत्ति" भन्नाले तोकिएको रकम आवधिक रुपमा तोकिएको समयमा भुक्तानी पाउने गरी जीवनभर प्राप्त गर्ने वा निश्चित समय वा निर्दिष्ट समयावधिको लागि नगद वा नगद बराबरको पर्याप्त वा पूरै मूल्य कुनै रकम तिर्न पर्ने दायित्व निर्वाह गर्नलाई प्रदान गरिने रकमलाई जनाउने छ ।
३. उपधारा १ मा जेसुकै भनिएको भए तापनि कुनै संविदाकारी देशको सामाजिक सुरक्षा प्रणालीको एक भागको रुपमा सार्वजनिक योजना अन्तर्गत दिइएको निवृत्तिभरण तथा अन्य भुक्तानीहरुमा सोही देशमा मात्र कर लाग्नेछ ।

धारा १९

सरकारी सेवा

- १ (क) कुनै संविदाकारी देशको सरकार वा स्थानीय निकायले निवृत्तिभरण दिए बाहेक सो देश वा निकायलाई कुनै व्यक्तिले सेवा गरे बापत प्राप्त गर्ने पारिश्रमिकमा सेवा प्रदान गरेको देशमा मात्र कर लाग्नेछ ।
- (ख) माथी जे भनिएतापनि यदि सेवा प्रदान गर्ने व्यक्ति एक देशको बासिन्दा भई अर्को देशमा सेवा

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आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएको छ, मात्र लागु हुनेछ।

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प्रदान गर्दछ भने देहायको अवस्थामा त्यस्तो सेवा गरी प्राप्त गरेको पारिश्रमिकमा अर्को देशमा मात्र कर लाग्नेछ,

१. यदि त्यो व्यक्ति त्यस देशको नागरिक हो, वा
२. यस्ता सेवा प्रदान गर्नका लागि मात्रै त्यस देशको वासिन्दा भएको होइन भने ।
२. संविदाकारी देशको सरकार वा स्थानीय निकायको कोषबाट कुनै व्यक्तिलाई त्यो देशमा वा निकायमा सेवा गरे बापत भुक्तानी गरेको निवृत्तिभरणमा त्यही देशमा मात्र कर लाग्नेछ ।
३. धारा १५, १६ र १८ का व्यवस्थाहरु संविदाकारी देश वा स्थानीय निकायले संचालन गरेका कारोबार सम्बन्धमा प्रदान गरेको सेवा बापत प्राप्त पारिश्रमिक र निवृत्तिभरणमा मात्र लागू हुने छन् ।
४. यो धाराको प्रयोजनको लागि "सरकार" भन्नाले कुनै संविदाकारी देशका राज्य सरकार वा स्थानीय निकाय तथा ती संविदाकारी देशका केन्द्रीय बैंक समेतलाई सम्झनु पर्दछ ।

धारा २०

अध्यापक तथा अनुसन्धानकर्ताहरु

१. कुनै प्राध्यापक, अध्यापक वा अनुसन्धानकर्ता, जो कुनै विश्वविद्यालय, महाविद्यालय, विद्यालय वा मान्यताप्राप्त शैक्षिक संस्थानमा अध्यापन वा अनुसन्धान कार्यको प्रयोजनको लागि कुनै संविदाकारी देशमा अस्थायी भ्रमण गर्दछ र जो दोस्रो देशको निवासी छ वा त्यस्तो भ्रमण गर्नु भन्दा तत्काल पहिले दोस्रो देशको निवासी थियो भने त्यस्तो अध्यापन वा अनुसन्धान कार्य बापत प्राप्त गरेको पारिश्रमिकको सम्बन्धमा त्यो पहिलो संविदाकारी देशमा बढीमा दुई वर्षको लागि कर छुट हुनेछ ।
२. यो धारा कुनै अनुसन्धान कार्य जो कुनै खास व्यक्ति वा व्यक्तिहरुको व्यक्तिगत लाभको लागि गरिने अनुसन्धानबाट कुनै प्राध्यापक वा अध्यापकले प्राप्त गरेको पारिश्रमिकमा लागू हुनेछैन ।

धारा २१

विद्यार्थी तथा प्रशिक्षार्थी

१. कुनै विद्यार्थी, प्रशिक्षार्थी वा व्यवसायिक प्रशिक्षार्थी जो, कुनै एक संविदाकारी देशको भ्रमण गर्नु भन्दा तत्काल पहिले कुनै अर्को संविदाकारी देशको बासिन्दा छ वा थियो तथा जो आफ्नो शिक्षा तथा तालीमको प्रयोजनको लागि पहिले उल्लेखित देशमा उपस्थित छ भने उसको भरण पोषण, शिक्षा, तालीमको प्रयोजनको लागि भएको भुक्तानीमा उक्त देशमा कर लाग्ने छैन, तर त्यस्तो

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आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागू हुनेछ।

भुक्तानी सो देश भन्दाबाहिरको श्रोतबाट आएको हुनुपर्दछ ।

२. कुनै प्राकृतिक व्यक्ति, जो कुनै एक संविदाकारी देशको वासिन्दा हो र अर्को संविदाकारी देशमा अस्थाई रूपमा उपस्थित छ र पहिलो उल्लेखित देशको वासिन्दाको कर्मचारीको रूपमा, वा करार अन्तर्गत अर्को संविदाकारी देशमा अस्थाई उपस्थित भएको, अथवा त्यस्तो अर्को देशको सरकारबाट प्रायोजित वा कुनै अन्तराष्ट्रिय संस्थाबाट मूलतः निम्न उद्देश्य भएको कार्यक्रममा सहभागीको रूपमा उपस्थित छ भने,

- (क) पहिलो उल्लेखित देशको वासिन्दा भन्दा बाहेक वा त्यस्तो वासिन्दासंग सम्बन्धित नरहेको अर्को व्यक्तिद्वारा प्राविधिक, पेशागत वा व्यवसायिक अनुभव हासिल गर्न, अथवा
- (ख) सो अर्को देशको विश्वविद्यालय वा अन्य मान्यता प्राप्त शैक्षिक संस्थामा अध्ययनार्थ रहेकोमा,

उस्को वैयक्तिक सेवाबाट आर्जन गरेको आयमा यदि, सो जम्मा जम्मी अमेरिकी डलर तीन हजार वा सो बराबर श्रीलंका रुपैया वा नेपाली रुपैयाँ भन्दा बढी नभएमा अर्को संविदाकारी देशमा बढीमा एक वर्षका लागि कर छुट पाउनेछ ।

धारा २२

अन्य आय

दुबै संविदाकारी देशमा लागू रहेका कानून यस सम्झौतामा स्पष्टतः अन्यथा व्यवस्था भएमा बाहेक आयको कराधानको लागि लागू नै रहनेछन् ।

धारा २३

देहोरो कराधानबाट मुक्ति

१. दुबै संविदाकारी देशमा लागू रहेका कानून आ-आफ्नो देशमा आयको कराधानको लागि लागू नै रहनेछन् । जब दुबै संविदाकारी देशमा उही आयमा कर लाग्ने अवस्था आई पर्दछ तब त्यस्तो आयमा यो धाराको देहायका उपधाराहरु बमोजिम द्वैध कराधानबाट मुक्ति दिइनेछ ।
२. यदि नेपालको कुनै वासिन्दाले श्रीलंकाबाट आय आर्जन गरेमा यस सम्झौताको व्यवस्थाहरु अनुसार श्रीलंकामा लाग्ने कर वमोजिमको कर लगाउन सकिनेछ, यसरी सो आयको सम्बन्धमा श्रीलंकामा तिर्नु परेको कर सो वासिन्दालाई उक्त आयको सम्बन्धमा नेपालमा लागेको करमा कटौती गर्न दिइनेछ । तर यस्तो कर कटौती त्यस्तो आयमा लाग्ने नेपाल करको अंश भन्दा बढी हुनेछैन ।
३. यदि श्रीलंकाको कुनै वासिन्दाले नेपालबाट आय आर्जन गरेमा यस सम्झौताको व्यवस्थाहरु अनुसार नेपालमा लाग्ने कर वमोजिमको कर लगाउन सकिनेछ, यसरी सो आयको सम्बन्धमा

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आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएको छ, मात्र लागू हुनेछ।

नेपालमा तिर्नु परेको कर सो बासिन्दालाई उक्त आयको सम्बन्धमा श्रीलंकामा लागेको करमा कटौती गर्न दिइनेछ । तर यस्तो कर कटौती त्यस्तो आयमा लाग्ने श्रीलंका करको अंश भन्दा बढी हुनेछैन ।

४. कुनै संविदाकारी देशमा करकटौती (क्रेडिट) प्रयोजनकोलागि अर्को संविदाकारी देशमा तिरेको कर सो देशको करमा समावेस भए सरह मानिनेछ जुन कर त्यस्तो अर्को देशमानै तिर्नुपर्ने हुन्छ तर सो देशले कर सुविधा दिने कानूनी प्रावधान अन्तर्गत घटाएको वा छोडिदिएको हुन्छ ।

धारा २४

सम व्यवहार

१. एक संविदाकारी देशका नागरिक उपर अर्को संविदाकारी देशमा त्यस्तो अर्को संविदाकारी देशका नागरिकहरुमाथी यस्तै परिस्थितिमा लागू रहेका वा गरिने कराधान व्यवस्था अथवा तत्सम्बन्धी शर्तहरु भन्दा भारपूर्ण अथवा फरक कराधान व्यवस्था वा तत्सम्बन्धी शर्तहरु लागू गरिने छैनन् ।
२. एक संविदाकारी देशको उद्यमको अर्को संविदाकारी देशमा स्थित स्थायी संस्थापनलाई लगाइने कर त्यस्तो अर्को संविदाकारी देशमा उस्तै क्रियाकलाप संचालन गरिरहेको उद्यमलाई लगाइने कर भन्दा कम अनुकूल गरी लगाइने छैन । यो व्यवस्थाले कुनै पनि संविदाकारी देशलाई त्यस्तो देशको बासिन्दा नभएका व्यक्तिहरुलाई आफ्नो बासिन्दा सरह सामाजिक स्तर वा पारिवारिक जिम्मेवारीका आधारमा व्यक्तिगत छूट, सहूलियतहरु, करमा कमी वा कटौती दिनलाई बाध्य गराउने भनी ठान्न मिल्ने छैन ।
३. एक संविदाकारी देशको उद्यमहरु, जसको पूँजी पूर्णतः अथवा आंशिक रुपमा अर्को संविदाकारी देशको एक अथवा एक भन्दा बढी निवासीहरुको प्रत्यक्षतः अथवा अप्रत्यक्षतः स्वामित्व अथवा नियन्त्रणमा छ भने प्रथम उल्लेखित देशमा रहेका उद्यमहरुमा लागू रहेका भन्दा भिन्नै अथवा बढी भारपूर्ण कराधान वा शर्तहरु लगाइने छैनन् ।
४. यस धारामा "कराधान" शब्दको अर्थ यस सम्झौताको विषयभित्र पर्ने करहरुलाई जनाउने छ ।

धारा २५

पारस्परिक सम्झौताको कार्यविधि

१. कुनै संविदाकारी देशको कुनै बासिन्दालाई एक अथवा दुबै संविदाकारी देशहरुको कारबाहीहरुको कारणबाट उसलाई जुन कर लागेको छ अथवा लगाइन्छ सो यो सम्झौताको व्यवस्था अनुरूप छैन भन्ने लागेमा उसले ती देशहरुको राष्ट्रिय कानूनद्वारा व्यवस्थित उपायहरु जेसुकै भए तापनि आफ्नो मार्का ऊ बासिन्दा भएको संविदाकारी देशको अधिकार प्राप्त अधिकारी समक्ष वा यदि उसको मार्का धारा २४ को उपधारा १ अन्तर्गत पर्दछ भने आफू नागरिक रहेको संविदाकारी देश

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आधिकारिकता मद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागू हुनेछ।

- समक्ष प्रस्तुत गर्न सक्नेछ । यस सम्झौताको व्यवस्था बमोजिम कर नलगाइए बापतको यस्तो उजुरी कराधानको परीणामको कार्यको प्रथम सूचना प्राप्त भएको मितिबाट दुई वर्षभित्र प्रस्तुत गर्नुपर्नेछ ।
२. यदि यस्तो उजुरी त्यस्तो अधिकार प्राप्त अधिकारीलाई मनासिव लागे पनि आफू स्वयं सन्तोषजनक निष्कर्षमा पुग्न असमर्थ भएमा त्यस्तो अधिकारीले अर्को संविदाकारी देशको अधिकार प्राप्त अधिकारीसंग सम्झौता अनुरूप नभएको द्वैध कराधान मुक्ति गराउने सहमति प्राप्त गर्न भर मगदुर प्रयत्न गर्नेछन् ।
 ३. यो सम्झौताको व्याख्या गर्न अथवा लागू गर्नमा यदि कुनै कठिनाइहरू अथवा शंकाहरू उत्पन्न भएमा संविदाकारी देशहरूको अधिकार प्राप्त अधिकारी त्यस्ता कठिनाई तथा शंकाहरूलाई पारस्परिक सहमतिबाट समाधान गर्ने प्रयास गर्नेछन् । उनीहरूले यस सम्झौतामा उल्लेख नभएका विषयहरूमा द्वैध कराधान मुक्तिको लागि परस्पर विचार विमर्श गर्न सक्नेछन् ।
 ४. माथिका उपधाराहरूले व्यवस्था गरेको कुराहरूको उद्देश्य प्राप्तिका लागि सहमति प्राप्त गर्न संविदाकारी देशका सक्षम अधिकारीहरूले आपसमा सोभै पत्र व्यवहार गर्न सक्नेछन् । सक्षम अधिकारीहरूले यस धारामा उल्लेख भएको परस्परिक सम्झौताको कार्यविधिको कार्यान्वयनको लागि परामर्शको माध्यमबाट उपयुक्त द्विपक्षीय कार्यविधिहरू शर्तहरू, पद्धतिहरू तथा तरिकाहरूको विकास गर्नेछन् ।

धारा २६

सूचनाको आदान प्रदान

१. संविदाकारी देशहरूका सक्षम अधिकारीले यस सम्झौता अन्तर्गतका कर सम्बन्धमा सम्झौताको विपरित नहुने गरी यो सम्झौता वा संविदाकारी देशहरूका आन्तरिक कानूनहरूको व्यवस्थाहरू कार्यान्वयन गर्नको साथै ती करहरू सम्बन्धी वित्तिय छल रोक्नका लागि आवश्यक सूचना आदान प्रदान गर्नेछन् । यस्तो सूचनाको आदान प्रदानलाई धारा १ले रोक लगाउने छैन । संविदाकारी देशद्वारा प्राप्त भएको कुनै सूचनालाई त्यो देशको आन्तरिक कानून बमोजिमकै तरिकाबाट गोप्य मानिनेछ । साथै त्यस्ता व्यक्तिहरू वा अधिकारीहरू (न्यायालय र प्रशासनिक निकाय समेत) समक्ष मात्र प्रस्तुत गरिनेछ जो यो सम्झौता अन्तर्गत ती करहरूको निर्धारण वा संकलन, कार्यान्वयन अथवा अभियोजन को बारेमा अथवा निर्धारणको पुनरावेदनसंग सम्बन्धित छन् । यस्ता व्यक्ति अथवा अधिकारीहरूले यी सूचनाको प्रयोग उपरोक्त उद्देश्यकालागि मात्र गर्नेछन् तर अदालती कारबाही तथा न्यायिक प्रयोजनको लागि मात्र प्रकट गर्न सक्नेछन् ।
२. कुनै पनि स्थितिमा संविदाकारी देशमाथि उपदफा १ को व्यवस्था बमोजिम निम्न लिखित दायित्व रहने छैन:-
 - (क) त्यो अथवा दोस्रो संविदाकारी देशको कानूनहरू अथवा प्रशासकीय प्रचलनबाट विचलित भई प्रशासनिक उपाय गर्नु,

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएको छ, मात्र लागू हुनेछ।

- (ख) त्यस्तो सूचना दिनु, जुन एउटा अथवा अर्को संविदाकारी देशहरुको कानून अन्तर्गत अथवा प्रशासनको सामान्य स्थितिमा प्राप्त छैन,
- (ग) यस्तो सूचना दिनु, जसबाट कुनै व्यापारिक, व्यवसायिक, औद्योगिक, व्यापारिक वा व्यवसायिक गोपनियता अथवा व्यापारीक प्रक्रिया वा सूचना जसलाई प्रकट गर्नु सरकारी नीतिको प्रतिकूल हुन्छ ।

धारा २७

कूटनैतिक प्रतिनिधि तथा कन्सुलर अधिकारीहरु

यो सम्झौतामा रहेका कुनै पनि व्यवस्थाहरुले कूटनैतिक प्रतिनिधिहरु तथा कन्सुलर अधिकारीहरुले अन्तर्राष्ट्रिय कानूनका सामान्य नियमहरु अथवा विशेष सम्झौता अन्तर्गतका व्यवस्थाहरु बमोजिम पाएका वित्तिय सुविधाहरुमा कुनै असर पार्ने छैनन् ।

धारा २८

प्रभावकारिता

१. प्रत्येक संविदाकारी देशले यो सम्झौतालाई प्रभावकारी पार्नको लागि आ-आफ्ना कानून अनुसार पुन्याउनु पर्ने कार्यविधिहरु पूरा भएपछि एक अर्कोले सो को सूचना अर्को संविदाकारी देशलाई प्रदान गर्नेछन् । यस्तो पछिल्लो सूचना प्राप्त गरेका मितिदेखि यो सम्झौता लागू हुनेछ ।
२. यो सम्झौताको व्यवस्था देहाय बमोजिम लागू हुनेछ:-
 - (क) श्रीलंकामा, यो सम्झौता प्रभावकारी भए पछिको अप्रिलको एक तारिख वा त्यस पछिका आयको हकमा,
 - (ख) नेपालमा, यो सम्झौता प्रभावकारी भए पछि नेपाली आर्थिक वर्ष शुरु भएको पहिलो दिन वा त्यस पछिका आयका हकमा ।

धारा २९

समाप्ति

यो सम्झौता कुनै संविदाकारी देशका तर्फबाट समाप्त नगरिएसम्म लागू रहनेछ । संविदाकारी देश मध्ये कुनै पनि देशले यो सम्झौता लागू भएको पाँच वर्ष समाप्त भएपछिको कुनै पनि

आधिकारिकता मुद्रण (१६) विमो गवाट प्रमाणित गरिएपछि मात्र लागू हुनेछ।

वर्षको तीस जुनको दिन वा त्यसभन्दा अघि कूटनैतिक माध्यमबाट समाप्तिको लिखित सूचना दिएर यस सम्झौतालाई समाप्त गर्न सक्नेछ । यस्तो स्थितिमा, यो सम्झौता देहाय बमोजिम भई निष्प्रभावि हुनेछ-

(क) श्रीलंकामा,

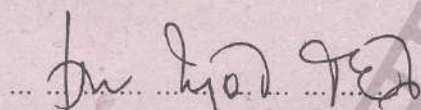
जुन वर्षमा समाप्तिको सूचना दिइएको छ सो पछिको अप्रिलको एक तारिख वा त्यस पछिका आयको हकमा,

(ख) नेपालमा,

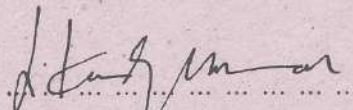
जुन वर्षमा समाप्तिको सूचना दिइएको छ सो पछिको नेपाली आर्थिक वर्ष शुरु भएको पहिलो दिन वा त्यस पछिका आयको हकमा ।

देहाय बमोजिमका साक्षीहरुको रोहबरमा विधिवत अधिकार प्राप्त गरेका तल हस्ताक्षर गर्ने हामीहरुले यो सम्झौतामा हस्ताक्षर गर्यौं ।

२०५६ साल आषाढ २२ गते मङ्गलवारमा दुई दुई प्रतिका दरले नेपाली, सिंहला र अंग्रेजी भाषाका तीनै प्रति बराबर मान्य हुने गरी सम्झौता सम्पन्न भयो । व्याख्यामा मतभिन्नता आएमा अंग्रेजी प्रति मान्य हुनेछ ।



श्री ५ को सरकार, नेपालको तर्फबाट



प्रजातान्त्रिक समाजवादी गणतन्त्र
श्रीलंका सरकारको तर्फबाट

सूचना २

श्री ५ को सरकार, नेपाल तथा गणतन्त्र मौरिसस सरकार बीच सम्बत् २०५६ साल श्रावण १८ गते तदनुसार अगष्ट ३, १९९९ का दिन सम्पन्न आयमा लाग्ने करका सम्बन्धमा दोहोरो करबाट मुक्ति तथा छल निरोध सम्बन्धी सम्झौता (Agreement between His Majesty's Government of Nepal and the Government of the Republic of Mauritius for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income) को अंग्रेजी भाषाको प्रामाणिक प्रति नेपाल सन्धि ऐन, २०४७ को दफा १२ को प्रयोजनका लागि प्रकाशन गरिएकोछ ।

AGREEMENT**BETWEEN****HIS MAJESTY'S GOVERNMENT OF NEPAL****AND****THE GOVERNMENT OF
THE REPUBLIC OF MAURITIUS****FOR****THE AVOIDANCE OF DOUBLE TAXATION****AND****THE PREVENTION OF FISCAL EVASION****WITH RESPECT TO TAXES ON INCOME**

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएकोछि मात्र लागु हुनेछ।

His Majesty's Government of Nepal and The Government of the Republic of Mauritius

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

PERSONAL SCOPE

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.
3. The existing taxes to which this Agreement shall apply are in particular
 - (a) in Nepal, the income tax imposed under the Income Tax Act, (hereinafter referred to as "Nepal tax");
 - (b) in Mauritius, the income tax, (hereinafter referred to as "Mauritius tax").
4. This Agreement shall also apply to any other taxes of a substantially similar character which are imposed by either Contracting State after the date of signature of this Agreement in addition to, or in place of, the existing taxes.
5. The competent authorities of the Contracting States shall notify each other of changes which have been made in their respective taxation laws, and if it seems desirable to amend any Article of this Agreement, without affecting the general principles thereof, the necessary amendments may be made by mutual consent by means of an Exchange of Notes.

Article 3

GENERAL DEFINITIONS

1. In this Agreement, unless the context otherwise requires:
 - (a) the term "Nepal " means the Kingdom of Nepal;
 - (b) the term "Mauritius" means the State of Mauritius as defined in the laws of Mauritius;
 - (c) the terms "a Contracting State" and "the other Contracting State" mean Mauritius 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 Nepal, the Minister of Finance or his authorised representative; and
 - (ii) in Mauritius, the Minister of Finance or his authorised representative;
 - (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 any individual having the citizenship or nationality of a Contracting State and any legal person, partnership (societe) 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, a trust and any other body of persons which is treated as an entity for tax purposes; and
 - (j) the term "tax" means Nepal tax or Mauritius tax, as the context requires .
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 the 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 reason 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 in accordance with the following rules:
 - (a) he shall be deemed to be a resident of the State in which he has 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 (center of vital interests);
 - (b) if the State in which he has his center of vital interests cannot be determined, or if he does not have a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
 - (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
 - (d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident 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" shall include:
 - (a) a place of management ;
 - (b) a branch;
 - (c) an office;
 - (d) a factory;

- (e) a workshop;
- (f) a warehouse;
- (g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- (h) an installation or structure used for the exploration of natural resources; and
- (i) a farm or plantation.

3. The term " permanent establishment" likewise encompasses:

- (a) a building site, construction or 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, use or activities last more than 183 days;
- (b) the furnishing of services, including technical, professional or 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 or display of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise; 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 6 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; or
 - (c) habitually secures orders in the first- mentioned State for the enterprise and other enterprises which are controlled by it or have a controlling interest in it.
6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. 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.
 7. For the avoidance of any doubt, 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 6 applies.
 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, is taxable in the Contracting State in which such property is situated.

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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 paragraph 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 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 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 money 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 money lent to the head office of the enterprise or any of its other offices.

4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such 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 of an enterprise from the operation or rental of ships or aircraft in international traffic and the rental of containers and related equipment which is incidental to the operation of ships or aircraft in international traffic shall be taxable only in 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 or boat, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship or boat is a resident.

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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 which holds directly at least 15 per cent of the capital of the company paying the dividends;
- (b) 10 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 10 per cent of the capital of the company paying the dividends;
- (c) 15 per cent of the gross amount of the dividends in all other cases.

The provisions of this paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the Contracting 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 a 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, 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.

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2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed:
 - (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 the Government of the other Contracting State, including a local authority thereof, the central bank, a bank or any financial institution controlled by that Government, shall be exempt from tax in the first-mentioned State.
4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article. The term "interest" shall not include any item which is treated as a dividend for the purposes of Article 10 of this Agreement.
5. 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.
6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, 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.
7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a case, the

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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 percent 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, 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 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 case, 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 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 permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the 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 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. 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 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 commencing or ending in the fiscal year concerned; and
 - (b) the remuneration is paid by, or on behalf of an employer who is not a resident of the other State; and
 - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16

DIRECTORS' FEES

1. Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the Board of Directors 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 SPORTSMEN

1. Notwithstanding the provisions of Articles 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 paragraph 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

1. Subject to the provisions of paragraph 2 of Article 19, pension and other similar payments arising in a Contracting State and paid in consideration of past employment to a resident of the other Contracting State, shall be taxable only in that other State.
2. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under a public scheme which is part of the social security system of a Contracting State 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, local authority or statutory body thereof to an individual in respect of services rendered to that State, authority or body 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, local authority or statutory body thereof to an individual in respect of services rendered to that State authority or body 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 provision of Articles 15, 16, 17 and 18 shall apply to salaries, wages and other similar remuneration, and to pension in respect of services rendered in connection with a business carried on by a Contracting State, local authority or statutory body thereof.

Article 20

PROFESSORS, TEACHERS AND RESEARCHERS

1. Notwithstanding the provisions of Article 15, a professor, teacher or researcher who makes a temporary visit to one of the Contracting States for a period not exceeding two years for the purpose of teaching or carrying out research at a university, college, school or other educational institution in that State and who is, or immediately before such visit was, a resident of the other Contracting State shall, in respect of remuneration for such teaching or research, be exempt from tax in the first-mentioned State, provided that such remuneration is derived by him from outside that State.

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

Article 21

STUDENTS AND BUSINESS APPRENTICES

1. A student or business apprentice who is present in a Contracting State solely for the purpose of his education or training and who is, or immediately before being so present was, a resident of the other Contracting State, shall be exempt from tax in the first-mentioned State on payments received from outside that first-mentioned State for the purposes of his maintenance, education or training.
2. An individual who is a resident of one of the Contracting States at the time he becomes temporarily present in the other Contracting State and who 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.

Article 22

OTHER INCOME

1. Subject to the provisions of paragraph 2 of this Article, 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 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 a right or property in

respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such a 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 23

ELIMINATION OF DOUBLE TAXATION

Double taxation shall be eliminated as follows:

1. In the case of Nepal:

- (a) Where a resident of Nepal derives income from Mauritius the amount of tax on that income payable in Mauritius in accordance with the provisions of this Agreement may be credited against the Nepal tax imposed on that resident;
- (b) Where a company which is a resident of Mauritius pays a dividend to a resident of Nepal who controls, directly or indirectly at least 5% of the capital of the company paying the dividend, the credit shall take into account (in addition to any Mauritius tax for which credit may be allowed under the provisions of subparagraph (a) of this paragraph) the Mauritius tax payable by the first-mentioned company in respect of the profits out of which such dividend is paid;

Provided that any credit allowed under subparagraphs (a) and (b) shall not exceed the Nepal tax (as computed before allowing any such credit), which is appropriate to the profits or income derived from sources within Mauritius.

2. In the case of Mauritius :

- (a) Where a resident of Mauritius derives income from Nepal the amount of tax on that income payable in Nepal in accordance with the provisions of this Agreement may be credited against the Mauritius tax imposed on that resident;
- (b) Where a company which is a resident of Nepal pays a dividend to a resident of Mauritius who controls, directly or indirectly at least 5% of the capital of the company paying the dividend, the credit shall take into account (in addition to any Nepal tax for which credit may be allowed under the provisions of subparagraph (a) of this paragraph) the Nepal tax payable by the first-mentioned company in respect of the profits out of which such dividend is paid;

Provided that any credit allowed under subparagraphs (a) and (b) shall not exceed the Mauritius tax (as computed before allowing any such credit), which is appropriate to the profits or income derived from sources within Nepal.

3. For the purposes of allowance as a credit the tax payable in Mauritius or Nepal as the context requires, shall be deemed to include the tax which is otherwise payable in either of the two Contracting States but has been reduced or waived by either State in order to promote its economic development.

Article 24

NON-DISCRIMINATION

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation of 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.
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. Nothing in this Article shall be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reduction for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
5. In this Article the term "taxation" means taxes which are the subject of this Agreement.

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 percent 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, 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 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 case, 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 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

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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 permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the 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 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. 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 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 commencing or ending in the fiscal year concerned; and
 - (b) the remuneration is paid by, or on behalf of an employer who is not a resident of the other State; and
 - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16

DIRECTORS' FEES

1. Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the Board of Directors 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 SPORTSMEN

1. Notwithstanding the provisions of Articles 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 paragraph 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

1. Subject to the provisions of paragraph 2 of Article 19, pension and other similar payments arising in a Contracting State and paid in consideration of past employment to a resident of the other Contracting State, shall be taxable only in that other State.
2. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under a public scheme which is part of the social security system of a Contracting State 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, local authority or statutory body thereof to an individual in respect of services rendered to that State, authority or body 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, local authority or statutory body thereof to an individual in respect of services rendered to that State authority or body 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 provision of Articles 15, 16, 17 and 18 shall apply to salaries, wages and other similar remuneration, and to pension in respect of services rendered in connection with a business carried on by a Contracting State, local authority or statutory body thereof.

Article 20

PROFESSORS, TEACHERS AND RESEARCHERS

1. Notwithstanding the provisions of Article 15, a professor, teacher or researcher who makes a temporary visit to one of the Contracting States for a period not exceeding two years for the purpose of teaching or carrying out research at a university, college, school or other educational institution in that State and who is, or immediately before such visit was, a resident of the other Contracting State shall, in respect of remuneration for such teaching or research, be exempt from tax in the first-mentioned State, provided that such remuneration is derived by him from outside that State.

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

Article 21

STUDENTS AND BUSINESS APPRENTICES

1. A student or business apprentice who is present in a Contracting State solely for the purpose of his education or training and who is, or immediately before being so present was, a resident of the other Contracting State, shall be exempt from tax in the first-mentioned State on payments received from outside that first-mentioned State for the purposes of his maintenance, education or training.
2. An individual who is a resident of one of the Contracting States at the time he becomes temporarily present in the other Contracting State and who 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.

Article 22

OTHER INCOME

1. Subject to the provisions of paragraph 2 of this Article, 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 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 a right or property in

respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such a 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 23

ELIMINATION OF DOUBLE TAXATION

Double taxation shall be eliminated as follows:

1. In the case of Nepal:

- (a) Where a resident of Nepal derives income from Mauritius the amount of tax on that income payable in Mauritius in accordance with the provisions of this Agreement may be credited against the Nepal tax imposed on that resident;
- (b) Where a company which is a resident of Mauritius pays a dividend to a resident of Nepal who controls, directly or indirectly at least 5% of the capital of the company paying the dividend, the credit shall take into account (in addition to any Mauritius tax for which credit may be allowed under the provisions of subparagraph (a) of this paragraph) the Mauritius tax payable by the first-mentioned company in respect of the profits out of which such dividend is paid;

Provided that any credit allowed under subparagraphs (a) and (b) shall not exceed the Nepal tax (as computed before allowing any such credit), which is appropriate to the profits or income derived from sources within Mauritius.

2. In the case of Mauritius :

- (a) Where a resident of Mauritius derives income from Nepal the amount of tax on that income payable in Nepal in accordance with the provisions of this Agreement may be credited against the Mauritius tax imposed on that resident;
- (b) Where a company which is a resident of Nepal pays a dividend to a resident of Mauritius who controls, directly or indirectly at least 5% of the capital of the company paying the dividend, the credit shall take into account (in addition to any Nepal tax for which credit may be allowed under the provisions of subparagraph (a) of this paragraph) the Nepal tax payable by the first-mentioned company in respect of the profits out of which such dividend is paid;

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आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएको छ, मात्र लागु हुनेछ।

Provided that any credit allowed under subparagraphs (a) and (b) shall not exceed the Mauritius tax (as computed before allowing any such credit), which is appropriate to the profits or income derived from sources within Nepal.

3. For the purposes of allowance as a credit the tax payable in Mauritius or Nepal as the context requires, shall be deemed to include the tax which is otherwise payable in either of the two Contracting States but has been reduced or waived by either State in order to promote its economic development.

Article 24

NON-DISCRIMINATION

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation of 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.
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. Nothing in this Article shall be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reduction for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
5. In this Article the term "taxation" means taxes which are the subject of this Agreement.

(६६)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

- (b) any international agreement of arrangement relating wholly or mainly to taxation or any domestic legislation relating wholly or mainly to taxation.
- (4) Each Contracting party shall observe the obligations under its laws and under this Agreement which bind the Contracting Party and its investors and the investors of the other Contracting party in matters relating to investments.

ARTICLE 5

COMPENSATION FOR LOSSES

- (1) Investors of either Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to war or other armed conflict, revolution, a state of national emergency, revolt, insurrection or riot in the territory of the later Contracting Party shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification, compensation or other settlement, not less favorable than that which the later Contracting Party accords to its own investors or to investors of any third State.
- (2) Without derogating from the provisions of paragraph (1) of this Article, investors of either Contracting Party who, in any of the situations referred to in that paragraph, suffer losses in the territory of the other Contracting Party resulting from:
 - (a) requisitioning of their property by the forces or authorities of the latter Contracting Party, acting under and within the scope of the legal provisions to their competencies, duties and command structures; or
 - (b) destruction of their property by the forces or authorities of the latter Contracting Party, which was not caused in combat action or was not required by the necessity of the situation or observance of any legal requirement;

shall be accorded restitution or adequate compensation, not less favourable than that which the latter Contracting Party accords to its own investors or to investors of any third State.

Article 6

EXPROPRIATION

- (1) Investments of investors of either Contracting Party in the territory of the other Contracting Party shall not be nationalized, expropriated or subjected to measures having effects equivalent to nationalization or expropriation except for public purposes, under due process of law, on a non-discriminatory basis and against prompt, adequate and effective compensation. Such compensation shall be made without delay, and be effectively realizable
- (2) The investor affected by the expropriation shall have a right, under the law of the expropriating Contracting Party to prompt review, by a court of law or other independent and impartial forum of that Contracting Party, of the expropriation case.

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- (3) Where a Contracting Party expropriates, nationalizes or takes measures having effect equivalent to nationalization or expropriation against the assets of a company which is incorporated or constituted under the laws in force in any part of its own territory, and in which investors of the other Contracting Party own shares, it shall ensure that the provisions of paragraph (1) of this Article are applied to the extent necessary to guarantee compensation as specified therein to such investors of the other Contracting Party who are owners of those shares.

Article 7

TRANSFER OF INVESTMENT CAPITAL AND RETURNS

- (1) Each Contracting Party shall, in accordance with its relevant laws, allow investors of the other Contracting Party the free transfer of funds relating to their investment and returns, including compensation paid pursuant to the provisions of Articles 5 and 6 of this Agreement.
- (2) All transfers shall be effected without delay in the convertible currency in which the capital was originally invested or in any other convertible currencies agreed by the investor and the Contracting Party concerned. Unless otherwise agreed by the investor, repatriations shall be made at the rate of exchange applicable on the date of repatriation pursuant to the exchange regulations in force.

Article 8

SETTLEMENT OF DISPUTES BETWEEN AN INVESTOR AND A CONTRACTING PARTY

- (1) Each Contracting Party hereby consents to submit to the International Center for the Settlement of Investment Disputes (hereinafter referred to as "the Center") for settlement by conciliation or arbitration under the Convention on the Settlement of Investment Disputes between States and Nationals of other States opened for signature at Washington on 18 March 1965 any legal dispute arising between that Contracting Party and a national or company of the other Contracting Party concerning an investment of the latter in the territory of the former. A company which is incorporated or constituted under the law in force in the territory of one Contracting Party and in which, before such a dispute arises, the majority of shares are owned by nationals or companies of the other Contracting Party shall in accordance with Article 25(2)(b) of the Convention, be treated for the purposes of the Convention as a company of the other Contracting Party.
- (2) If any such dispute should arise and agreement cannot be reached within three months between the parties to this dispute through pursuit of local remedies or otherwise, then, if the national or company affected also consents in writing to submit the dispute to the Center for settlement by conciliation or arbitration under the Convention, either party may institute proceedings by addressing a request to that effect to the Secretary-General of the Center as provided in Articles 28 and 36 of the Convention.

(७६)

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- (3) In the event of disagreement as to whether conciliation or arbitration is the more appropriate procedure, the national or company affected shall have the right to choose. The Contracting Party which is a party to the dispute shall not raise as an objection at any stage of the proceedings or enforcement of an award the fact that the national or company which is the other party to the dispute has received in pursuance of an insurance contract or from the contracting state of which the national or company is a resident, an indemnity in respect of some or all of his or its losses.
- (4) Neither Contracting Party shall pursue through the diplomatic channel any dispute referred to the Centre unless :
- (a) the Secretary-General of the Centre, or a conciliation commission or an arbitral tribunal constituted by it, decides that the dispute is not within the jurisdiction of the Centre; or
- (b) the other Contracting Party should fail to abide by or to comply with any award rendered by an arbitral tribunal.

Article 9

DISPUTES BETWEEN THE CONTRACTING PARTIES

- (1) Any dispute between the Contracting Parties concerning the interpretation or application of this Agreement should, if possible, be settled through negotiations between the Governments of the two Contracting Parties.
- (2) If the dispute cannot be settled within a period of six months following the date on which such negotiations were requested by either Contracting Party, it may upon the request of either Contracting Party, be submitted to an arbitral tribunal.
- (3) Such an arbitral tribunal shall be constituted for each individual case in the following way: within two months of the receipt of the request for arbitration, each Contracting Party shall appoint one arbitrator for the tribunal. Those two arbitrators shall then select a national of a third State who, upon approval by the two Contracting Parties, shall be appointed Chairman of the tribunal. The Chairman shall be appointed within two months from the date of appointment of the other two arbitrators.
- (4) If within the periods specified in paragraph (3) of this Article the necessary appointments have not been made, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to make any necessary appointments. If the President is a national of either Contracting Party or if he is otherwise prevented from discharging the said function, the Vice-President shall be invited to make the necessary appointments. If the Vice-President is a national of either Contracting Party or if he too is prevented from discharging the said function, the Member of the International Court of Justice next in seniority who is not a national of either Contracting Party and not prevented from discharging such functions shall be invited to make the necessary appointments.

- (5) The arbitral tribunal shall reach its decision by a majority of votes. Such decision shall be binding on both Contracting Parties. Each Contracting Party shall bear the cost of its own arbitrator to the tribunal and of its representation in the arbitral proceedings. The cost of the Chairman and the remaining costs shall be borne equally by the Contracting Parties. The tribunal may, however, in its decision direct that a higher proportion of costs shall be borne by one of the two Contracting Parties, and this award shall be binding on, and executed by, both Contracting Parties.
- (6) Apart from the above, the tribunal shall determine its own procedure.

Article 10

SUBROGATION

- (1) If a Contracting Party or its designated agency makes a payment to its own investor under a guarantee it has given in respect of an investment made in the territory of the other Contracting Party, the latter Contracting Party shall recognise the assignment to the former Contracting Party of all the rights and claims of the indemnified investor, and shall also recognise that the former Contracting Party or its designated Agency is entitled to exercise such rights and enforce such claims by virtue of subrogation, to the same extent as the original investor.
- (2) Any payment made by one Contracting Party or its designated Agency to its own investor as provided in paragraph (1) shall not affect the right of such investor to make his claims against the other Contracting Party in accordance with Article 8 provided that the exercise of such a right does not overlap, or is not in conflict with, the exercise of a right in virtue of subrogation under that paragraph.

Article 11

APPLICATION OF OTHER RULES

If the provisions of the law of either Contracting Party or obligations under international law existing at present or established hereafter between the Contracting Parties, in addition to the present Agreement, contain rules, whether general or specific, entitling investments and returns of investors of the other Contracting Party to treatment more favourable than that provided for by the present Agreement, such rules shall, to the extent that they are more favourable, prevail over the present Agreement.

Article 12

FINAL CLAUSES

- (1) For the avoidance of any doubt, it is declared that all investments shall, subject to this Agreement, be governed by the laws in force in the territory of the Contracting Party in which such investments are made.

आधिकारिकता सुदण (७५)
विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।
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- (2) The Contracting Parties shall notify each other promptly of the fulfillment of their legal procedures required for entry into force of this Agreement. The Agreement shall enter into force on the day of signature thereof.
- (3) This Agreement shall remain in force for a period of ten years. Thereafter it shall continue in force until the expiration of twelve months from the date on which either Contracting Party shall have given written notice of termination of this Agreement to the other Contracting Party.
- (4) In respect of investments approved or made prior to the date the notice of termination of this Agreement becomes effective, the provisions of the preceding Articles shall remain in force with respect to such investments for a further period of ten years from that date or for any longer period as provided for or agreed upon in the relevant contract or approval granted to the investor.

IN WITNESS WHEREOF the undersigned, duly authorized thereto, have signed this Agreement at Kathmandu on this 3rd day of August of the year 1999 in duplicate in English Language.

Mahesh Adhya

For His Majesty's
Government of Nepal.

M. Manmohan

For the Government of the
Republic of Mauritius.

आज्ञाले,
विश्वमंगल आत्रेय
उप-सचिव

मुद्रण विभाग,
सिंहदरबार

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।