

TANZANIA

48. Agreement for avoidance of double taxation and prevention of fiscal evasion with Tanzania

Whereas the annexed Agreement between the Government of the Republic of India and the Government of the United Republic of Tanzania for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income has been ratified and the instruments of ratification exchanged, as required by article 30 of the said Agreement;

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

Notification : No. GSR 559(E), dated 16-10-1981.

TEXT OF ANNEXED AGREEMENT, DATED 5-9-1979

The Government of the Republic of India and the Government of the United Republic of Tanzania, 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 :

CHAPTER I - SCOPE OF THE AGREEMENT

ARTICLE 1 - *Personal scope* - This Agreement shall apply to persons who are residents of one of both of the Contracting States.

ARTICLE 2 - *Taxes covered* - 1. The taxes to which this Agreement shall apply are :

(a) in the case of India, —

(1) the income-tax including any surcharge thereon imposed under the Income-tax Act, 1961 (43 of 1961);

(2) the surtax imposed under the Companies (Profits) Surtax Act, 1964 (7 of 1964) (hereinafter referred to as “Indian tax”);

(b) in the case of Tanzania, the income-tax and any other tax deemed to be an income-tax under the Income-tax Act, 1973 (hereinafter referred to as “Tanzanian tax”).

2. The Agreement shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of the present Agreement in addition to or in place of, the taxes referred to in paragraph (1) of this article.

3. At the end of each year, the competent authorities of the Contracting States shall notify to each other any significant changes which have been made in their respective taxation laws which are the subject of this Agreement and furnish copies of relevant enactments and regulations.

CHAPTER II - DEFINITIONS

ARTICLE 3 - *General definitions* - 1. In this Agreement, unless the context otherwise requires,—

(a) the term “India” means the territory of India and includes the territorial sea and air space above it as well as any other maritime zone referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (Act No. 80 of 1976), in which India has certain rights and to the extent these rights can be exercised therein as if such maritime zone is a part of the territory of India;

- (b) the term “Tanzania” means the United Republic of Tanzania, including any area outside the territorial waters of Tanzania which, in accordance with international law, has been or may be designated, under the laws of Tanzania concerning the Continental Shelf, as an area over which Tanzania may exercise sovereign rights with respect to the exploration for and exploitation of natural resources;
- (c) the terms “a Contracting State” and “the other Contracting State” mean India or Tanzania, as the context requires;
- (d) the term “tax” means Indian tax or Tanzanian tax, as the context requires, but shall not include any amount which is payable in respect of any default or omission in relation to the taxes to which this Agreement applies or which represents a penalty imposed relating to those taxes;
- (e) the term “person” includes individual companies and all other entities which are treated as taxable units under the taxation laws in force in the respective Contracting States;
- (f) the term “company” means anybody corporate or any entity which is treated as a company under the taxation laws in force in the respective Contracting States;
- (g) 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;
- (h) the term “competent authority” means in the case of India, the Central Government in the Ministry of Finance (Department of Revenue); and in the case of Tanzania, the Minister responsible for Finance or his authorised representative;
- (i) the term “nationals” means :
 - (1) all individuals possessing the nationality of a Contracting State;
 - (2) all legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State.

2. In the application of the provisions of this Agreement by one of the Contracting States, any term not defined herein shall, unless the context otherwise requires have the meaning which it has under the laws in force in that State relating to the taxes which are the subject of this Agreement.

ARTICLE 4 - *Fiscal domicile* - 1. For the purpose of this Agreement, the term “resident of a Contracting State” means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of similar nature.

2. Where by reason of the provisions of paragraph (1), an individual is a resident of both Contracting States, then his residential status for the purposes of this Agreement shall be determined in accordance with the following rules:

- (a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both the Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (hereinafter referred to as his “centre of vital interests”).
- (b) If the Contracting State in which he has his centre of vital interests cannot be determined, or if he does not have a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode.
- (c) If he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national.

(d) If he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph (1), a person other than an individual is a resident of both the Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

ARTICLE 5 - *Permanent establishment* - 1. For the purpose of this Agreement, the term “permanent establishment” means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

2. The term “permanent establishment” shall include—

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

(f) a mine, a quarry, an oil-field or other place of extraction of natural resources;

(g) a farm, plantation or other place where agricultural, forestry, plantation or related activities are carried on;

(h) a building site or construction or assembly project or supervisory activities in connection therewith, where such site, project or supervisory activity continues for a period of more than six months.

3. The term “permanent establishment” shall not be deemed to include—

(a) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or for collecting information, for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information or for scientific research being activities solely of a preparatory or auxiliary character in the trade or business of the enterprise.

4. A person acting in a Contracting State for or on behalf of an enterprise of the other Contracting State - other than an agent of an independent status to whom the provisions of paragraph (5) apply - shall be deemed to be a permanent establishment of that enterprise in the first-mentioned State if—

(i) he has and habitually exercises in that State, an authority to conclude contracts for or on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or

(ii) he habitually maintains in the first-mentioned Contracting State a stock of goods or merchandise belonging to that enterprise from which he regularly fulfils orders on behalf of the enterprise.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business. However, when

the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he would not be considered an agent of an independent status within the meaning of this paragraph.

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

7. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on a business which consists of providing the services of public entertainers (such as theatre, motion picture, radio or television artistes and musicians) or athletes in that other Contracting State unless the enterprise is directly or indirectly supported, wholly or substantially, from the public funds of the Government of the first-mentioned Contracting State in connection with the provision of such services.

CHAPTER III - TAXATION OF INCOME

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 be defined in accordance with the law and usage of the Contracting State in which the property 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, oil wells, quarries and other places of extraction of natural resources. Ships and aircraft shall not be regarded as immovable property.

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

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

ARTICLE 7 - *Business profits* - 1. The profits of an enterprise of a Contracting State shall be taxable only in that Contracting 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 Contracting State but only so much of them as is attributable to that permanent establishment.

2. If an enterprise of a Contracting State, which has a permanent establishment in the other Contracting State, sells goods or merchandise of the same or similar kind as those sold by the permanent establishment or renders services of the same or similar kind as those rendered by the permanent establishment, the profits of such activities may be attributed to the permanent establishment unless the enterprise proves that such sales or services are not attributable to the activity of the permanent establishment.

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. In any case, where the correct amount of profits attributable to a permanent establishment is incapable of determination or the ascertainment

thereof presents exceptional difficulties, the profits attributable to the permanent establishment may be estimated on a reasonable basis.

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 (3) 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 laid down in this Article.

5. In the determination of the profits of a permanent establishment, there shall be allowed as deductions, expenses which are incurred for the purposes of the business of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere, but this does not include any expenses, which, under the law of that State, would not be allowed to be deducted by an enterprise of that State.

6. 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.

7. 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.

8. The term "business profits" means income derived by an enterprise from the carrying on of business; but does not include income in the form of rents, royalties (including rents or royalties in respect of cinematographic films or video tapes for television), fees for technical services, management charges, or remuneration or fees for providing services of technical or other personnel, interest, dividends, capital gains, remuneration for labour or personal (including professional) services or income from the operation of ships or aircraft.

ARTICLE 8 - *Air transport* - 1. Profits derived by an enterprise of a Contracting State from the operation of 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. The provisions of paragraph (1) of this article shall also apply to a share of profits from the operation of aircraft in international traffic derived by an enterprise of a Contracting State through participation in a pooled service, in a joint air transport operation or in an international operating agency.

3. For the purposes of paragraph (1), interest on funds directly connected with the operation of aircraft in international traffic shall be regarded as income from the operation of such aircraft, and the provisions of Article 12 shall not apply in relation to such interest.

ARTICLE 9 - *Shipping* - 1. Income of an enterprise of one of the Contracting States derived from the other Contracting State from the operation of ships in international traffic may be taxed in that other Contracting State, but the tax chargeable in that other Contracting State on such income shall be reduced by an amount equal to 50 per cent of such tax.

2. For the purposes of paragraph (1) of this article, income derived from the other Contracting State from the operation of ships shall mean income from the carriage of passengers, mail, livestock, or goods shipped in that other Contracting State.

3. Paragraph (1) shall not apply to profits arising as a result of coastal traffic.

ARTICLE 10 - *Associated enterprises* - Where—

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

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

ARTICLE 11 - *Dividends* - 1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

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

(a) 10 per cent of the gross amount of the dividends if the recipient is a company which owns at least 10 per cent of the shares of the company paying the dividends during the period of six months immediately preceding the date of payment of the dividends;

(b) 15 per cent of the gross amount of the dividends in all other cases.

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 assimilated to income from shares or any other item which is deemed to be a dividend or distribution of a company by the taxation law 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 recipient 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 professional 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 16, 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 to persons who are not resident of that other State, or subject the company’s undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State.

ARTICLE 12 - *Interest* - 1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the law of that State, but the tax so charged shall not exceed 12.5 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph (2), interest arising in a Contracting State and paid to the Government of the other Contracting State Bank or local authority thereof, the Central Bank of that other Contracting State, or any agency wholly owned by that Government or local authority shall be exempt from tax of the first-mentioned Contracting State.

The competent authorities of the Contracting States may determine by mutual agreement any other governmental institution on which this paragraph shall apply.

4. The term “interest” as used in this article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and other debt-claims of every kind as well as all other income

assimilated to income from money lent by the taxation law of the Contracting State in which the income arises.

5. The provisions of paragraphs (1) and (2) shall not apply if the recipient of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such a case the provisions of article 7 or article 16, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a political sub-division, a local authority or 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by that permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

7. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, 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 recipient in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 13 - *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 law of that State, but the tax so charged shall not exceed 20 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this article means payments of any kind received as a consideration for the use of or the right to use, any copyright of literary, artistic or scientific work (including cinematographic films, and films or tapes for radio or television broadcasting), any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs (1) and (2) shall not apply if the recipient 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 professional services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of article 7 or article 16, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a political sub-division, 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 in connection with which the liability to pay the royalties was incurred and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. Where owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of royalties paid, 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 recipient in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 14 - *Capital gains* 1. Gains from the alienation of immovable property, as defined in paragraph (2) of article 6, may be taxed in the Contracting State in which such property is situated.

2. Gains from the alienation of movable property forming part of the business property of 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 professional services, including such gains from the alienation of such permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in that other State.

3. Notwithstanding the provisions of paragraph (2), gains by an enterprise of a Contracting State from the alienation of ships and aircraft which it operates in international traffic and movable property pertaining to the operation of such ships and aircraft shall be taxable only in that State.

4. Gains derived by a resident of a Contracting State from the alienation of any property other than those mentioned in paragraphs (1), (2) and (3) shall be taxable only in that State.

5. 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 15 - *Management fees* - 1. Management or professional fees 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 management or professional fees may be taxed in the Contracting State in which they arise, and according to the law of that State, but the tax so charged shall not exceed 20 per cent of the gross amount of the management or professional fees.

3. The term "management or professional fees" as used in this Article means payments of any kind to any person, other than to an employee of the person making the payments, in consideration for any services of a managerial, technical or consultancy nature.

4. The provisions of paragraphs (1) and (2) shall not apply if the recipient of the management or professional fees, being a resident of a Contracting State, carries on business in the other Contracting State in which the management or professional fees arise, through a permanent establishment situated therein, or performs in that other State professional services from a fixed base situated therein, and the right or property in respect of which the management or professional fees are paid, is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of article 7 or article 16, as the case may be, shall apply.

5. Management or professional fees shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a political sub-division, a local authority or a resident of that State. Where, however, the person paying the management or professional fees, whether he is a resident of that State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the management or professional fees was incurred and such management or professional fees are borne by such permanent establishment, then

such management or professional fees shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the management or professional fees paid having regard to the services for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 16 - *Independent personal services* - 1. Subject to the provisions of article 15, income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless—

- (a) he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities, in which case so much of the income may be taxed in that other State as is attributable to that fixed base; or
- (b) he is present in the other Contracting State for the purpose of performing his activities for a period or periods exceeding in the aggregate 183 days in the relevant year of income and in which case so much of the income may be taxed in that other State as is attributable to the activities performed in that other State.

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

ARTICLE 17 - *Dependent personal services* - 1. Subject to the provisions of articles 18, 19, 20, 21, 22 and 23, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised such remuneration as is derived therefrom may be taxed in that other State.

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

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the relevant year of income,
- (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 fixed base which the employer has in the other State.

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

ARTICLE 18 - *Directors' fees* - Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other Contracting State.

ARTICLE 19 - *Artistes and athletes* - 1. Notwithstanding the provisions of articles 16 and 17, income derived by public entertainers (such as theatre, motion picture, radio or television artistes and musicians) or athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised :

Provided that such income shall not be taxed in the said Contracting State if the visit of the public entertainers or athletes to that State is directly or indirectly supported, wholly or substantially, from the public funds of the Government of the other Contracting State.

2. For the purposes of this article, the term “Government” includes a State Government, a political sub-division, or a local or statutory authority of either Contracting State.

ARTICLE 20 - *Government functions* - 1. Remuneration (not being a pension) paid by the Government of a Contracting State or any individual who is a citizen of that State in respect of services rendered in the discharge of governmental functions in the other Contracting State shall be taxable only in the first-mentioned Contracting State.

2. Any pension paid by the Government of one of the Contracting States to any individual may be taxed in that Contracting State.

3. The provisions of paragraphs (1) and (2) shall not apply to remuneration and pensions in respect of services rendered in connection with any business carried on by the Government of either of the Contracting States for the purposes of profit.

4. For the purposes of this article, the term “Government” shall include any State Government or local or statutory authority of either Contracting State and in particular the Reserve Bank of India and the Bank of Tanzania.

ARTICLE 21 - *Non-Government pensions and annuities* - 1. Any pension (other than a pension referred to in article 20) or annuity derived by a resident of a Contracting State from sources within the other Contracting State may be taxed only in the first-mentioned Contracting State.

2. The term “pension” means a periodic payment made in consideration of services rendered in the past or by way of compensation for injuries received in the course of performance of services.

3. The term “annuity” means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money’s worth.

ARTICLE 22 - *Students and apprentices* - 1. A student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting State solely for the purpose of his education or training, shall be exempt from tax in the first-mentioned Contracting State on—

(a) payments made to him by persons residing outside that first-mentioned Contracting State for the purpose of his maintenance, education or training; and

(b) remuneration from employment in that first-mentioned Contracting State, in an amount not in excess of Rs. 10,000 or its equivalent in Tanzanian currency during any “previous year” or the “year of income” as the case may be, provided that such employment is directly related to his studies or is undertaken for the purpose of his maintenance.

2. The benefits of this article shall extend only for such period of time as may be reasonably or customarily required to complete the education or training undertaken, but in no event shall any individual have the benefits of this Article more than three consecutive years from the date of his first arrival in the first-mentioned Contracting State.

ARTICLE 23 - *Professors and teachers* - 1. A professor or teacher who visits a Contracting State for the purpose of teaching or engaging in research, or both, at a university, or other approved educational institution in that Contracting State and who is, or was immediately before such visits, a resident of the other Contracting State, shall be exempt from tax in the first-mentioned Contracting State on any remuneration for such teaching or research for a period not exceeding 24 months from the date of his arrival in that Contracting State.

2. This article shall not apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.

3. For the purposes of this article and article 22, an individual shall be deemed to be a resident of a Contracting State if he is resident—

(i) in the case of India, in the “previous years”, and

(ii) in the case of Tanzania, in the “year of income” in which he visits the other Contracting State or in the immediately preceding “previous year” or “year of income”, as the case may be.

4. For the purposes of paragraph (1), “approved educational institution” means an institution which has been approved in this regard by the competent authority of the concerned Contracting State.

ARTICLE 24 - *Income not expressly mentioned* - Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing articles of this Agreement in respect of which he is a subject to tax in that State shall be taxable only in that State.

CHAPTER IV - METHOD FOR ELIMINATION OF DOUBLE TAXATION

ARTICLE 25 - *Avoidance of double taxation* - 1. The laws in force in either of the Contracting States will continue to govern the taxation of income in the respective Contracting States except where provisions to the contrary are made in this Agreement.

2. (a) The amount of Tanzanian tax payable, under the laws of Tanzania and in accordance with the provisions of this Agreement, whether directly or by deduction by a resident of India, in respect of income from sources within Tanzania which has been subjected to tax both in India and Tanzania, shall be allowed as a credit against the Indian tax payable in respect of such income provided that such credit shall not exceed Indian tax (as computed before allowing any such credit), which is appropriate to the income derived from sources within Tanzania; so, however, that where such resident is a company by which surtax is payable in India, the credit aforesaid shall be allowed in the first instance against income-tax payable by the company of India and as to the balance, if any, against surtax payable by it in India.

(b) For the purposes of the credit referred to in sub-paragraph (a) above the term “Tanzanian tax payable” shall be deemed to include any amount which would have been payable as Tanzanian tax for any year but for—

(i) any exemption from tax on interest granted under paragraph (1) of the First Schedule, Part II of the Income-tax Act, 1973; or

(ii) any investment deduction granted under paragraphs (24), (25) and (26) of the Second Schedule to the Income-tax Act, 1973; or

(iii) the lower corporation rate of income-tax provided by paragraph 4(b) of the Third Schedule to the Income-tax Act, 1973; or

(iv) any other provisions which may subsequently be enacted granting an exemption or reduction of tax which the competent authorities of the Contracting States agree to be for the purpose of economic development.

3.(a) The amount of Indian tax payable, under the laws of India and in accordance with the provisions of this Agreement, whether directly or by deduction, by a resident of Tanzania in respect of income from sources within India which has been subjected to tax both in India and Tanzania shall be allowed as a credit against Tanzanian tax payable in respect of such income provided that such credit shall not exceed the Tanzanian tax (as computed before

allowing any such credit), which is appropriate to the income derived from sources within India;

(b) For the purposes of the credit referred to in sub-paragraph (a) above the term “Indian tax payable” shall be deemed to include any amount by which Indian tax has been reduced by the special incentive measures set forth in the following sections of the Income-tax Act, 1961:

- (i) section 10(4) relating to exemption from tax on interest payable to a non-resident on any security notified by the Government of India;
- (ii) section 10(4A) relating to exemption from tax on interest payable to a non-resident on moneys in a Non-resident (External) Account;
- (iii) section 10(15)(iv) relating to exemption from tax of (a) non-resident in respect of moneys lent by him to the Government or local authority in India; (b) an approved foreign financial institution in respect of interest on moneys lent by it to an industrial undertaking in India under a loan agreement; and (c) a non-resident in respect of interest on moneys lent or credit facilities allowed by him to an industrial undertaking in India for the purchase outside India of raw materials or capital plant and machinery or for industrial development in India;
- (iv) section 32A relating to investment allowance in respect of ships, aircraft, machinery or plant;
- (v) section 33A relating to development allowance for planting or replanting of tea bushes;
- (vi) section 35CC relating to the rural development allowance;
- (vii) section 54E relating to capital gains;
- (viii) section 80HH relating to deduction in respect of profits and gains from newly established industrial undertakings or hotel business in backward areas;
- (ix) section 80HHA relating to deduction in respect of profits and gains from newly established small-scale industrial undertakings in certain areas;
- (x) section 80J relating to deduction in respect of profits and gains from eligible industrial undertakings or ships or hotels;
- (xi) section 80K relating to deduction in respect of dividends attributable to profits and gains from eligible industrial undertakings or ships or hotels;
- (xii) section 80L relating to deduction in respect of interest on certain securities, dividends, etc.; and
- (xiii) any other provisions which may subsequently be enacted granting an exemption or reduction of tax which the competent authorities of the Contracting States agree to be for the purposes of economic development.

4. Income which, in accordance with the provisions of this Agreement is not to be subjected to tax in a Contracting State, may be taken into account for calculating the rate of tax to be imposed in that Contracting State.

CHAPTER V - SPECIAL PROVISIONS

ARTICLE 26 - *Non-discrimination* - 1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that State than the taxation levied on enterprises of that other State carrying on the same activities in the same circumstances.

3. Nothing contained in this article shall be construed as obliging a Contracting State to grant to persons not resident in that State any personal allowances, reliefs and reductions for taxation purposes which are by law available only to persons who are resident.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, or one or more residents of the other Contracting State shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected in the same circumstances.

5. In this article, the term "taxation" means taxes which are the subject of this Agreement.

ARTICLE 27 - *Mutual agreement procedure* - 1. Where the resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Agreement, he may notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident. This case must be presented within three years of the date of receipt of notice of the action which gives rise to taxation not in accordance with 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 an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the national laws of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the 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. When it seems advisable in order to reach an agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

ARTICLE 28 - *Exchange of information* - 1. The competent authorities of the Contracting States shall exchange such information or document as is necessary for carrying out the provisions of this Agreement or for the prevention of evasion of taxes which are the subject of this Agreement. Any information or document so exchanged shall be treated as secret but may be disclosed to persons (including a court or other authorities) concerned with the assessment, collection, enforcement, investigation or prosecution in respect of the taxes which are the subject of this Agreement, or to persons with respect to whom the information or document relates.

2. The exchange of information or documents shall be either on a routine basis or on request with reference to a particular case or both, the competent authorities of the Contracting States shall agree from time to time on the list of the information or documents which shall be furnished on a routine basis.

3. In no case shall the provisions of paragraph (1) be construed so as to impose on a Contracting State the obligation—

- (a) to carry out administrative measures at variance with the laws or administrative practice of that or of the other Contracting State;

- (b) to supply information or documents which are 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 or documents 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.

ARTICLE 29 - *Diplomatic and consular activities* - Nothing in this Agreement shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.

CHAPTER VI - FINAL PROVISIONS

ARTICLE 30 - *Entry into force* - 1. The present Agreement shall be ratified by the Contracting States according to their own internal legislation.

2. The instruments of ratification shall be exchanged at Dar-es-Salaam as soon as possible.

3. Upon exchanges of the instruments of ratification, the present Agreement shall have effect—

- (a) in India, in respect of income arising in any year of account commencing on or after the first day of January following the calendar year in which the instruments are exchanged;
- (b) in Tanzania, in respect of income arising for any year of account commencing on or after the first day of January following the calendar year in which instruments of ratification are exchanged.

ARTICLE 31 - *Termination* - This Agreement shall continue in effect indefinitely but either of the Contracting States may on or before the 30th of June in the sixth or any subsequent calendar year following the calendar year in which the exchange of instruments of ratification takes place, give to the other Contracting State notice of termination and in such event this agreement shall cease to have effect—

- (a) in India, in respect of income assessable for any year of assessment commencing on or after the first day of April in the second calendar year next following the calendar year in which the notice of termination is given;
- (b) in Tanzania in respect of income arising for any year of income commencing on or after the first day of January in the calendar year next following the calendar year in which the notice of termination is given.

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

DONE in duplicate at Dar-es-Salaam this 5th day of September, 1979¹ in the English language.

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