108TH CONGRESS
1st Session

SENATE

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PROTOCOL AMENDING TAX CONVENTION WITH SRI LANKA

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

PROTOCOL AMENDING THE CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA 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 SIGNED AT COLOMBO ON MARCH 14, 1985, TOGETHER WITH AN EXCHANGE OF NOTES, SIGNED AT WASHINGTON ON SEPTEMBER 20, 2002 (THE "PROTOCOL")

OCTOBER 28, 2003.—Treaty was read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

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U.S. GOVERNMENT PRINTING OFFICE

29–112 WASHINGTON : 2003

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *October 28, 2003.*

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Protocol Amending the Convention Between the Government of the United States of America 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 signed at Colombo on March 14, 1985, together with an exchange of notes, signed at Washington on September 20, 2002 (the "Protocol"). I also transmit, for the information of the Senate, the report of the Department of State concerning the Protocol.

The Protocol would amend the Convention to make it similar to tax treaties between the United States and other developing nations. The Convention would provide maximum rates of tax to be applied to various types of income and protection from double taxation of income. The Convention, as amended by the Protocol, also provides for resolution of disputes and sets forth rules making its benefits unavailable to residents that are engaged in treaty shopping.

I recommend that the Senate give early and favorable consideration to this Protocol in conjunction with the Convention, and that the Senate give its advice and consent to ratification.

GEORGE W. BUSH.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, August 26, 2003.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you, with a view to its transmission to the Senate for advice and consent to ratification, the Protocol Amending the Convention Between the Government of the United States of America 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 Signed at Colombo on March 14, 1985, together with an exchange of notes, signed at Washington on September 20, 2002 (the "Protocol").

The proposed Protocol updates the Income Tax Convention signed with Sri Lanka on March 14, 1985, which was transmitted to the Senate on October 2, 1985 (S. Treaty Doc. 99–10), to conform with the U.S. Model Income Tax Convention, as modified by certain provisions applicable to developing countries.

Many provisions of the proposed Protocol relate to amendments to the U.S. Internal Revenue Code that have occurred since the Convention was signed in 1985. For example, Article 1 of the proposed Protocol extends to former long-term residents the tax regime now applicable to former U.S. citizens who renounce their citizenship for tax-avoidance reasons. Most other provisions of the proposed Protocol update the language of the Convention to account for changes in U.S. treaty policy that have occurred since the Convention was signed. For example, Article 6 of the proposed Protocol provides a source-country exemption for income from the use, maintenance, or rental of shipping containers.

The exchange of notes resolves two important issues regarding interpretation of the Convention. First, Article 8 of the Convention, as amended by Article 6 of the Protocol, states that Sri Lanka will provide to the United States most-favored-nation treatment with respect to shipping income. Sri Lanka has provided an exemption to the United Kingdom and Poland in Sri Lanka's existing income tax conventions with those countries. Sri Lanka has agreed in the notes to extend this exemption to the United States on a most-favored-nation basis.

Second, Sri Lanka has agreed in the notes to exchange information from Sri Lankan financial institutions. The issue of information exchange was responsible for a ten-year delay in our concluding the Protocol. The repeal of Sri Lanka's bank secrecy legislation and Sri Lanka's agreement last year to provide tax informa-

tion from financial institutions was critical to our ability to reach agreement on the Protocol.

The proposed Protocol, like the 1985 Convention, is subject to ratification. It will enter into force upon the exchange of instruments of ratification. The 1985 Convention and the Protocol are expected to be brought into force at the same time. The Protocol will have effect in accordance with Article 29 of the 1985 Convention. Thus, it will have effect with respect to taxes withheld at source on the first day of the second month next on which the Convention enters into force. The effective date for other types of taxes is for taxable periods beginning on or after the first day of January of the year in which the Convention enters into force.

The Department of the Treasury and the Department of State cooperated in the negotiation of the Protocol and the exchange of notes. They have the full approval of both Departments.

Respectfully submitted.

COLIN L. POWELL.

PROTOCOL AMENDING THE CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA 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 SIGNED AT COLOMBO MARCH 14, 1985

The Government of the United States of America and the Government of the Democratic Socialist Republic of Sri Lanka, desiring to conclude a Protocol to amend the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income signed at Colombo on March 14, 1985 (hereinafter referred to as "the Convention"), have agreed as follows:

Article I

Paragraph 3 of Article 1 (Personal Scope) of the Convention shall be deleted and replaced with the following:

"3. Notwithstanding any provision of the Convention except paragraph 4 of this Article, a Contracting State may tax its residents (as determined under Article 4 (Resident)), and by reason of citizenship may tax its citizens, as if the Convention had not come into effect. For this purpose, the term "citizen" shall include a former citizen or long-term resident whose loss of such status had as one of its principal purposes the avoidance of tax (as defined under the laws of the Contracting State of which the person was a citizen or long-term resident), but only for a period of 10 years following such loss."

A new paragraph 5 shall be added to Article 1 (Personal Scope) of the Convention as follows:

"5. Notwithstanding the provisions of subparagraph 2(b):

(a) the provisions of Article 26 (Mutual Agreement Procedure) of this Convention exclusively shall apply to any dispute concerning whether a measure is within the scope of this Convention, and the procedures under this Convention exclusively shall apply to that dispute; and

(b) unless the competent authorities determine that a taxation measure is not within the scope of this Convention, the nondiscrimination obligations of this Convention exclusively shall apply with respect to that measure, except for such national treatment or most-favored-nation obligations as may apply to trade in goods under the General Agreement on Tariffs and Trade. No national treatment or most-favored-nation obligation under any other agreement shall apply with respect to that measure.

(c) For the purpose of this paragraph, a "measure" is a law, regulation, rule, procedure, decision, administrative action, or any similar provision or action."

Article II

Subparagraph (b) of paragraph 2 of Article 2 (Taxes Covered) of the Convention shall be deleted and replaced by the following:

"(b) In the United States: the Federal income taxes imposed by the Internal Revenue Code of 1986, but excluding the accumulated earnings tax, the personal holding company tax, and social security taxes (hereinafter referred to as "United States tax")."

Article III

Subparagraph (f) of paragraph 1 of Article 3 (General Definitions) of the Convention shall be deleted and replaced by the following:

"(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; the terms also include an enterprise carried on by a resident of

a Contracting State through an entity that is treated as fiscally transparent in that Contracting State;"

The following new subparagraph (j) shall be added to paragraph 1 of Article 3 (General Definitions) of the Convention:

"(j) the term "qualified governmental entity" means:

(i) any person or body of persons that constitutes a governing body of a Contracting State, or of a political subdivision or local authority of a Contracting State;

(ii) a person that is wholly owned, directly or indirectly, by a Contracting State or a political subdivision or local authority of a Contracting State, provided (A) it is organized under the laws of the Contracting State, (B) its earnings are credited to its own account with no portion of its income inuring to the benefit of any private person, and (C) its assets vest in the Contracting State, political subdivision or local authority upon dissolution; or

(iii) a pension trust or fund of a person described in subparagraphs (i) or (ii) that is constituted and operated exclusively to administer or provide pension benefits described in Article 19 (Pensions, Social Security, and Child Support Payments);

provided that an entity described in subparagraphs (ii) or (iii) does not carry on commercial activities."

Paragraph 2 of Article 3 (General Definitions) of the Convention shall be deleted and replaced by the following:

"2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, or the competent authorities agree to a common meaning pursuant to the provisions of Article 26 (Mutual Agreement Procedure), have the meaning which it has at that time under the laws of that State for the purposes of the taxes to which the Convention applies. For the purposes of this paragraph, the meaning given to any term under the laws of that State relating to the taxes to which the Convention applies shall prevail over any meaning given to that term under any other laws of that State."

Article IV

Subparagraph (b) of paragraph 1 of Article 4 (Resident) shall be deleted and replaced by the following:

"(b) an item of income, profit or gain derived through an entity that is fiscally transparent under the laws of either Contracting State shall be considered to be derived by a resident of a State to the extent that the item is treated for purposes of the taxation law of such Contracting State as the income, profit or gain of a resident;"

The following new subparagraphs (c) and (d) shall be added to paragraph 1 of Article 4 (Resident):

"(c) in the case of the United States, a legal person organized under the laws of the United States and that is generally exempt from tax in that State and is established and maintained in that State either:

(i) exclusively for a religious, charitable, educational, scientific, or other similar purpose; or

(ii) to provide pensions or other similar benefits to employees pursuant to a plan

is to be treated for purposes of this paragraph as a resident of the United States; and

(d) a qualified governmental entity is to be treated as a resident of the Contracting State where it is established."

Article V

A new paragraph 8 shall be added to Article 7 (Business Profits) of the Convention as follows:

"8. In applying paragraphs 1 and 2 of this Article, paragraph 4 of Article 10 (Dividends), paragraph 5 of Article 11 (Interest), paragraph 5 of Article 12 (Royalties), paragraph 3 of Article 13 (Capital Gains) and Article 15 (Independent Personal Services), any income or gain attributable to a permanent establishment or fixed base during its existence is taxable in the Contracting State where such permanent establishment or fixed base is situated even if payments are deferred and received after the permanent establishment or fixed base has ceased to exist."

Article VI

Paragraph 5 of Article 8 (Shipping and Air Transport) of the Convention shall be deleted and replaced with the following:

"5. Profits of an enterprise of a Contracting State from the use, maintenance, or rental of containers (including trailers, barges, and related equipment for the transport of containers) used for the transport in international traffic of goods or merchandise shall be taxable only in that State."

Paragraph 6 of Article 8 (Shipping and Air Transport) of the Convention shall be deleted and replaced with the following:

"6. For purposes of determining the maximum tax which may be imposed by a Contracting State under paragraphs 2 and 4, the following rules shall apply:

(a) the tax which may be imposed by the other Contracting State under paragraph 2 shall not exceed the lesser of the tax which may be imposed under the provisions of that paragraph and the lowest rate of Sri Lanka tax that may be imposed on the profits of the same kind derived under similar circumstances by a resident of a third State. For purposes of this subparagraph, if Sri Lanka imposes an additional amount of tax which is not covered by this Convention in place of the income tax on an enterprise resident in a third State, the amount of such additional tax shall be treated as Sri Lanka tax; and

(b) the tax which may be imposed by the other Contracting State under paragraph 4 shall not exceed the lesser of the tax which may be imposed under the provisions of that paragraph, and the lowest Sri Lanka tax burden on such income derived by a resident of any third State.

For purposes of this paragraph, Sri Lanka tax imposed on a resident of a third State shall not include tax imposed by Sri Lanka under special provisions of its statutory law, in effect on the date of signature of this Convention, on income of the kind dealt with in this Article, which special provisions are applicable only to income derived by the Government or by a government agency of a third State."

Article VII

The following shall be added at the end of paragraph 2 of Article 10 (Dividends) of the Convention:

"In the case of dividends paid by a United States Real Estate Investment Trust (REIT), the tax rate limitation in the preceding sentence shall apply instead of the rate of tax applicable under domestic law only if:

(a) the beneficial owner of the dividends is an individual holding a less than 10 percent interest in the REIT;

(b) the dividends are paid with respect to a class of stock that is publicly traded and the beneficial owner of the dividends is a person holding an interest of no more than 5 percent in any class of the REIT's stock; or

(c) the beneficial owner of the dividends is a person that beneficially holds an interest of 10 percent or less in the REIT and the value of no single interest in real property owned by the REIT exceeds 10 percent of the value of the REIT's total interests."

Paragraph 3 of Article 10 (Dividends) of the Convention shall be deleted and replaced with the following:

"3. The term "dividends" as used in this Article means income from shares, mining shares, founders' shares, or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the taxation laws of the State of which the company making the distribution is a resident; and income from arrangements, including debt obligations, carrying the right to participate in profits, to the extent so characterized under the laws of the Contracting State in which the income arises."

Article VIII

Paragraph 4 of Article 11 (Interest) of the Convention shall be deleted and replaced with the following:

"4. The term "interest" as used in this Convention 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 debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation laws of the State in which the income arises, including an excess inclusion with respect to a residual interest in a real estate mortgage investment conduit. Penalty charges for late payment shall not be regarded as interest for purposes of this Convention. The term "interest" also does not include income dealt with under Article 10 (Dividends)."

Paragraph 5 of Article 11 (Interest) of the Convention shall be deleted and replaced with the following:

"5. The provisions of paragraphs 2 and 3 shall not apply:

(a) 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 such interest is paid is effectively connected with such permanent establishment or fixed base; in such case, the provisions of Article 7 (Business Profits) or Article 15 (Independent Personal Services), as the case may be, shall apply;

(b) to an excess inclusion with respect to a residual interest in a real estate mortgage investment conduit; such an interest may be taxed in the Contracting State in which the excess inclusion arises according to the laws of that State; or

(c) to interest that is contingent interest of a type that does not qualify as portfolio interest under United States law, and to equivalent amounts under the law of Sri Lanka; if the beneficial owner is a resident of the other Contracting State, such interest may be taxed in the Contracting State in which it arises, but the tax so charged shall not exceed 15 percent of the gross amount of the interest."

Paragraph 6 of Article 11 (Interest) of the Convention shall be deleted and replaced with the following:

"6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base or a trade or business subject to tax in that State on a net basis under Article 6 (Income from Immovable Property (Real Property)) or paragraph 1 of Article 13 (Capital Gains), and such interest is borne by such permanent establishment, fixed base, or trade or business, then such interest shall be deemed to arise in the State in which the permanent establishment, fixed base, or trade or business is situated."

Article IX

The following new Article shall be added as Article 12A (Branch Tax) of the Convention:

"Article 12A

BRANCH TAX

1. A company that is a resident of a Contracting State may be subject in the other Contracting State to a tax in addition to the tax chargeable under the other provisions of this Convention.

2. Such tax, however, may be imposed only on

(a) in the case of the United States:

(i) the portion of the business profits of the corporation attributable to a permanent establishment in the United States and the portion of the income that is subject to tax in the United States on a net basis under Article 6 (Income from Immovable Property (Real Property))

or Article 13 (Capital Gains) that represents the dividend equivalent amount of such profits or income; and

(ii) the excess, if any, of interest allocable to the business profits of the corporation that are subject to tax in the United States and attributable to a permanent establishment in the United States or to the income subject to tax in the United States on a net basis under Article 6 (Income from Immovable Property (Real Property)) or Article 13 (Capital Gains) of this Convention over the interest paid by the permanent establishment or by the trade or business in the United States under Articles 6 or 13.

(b) in the case of Sri Lanka:

(i) the portion of the business profits of the corporation attributable to a permanent establishment in Sri Lanka and the portion of the income that is subject to tax in Sri Lanka on a net basis under Article 6 (Income from Immovable Property (Real Property)) or Article 13 (Capital Gains) that represents the dividend equivalent amount of such profits or income; and

(ii) the excess, if any, of interest allocable to the business profits of the corporation that are subject to tax in Sri Lanka and attributable to a permanent establishment in Sri Lanka or to the income subject to tax in Sri Lanka on a net basis under Article 6 (Income from Immovable Property (Real Property)) or Article 13 (Capital Gains) of this Convention over the interest paid by the permanent establishment or by the trade or business in Sri Lanka under Articles 6 or 13.

3. The taxes described in paragraph 2 of this Article shall not be imposed at a rate exceeding

(a) the rate specified in paragraph 2 of Article 10 (Dividends) for the tax described in subparagraphs (a)(i) and (b)(i) of paragraph 2 of this Article; and

(b) the rate specified in paragraph 2 of Article 11 (Interest) for the tax described in subparagraphs (a)(ii) and (b)(ii) of paragraph 2 of this Article."

Article X

Paragraph 4 of Article 13 (Capital Gains) of the Convention shall be deleted and replaced with the following:

"4. Gains derived by an enterprise of a Contracting State from the alienation of ships, aircraft, or containers operated or used in international traffic or movable property pertaining to the operation or use of such ships, aircraft, or containers shall be taxable only in that State."

Article XI

Paragraph 1 of Article 16 (Dependent Personal Services) shall be deleted and replaced with the following:

"1. Subject to the provisions of Articles 18 (Artistes and Athletes), 19 (Pensions, Social Security, and Child Support Payments) and 20 (Government Service), salaries, wages, and other 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."

Article XII

Article 17 (Directors' Fees) shall be deleted and replaced by the following:

"Directors' fees and other compensation derived by a resident of a Contracting State for services rendered in the other Contracting State as a member of the board of directors of a company that is a resident of the other Contracting State may be taxed in that other Contracting State."

Article XIII

Paragraph 2 of Article 19 (Pensions, Social Security, and Child Support Payments) shall be deleted and replaced by the following"

"2. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under a public scheme that is part of the social security system of a Contracting State shall, notwithstanding the provisions of Article 20 (Government Service), be taxable only in that State."

Article XIV

The second sentence of Article 20 (Government Service) of the Convention shall be deleted and replaced with the following:

"However, the provisions of Articles 15 (Independent Personal Services), 16 (Dependent Personal Services), 18 (Artistes and Athletes), or 19 (Pensions, Social Security, and Child Support Payments), as the case may be, shall apply, and the preceding sentence shall not apply, to remuneration paid in respect of services rendered in connection with a business carried on by a Contracting State or political subdivision or local authority thereof."

Article XV

Article 23 (Limitation on Benefits) of the Convention shall be deleted and replaced by the following:

"1. A resident of a Contracting State shall be entitled to benefits otherwise accorded to residents of a Contracting State by this Convention only to the extent provided in this Article.

2. A resident of a Contracting State shall be entitled to all the benefits of this Convention if the resident is:

(a) an individual;

(b) a qualified governmental entity;

(c) a company, if

(i) all the shares in the class or classes of shares representing more than 50 percent of the voting power and value of the company are regularly traded on a recognized stock exchange, or

(ii) at least 50 percent of each class of shares in the company is owned directly or indirectly by companies entitled to benefits under clause (i), provided that in the case of indirect ownership, each intermediate owner is a person entitled to benefits of the Convention under this paragraph;

(d) a person described in subparagraph 1(c)(i) of Article 4 (Resident);

(e) a person described in subparagraph 1(c)(ii) of Article 4 (Resident), provided that more than 50 percent of the person's beneficiaries, members or participants are individuals resident in either Contracting State; or

(f) a person other than an individual, if:

(i) On at least half the days of the taxable year persons described in subparagraphs (a), (b), (c), (d) or (e) own, directly or indirectly (through a chain of ownership in which each person is entitled to benefits of the Convention under this paragraph), at least 50 percent of each class of shares or other beneficial interests in the person, and

(ii) less than 50 percent of the person's gross income for the taxable year is paid or accrued, directly or indirectly, to persons who are not residents of either Contracting State (unless the payment is attributable to a permanent establishment situated in either State), in the form of payments that are deductible for income tax purposes in the person's State of residence.

3. (a) A resident of a Contracting State not otherwise entitled to benefits shall be entitled to the benefits of this Convention with respect to an item of income derived from the other State, if:

(i) the resident is engaged in the active conduct of a trade or business in the first-mentioned State,

(ii) the income is connected with or incidental to the trade or business, and

(iii) the trade or business is substantial in relation to the activity in the other State generating the income.

(b) For purposes of this paragraph, the business of making or managing investments will not be considered an active trade or business unless the activity is banking, insurance or securities activity conducted by a bank, insurance company or registered securities dealer.

(c) Whether a trade or business is substantial for purposes of this paragraph will be determined based on all the facts and circumstances. In any case, however, a trade or business will be deemed substantial if, for the preceding taxable year, or for the average of the three preceding taxable years, the asset value, the gross income, and the payroll expense that are related to the trade or business in the first-mentioned State equal at least 7.5 percent of the resident's (and any related parties') proportionate share of the asset value, gross income and payroll expense, respectively, that are related to the activity that generated

the income in the other State, and the average of the three ratios exceeds 10 percent.

(d) Income is derived in connection with a trade or business if the activity in the other State generating the income is a line of business that forms a part of or is complementary to the trade or business. Income is incidental to a trade or business if it facilitates the conduct of the trade or business in the other State.

4. A resident of a Contracting State not otherwise entitled to benefits may be granted benefits of the Convention if the competent authority of the State from which benefits are claimed so determines.

5. For purposes of this Article the term "recognized stock exchange" means:

(a) the NASDAQ System owned by the National Association of Securities Dealers, Inc. and any stock exchange registered with the U.S. Securities and Exchange Commission as a national securities exchange under the U.S. Securities Exchange Act of 1934; and

(b) the Colombo Stock Exchange; and

(c) any other stock exchange agreed upon by the competent authorities of the Contracting States."

Article XVI

1. Paragraph 4 of Article 24 (Relief from Double Taxation) of the Convention shall be deleted and replaced with the following:

"4. For purposes of allowing relief from double taxation pursuant to this Article, and subject to the limitations of the domestic laws of either Contracting State, income derived by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention (other than solely by reason of citizenship in accordance with paragraph 3 of Article 1 (Personal Scope)) shall be deemed to arise in that other State."

Article XVII

Paragraph 5 of Article 25 (Nondiscrimination) of the Convention shall be renumbered as paragraph 6, and a new paragraph 5 shall be added as follows:

"5. Nothing in this Article shall be construed as preventing either Contracting State from imposing the tax described in Article 12A (Branch Tax)."

Article XVIII

Paragraph 2 of Article 26 (Mutual Agreement Procedure) shall be deleted and replaced by the following:

"2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits or other procedural limitations in the domestic law of the Contracting States."

Article XIX

This Protocol shall be subject to ratification in accordance with the applicable procedures of each Contracting State and instruments of ratification shall be exchanged at Colombo as soon as possible. The Protocol shall enter into force upon the exchange of instruments of ratification, and shall have effect in accordance with Article 29 (Entry into Force) of the Convention.

IN WITNESS WHEREOF the undersigned, duly authorized thereto by their respective Governments, have signed this Protocol.

Done at Washington this 20th day of September, 2002, in duplicate, in English. A Sinhalese language text shall be prepared which shall be considered equally authentic upon an exchange of diplomatic notes confirming its conformity with the English language text.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

Christina B. Rocca

FOR THE GOVERNMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA:

DEPARTMENT OF STATE
WASHINGTON

September 20, 2002

Excellency:

I have the honor to refer to the Protocol Amending the Convention between the Government of the United States of America 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, Signed at Colombo March 14, 1985, which has been signed today. In connection with this Protocol, the following understanding was reached between our two Governments:

With respect to Article 8 (Shipping and Air Transport), it is understood that Sri Lanka shall exempt from tax the profits of an enterprise of the United States from sources within Sri Lanka from the operation in international traffic of ships for as long as there remains in force Article 8 of the Convention between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains, signed at London on June 21, 1979; Article 8 of the Convention

His Excellency
The Honorable Milinda Moragoda,
Minister of Economic Reform, Science & Technology.

Between the Government of the Polish People's Republic 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 and Capital, signed at Colombo on April 25, 1980; or any provision granting the same treatment as accorded under aforesaid provisions to a resident of a third state.

With respect to Article 27 (Exchange of Information), it is understood that the powers of each Contracting State's competent authority to obtain information include powers to obtain information held by financial institutions, nominees or persons acting in an agency or fiduciary capacity (not including information that would reveal confidential communications between a client and an attorney, where the client seeks legal advice), and information relating to the ownership of legal persons, and that each Contracting State's competent authorities are able to exchange such information in accordance with the Article.

If the foregoing proposals are acceptable to the Government of the Democratic Socialist Republic of Sri Lanka, I have the honor to propose that the present note and Your Excellency's reply to that effect should be regarded as constituting an agreement between the two Governments in this matter, which shall enter into force on the same date as the Protocol.

For the Secretary of State:

Christina B. Rocca

Excellency,

I have the honor to acknowledge receipt of your note of September 20, 2002 which reads as follows:

> "I have the honor to refer to the Protocol Amending the Convention between the Government of the United States of America 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, Signed at Colombo March 14, 1985, which has been signed today. In connection with this Protocol, the following understanding was reached between our two Governments:
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> With respect to Article 8 (Shipping and Air Transport), it is understood that Sri Lanka shall exempt from tax the profits of an enterprise of the United States from sources within Sri Lanka from the operation in international traffic of ships for as long as there remains in force Article 8 of the Convention between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains, signed at London on June 21, 1979; Article 8 of the Convention Between the Government of the Polish People's Republic 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 and Capital, signed at Colombo on April 25, 1980; or any provision granting the same treatment as accorded under aforesaid provisions to a resident of a third state.

Her Excellency
The Honorable Christina B Rocca
Assistant Secretary of State for South Asia
United States Department of State

With respect to Article 27 (Exchange of Information), it is understood that the powers of each Contracting States' competent authority to obtain information include powers to obtain information held by financial institutions, nominees or persons acting in an agency or fiduciary capacity (not including information that would reveal confidential communications between a client and an attorney, where the client seeks legal advice), and information relating to the ownership of legal persons, and that each Contracting State's competent authorities are able to exchange such information in accordance with the Article.

If the foregoing proposals are acceptable to the Government of the Democratic Socialist Republic of Sri Lanka, I have the honor to propose that the present note and Your Excellency's reply to that effect should be regarded as constituting an agreement between the two Governments in this matter, which shall enter into force on the same date as the Protocol."

I have the honor to confirm that the foregoing proposals are in accord with the view of the Government of Sri Lanka and are acceptable to it. I have the further honor to confirm that your Excellency's note and this note in reply shall constitute an agreement between the two Governments on this matter, to enter into force on the same date as the Protocol.

Accept, Excellency, the renewed assurances of my highest consideration.

Milinda Moragoda
Minister of Economic Reform, Science & Technology
For the Government of the Democratic Socialist Republic
of Sri Lanka:

Washington D.C.
September 20, 2002

Convention Between the Government of the United States of America 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

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

ARTICLE 1: PERSONAL SCOPE

1. Except as otherwise provided in this Convention, the Convention shall apply to persons who are residents of one or both of the Contracting States.

2. The Convention shall not restrict in any manner any exclusion, exemption, deduction, credit or other allowance now or hereafter accorded

(a) by the laws of either Contracting State; or

(b) by any other agreement between the Contracting States.

3. Notwithstanding any provision of the Convention except paragraph 4, a Contracting State may tax its residents (as determined under Article 4 (Resident)), and by reason of citizenship may tax its citizens, as if the Convention had not come into effect. For this purpose, the term "citizen" shall include a former citizen whose loss of citizenship had as one of its principal purposes the avoidance of tax, but only for a period of 10 years following such loss.

4. The provisions of paragraph 3 shall not affect

(a) the benefits conferred by a Contracting State under paragraph 2 of Article 9 (Associated Enterprises), under Article 14 (Grants), under paragraphs 2 and 3 of Article 19 (Pensions, Social Security and Child Support Payments), and under Articles 24 (Relief From Double Taxation), 25 (Non-Discrimination), and 26 (Mutual Agreement Procedure); and

(b) the benefits conferred by a Contracting State under Articles 20 (Government Service), 21 (Students and Trainees), and 28 (Diplomatic Agents and Consular Officers), upon individuals who are neither citizens of, nor have immigrant status in, that State.

ARTICLE 2: TAXES COVERED

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

2. The existing taxes to which the Convention shall apply are

(a) in Sri Lanka: the income tax, including the income tax based on the turnover of enterprises licensed by the Greater Colombo Economic Commission (hereinafter referred to as "Sri Lanka tax");

(b) in the United States: the Federal income taxes imposed by the Internal Revenue Code (but excluding the accumulated earnings tax, the personal holding company tax, and social security taxes), and the excise taxes imposed on insurance premiums paid to foreign insurers and with respect to private foundations. The Convention shall, however, apply to the excise taxes imposed on insurance premiums paid to foreign insurers only to the extent that the risks covered by such premiums are not reinsured with a person not entitled to the benefits of this or any other Convention which applies to these taxes (hereinafter referred to as "United States tax").

3. The Convention shall apply also to any identical or substantially similar taxes which are imposed by a Contracting State after the date of signature of the convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws and shall notify each other of any official published material concerning the application of the Convention, including explanations, regulations, rulings, or judicial decisions.

ARTICLE 3: GENERAL DEFINITIONS

1. In this Convention, unless the context otherwise requires

(a) the term "Sri Lanka" means the Democratic Socialist Republic of Sri Lanka;

(b) the term "United States" means the United States of America, but does not include Puerto Rico, the Virgin Islands, Guam, or any other United States possession or territory;

(c) the terms "a Contracting State" and "the other Contracting State" mean Sri Lanka or the United States as the context requires;

(d) the term "person" includes an individual, a partnership, a company, an estate, a trust, and any other body of persons;

(e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(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, except where such transport is solely between places in the other Contracting State;

(h) the term "nationals" means

(i) in the case of the United States, all individuals who are United States citizens, and in the case of Sri Lanka, all individuals possessing the nationality of Sri Lanka; and

(ii) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State;

(i) the term "competent authority" means

(i) in the case of Sri Lanka, the Commissioner-General of Inland Revenue; and

(ii) in the case of the United States, the Secretary of the Treasury or his delegate.

2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires and subject to the provisions of Article 26 (Mutual Agreement Procedure), have the meaning which it has under the laws of that State relating to the taxes which are the subject of the Convention.

ARTICLE 4: RESIDENT

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

(a) this term does not include any person who is liable to tax in that State in respect only of income from sources in that State; and

(b) in the case of income derived or paid by a partnership, estate, or trust, this term applies only to the extent that the income derived by such partnership, estate, or trust is subject to tax as the income of a resident of that State, either in its hands or in the hands of its partners or beneficiaries.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows

(a) he shall be deemed to be a resident of the State in which he has a permanent home available to him. If he has a permanent home available 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 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 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 company is a resident of both Contracting States, then if it is created or organized under the laws of a Contracting State or a political subdivision thereof it shall be treated as a resident of that State.

4. Where by reason of the provisions of paragraph 1 a person other than an individual or a company is a resident of both Con-

tracting States, the competent authorities of the Contracting States shall by mutual agreement endeavor to settle the question and to determine the mode of application of the Convention to such person.

5. For purposes of the Convention, an individual who is a national of a Contracting State shall also be deemed to be a resident of that State if the individual is (a) an employee of that State or an instrumentality thereof in the other Contracting State or in a third State; (b) engaged in the performance of governmental functions for the first-mentioned State; and (c) subjected in the first-mentioned State to the same obligations in respect of taxes on income as are residents of the first-mentioned State. The spouse and minor children residing with the employee and subject to the requirements of (c) above shall also be deemed to be residents of the first-mentioned State.

ARTICLE 5: PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" shall include especially

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

(f) a store or premises used as a sales outlet; and

(g) a mine, an oil or gas well, a quarry, or other place of extraction of natural resources.

3. The term "permanent establishment" likewise encompasses

(a) a building site or construction or installation project, or an installation or drilling rig or ship used for the exploration for or development of natural resources, but only if it lasts more than 183 days; and

(b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than 183 days within any 12 month period.

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

(a) the use of facilities solely for the purpose of storage, display, or delivery of goods or merchandise belonging to the enterprise, other than goods or merchandise held for sale by such enterprise in a store or premises used as a sales outlet;

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display, or delivery, other than goods or merchandise held for sale by such enterprise in a store or premises used as a sales outlet;

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

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

(e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(f) the maintenance of a fixed place of business solely for any combination of the activities mentioned in subparagraphs (a) to (e) of this paragraph.

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 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 that 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 regularly fills orders or makes deliveries on behalf of the enterprise and additional activities conducted in that State on behalf of the enterprise have contributed to the conclusion of the sale of such goods or merchandise.

6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of one of the Contracting States shall, except in regard to re-insurance, 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 shall not be deemed to have a permanent establishment in a 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 almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph, if it is shown that the transactions with 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 (REAL PROPERTY)

1. Income from immovable (real) 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 agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property, and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats, and aircraft shall not be regarded as immovable property.

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

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

ARTICLE 7: BUSINESS PROFITS

1. The business 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 business 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 State be attributed to that permanent establishment the business profits which it might be expected to make if it were a distinct and independent enterprise engaged in the same or similar activities under the same or similar conditions.

3. In the determination of the business 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, research and development expenses, interest, and other expenses 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 by way

of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices by way of royalties, fees, or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

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

5. No business 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 business profits to be attributed to the permanent establishment shall be determined by the same method from year to year unless there is good and sufficient reason to the contrary.

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

ARTICLE 8: SHIPPING AND AIR TRANSPORT

1. Profits of an enterprise of a Contracting State from the operation in international traffic of aircraft shall be taxable only in that State.

2. Profits of an enterprise of a Contracting State from sources within the other Contracting State from the operation in international traffic of ships shall be taxable in both Contracting States; provided, however, that the tax imposed by that other Contracting State shall not exceed 50 percent of the tax otherwise imposed by the internal law of that State. For purposes of this paragraph, the amount of such profits subject to tax in Sri Lanka shall not exceed 6 percent of the sums receivable in respect of the carriage of passengers or freight embarked in Sri Lanka.

3. For the purposes of this Article, profits from the operation of aircraft in international traffic include profits from the rental of aircraft if such aircraft are operated in international traffic by the lessee or if such rental profits are incidental to other profits described in paragraph 1.

4. Income from the rental on a full or bareboat basis of ships operated in international traffic by the lessee which is derived by an enterprise of one Contracting State from sources within the other Contracting State and which is incidental to profits described in paragraph 2 shall be taxable in both Contracting States; provided,

however, that the tax imposed by that other Contracting State shall not exceed 50 percent of the tax which would otherwise be imposed by that other State under the provisions of paragraph 3 of Article 12 (Royalties).

5. Profits of an enterprise of a Contracting State from the use, maintenance or rental of containers (including trailers, barges, and related equipment for the transport of containers) used in international traffic and derived from sources within the other Contracting State shall be taxable in both Contracting States; provided, however, that the tax imposed by that other Contracting State shall be restricted to 50 percent of the tax which would otherwise be imposed by that other State under the provisions of paragraph 3 of Article 12 (Royalties).

6. For purposes of determining the maximum tax which may be imposed by a Contracting State under paragraphs 2, 4 and 5, the following rules shall apply:

(a) the tax which may be imposed by the other Contracting State under paragraph 2 shall not exceed the lesser of the tax which may be imposed under the provisions of that paragraph, and the lowest rate of Sri Lanka tax that may be imposed on the profits of the same kind derived under similar circumstances by a resident of a third State. For purposes of this subparagraph, if Sri Lanka imposes an additional amount of tax which is not covered by this Convention in place of the income tax on an enterprise resident in a third State, the amount of such additional tax shall be treated as Sri Lanka tax; and

(b) the tax which may be imposed by the other Contracting State under paragraphs 4 and 5 shall not exceed the lesser of the tax which may be imposed under the provisions of those paragraphs, and the lowest Sri Lanka tax burden on such income derived by a resident of any third State.

For purposes of this paragraph, Sri Lanka tax imposed on a resident of a third State shall not include tax imposed by Sri Lanka under special provisions of its statutory law, in effect on the date of signature of this Convention, on income of the kind dealt with in this Article, which special provisions are applicable only to income derived by the government or by a government agency of a third State.

7. The provisions of the preceding paragraphs shall likewise apply in respect of participations in a pool, a joint business, or an international operating agency of any kind by enterprises engaged in the operation of ships or aircraft in international traffic.

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

3. The provisions of paragraph 1 shall not limit any provisions of the law of either Contracting State which permit the distribution, apportionment, or allocation of income, deductions, credits, or allowances between persons owned or controlled directly or indirectly by the same interests when necessary in order to prevent evasion of taxes or clearly to reflect the income of any of such persons.

ARTICLE 10: DIVIDENDS

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

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 15 percent of the gross amount of the dividends.

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

4. The provisions of paragraph 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 (Business Profits) or Article 15 (Independent Personal Services), as the case may be, shall apply.

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 beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 percent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be exempt from tax in that State if

(a) the payer of the interest is the Government of that State, a political subdivision or a local authority thereof;

(b) the interest is derived and beneficially owned by the Government or an agency of the Government of the other Contracting State (including, in the case of the United States, the Export-Import Bank and the Overseas Private Investment Corporation); or

(c) the interest is paid to the Federal Reserve Banks of the United States or the Central Bank of Ceylon.

4. The term "interest" as used in this Convention 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 debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation laws of the State in which the income arises.

5. The provisions of paragraphs 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 (Business Profits) or Article 15 (Independent Personal Services), 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, a political or administrative subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship 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 excess part of the payments shall remain taxable according to the laws of each Contract-

ing State, due regard being had to the other provisions of this Convention.

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. Royalties defined in paragraph 4(a) may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of such royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 percent of the gross amount of the royalties.

3. Royalties defined in paragraph 4(b) may also be taxed in the Contracting State in which they arise and according to the laws of that State; however, if the beneficial owner of such royalties is a resident of the other Contracting State, the rate of tax charged in the first-mentioned State shall not exceed 5 percent of the gross amount of the royalties.

4. The term "royalties" as used in this Article means

(a) 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 other like right or property, or for information concerning industrial, commercial, or scientific experience. The term "royalties" also includes gains derived from the alienation of any such right or property which are contingent on the productivity, use, or disposition thereof;

(b) rentals for the use of tangible personal (movable) property.

5. The provisions of paragraphs 2 and 3 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 of 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 (Business Profits) or Article 15 (Independent Personal Services), as the case may be, shall apply.

6. Royalties shall be deemed to arise in a Contracting State

(a) with respect to the royalties defined in paragraph 4(a), when the payer is that State itself, a political subdivision or a local authority thereof, or a resident of that State. However, where the right or property for which the royalties are paid is used within the United States, the royalties shall be deemed to arise in the United States to the extent of the use therein;

(b) with respect to royalties defined in paragraph 4(b), to the extent the property for which the royalties are paid is used within the Contracting State.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties 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 person deriving the royalties in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 13: CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property situated in the other Contracting State may be taxed in that other State.

2. For purposes of paragraph 1

(a) the term "immovable property situated in the other Contracting State", where the United States is the other Contracting State, includes a United States real property interest and immovable property referred to in Article 6 (Income from Immovable Property (Real Property)) which is situated in the United States; and

(b) the term "immovable property situated in the other Contracting State", where Sri Lanka is the other Contracting State, includes

(i) immovable property referred to in Article 6 (Income from Immovable Property (Real Property)) which is situated in Sri Lanka;

(ii) an interest in a company the assets of which consist, directly or indirectly, principally of such immovable property; and

(iii) an interest in a partnership, trust, or estate to the extent attributable, directly, or indirectly, to such immovable property.

3. 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.

4. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in that State.

5. Gains derived by a resident of a Contracting State from the alienation of shares of the stock of a company which is a resident of the other Contracting State representing a participation of 50 percent or more may be taxed in that other State.

6. Gains described in Article 12 (Royalties) shall be taxable only in accordance with the provisions of Article 12.

7. Gains from the alienation of any property other than that referred to in paragraphs 1 through 6 shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 14: GRANTS

1. Where the Government of Sri Lanka or any agency thereof makes a cash grant or any similar payment for the purposes of investment promotion and economic development in Sri Lanka to a resident of the United States in respect of an enterprise in Sri Lanka which is wholly owned by a resident of the United States, or to a company resident in Sri Lanka which is wholly owned by a resident of the United States, the amount of such grant or payment shall be excluded from the gross income of such resident or company, and shall not increase the earnings and profits of such resident or company, for the purpose of computing United States tax.

2. Where the cash grant or payment referred to in paragraph 1 has been made to a resident of the United States, then

(a) if the resident is a company the amount of such grant or payment shall be treated as a contribution to its capital;

(b) the resident shall be deemed to have contributed the amount of such grant or payment to the Sri Lanka company designated by the terms of the grant or payment;

(c) the resident's basis for the stock of the Sri Lanka company shall not be increased by the amount deemed contributed under (b) above; and

(d) the basis of property of the Sri Lanka company shall be reduced by the amount of the deemed contribution under (b) above in accordance with rules prescribed by the Secretary of the Treasury of the United States.

3. Where the cash grant or payment referred to in paragraph 1 has been made to a company resident in Sri Lanka, then

(a) the amount of such grant or payment shall be treated as a contribution to its capital; and

(b) the basis of property of such company shall be reduced by the amount of the contribution to its capital under (a) above in accordance with rules prescribed by the Secretary of the Treasury of the United States.

4. The cash grant or similar payment referred to in paragraph 1 shall not include any amount which in whole or in part, directly or indirectly

(a) is in consideration for services rendered or to be rendered or for the sale of goods;

(b) is measured in any manner by the amount of profits or tax liability; or

(c) is taxed by Sri Lanka.

5. Notwithstanding the preceeding provisions of this Article, if the cash grant or similar payment referred to in paragraph 1 is made to a resident of the United States, such resident may elect to include such grant or payment in gross income for the purposes of computing United States tax, and in such a case the provisions of this Article shall not apply.

ARTICLE 15: INDEPENDENT PERSONAL SERVICES

Income derived by an individual who is a resident of a Contracting State from the performance of personal services in an independent capacity shall be taxable only in that State unless such services are performed in the other Contracting State and

(a) the individual is present in that other State for a period or periods aggregating more than 183 days within any 12 month period; or

(b) the individual has a fixed base regularly available to him in that other State for the purpose of performing his activities, but only so much of the income as is attributable to that fixed base may be taxed in such other State.

ARTICLE 16: DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 18 (Artistes and Athletes), 19 (Pensions, Social Security and Child Support Payments), and 20 (Government Service), salaries, wages, and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days within any 12 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.

Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment as a member of the regular complement of a ship or aircraft operated by an enterprise of a Contracting State in international traffic may be taxed only in that State.

ARTICLE 17: DIRECTORS' FEES

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

ARTICLE 18: ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 15 (Independent Personal Services) and 16 (Dependent Personal Services), 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 an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State, except where the amount of the gross receipts derived by such entertainer or athlete, including expenses reimbursed to him or borne on his behalf, from such activities do not exceed six thousand

United States dollars ($6,000) or its equivalent in Sri Lanka rupees for the taxable year concerned.

2. Income referred to in paragraph 1 shall not be taxed in the Contracting State in which the activities are exercised if the visit of the entertainers or athletes to that State is directly or indirectly supported wholly or substantially from the public funds of the Government of either Contracting State. For the purposes of this paragraph, the term "Government" includes a state Government, a political subdivision or a local authority of either Contracting State.

3. Where income in respect of activities exercised by an entertainer or an athlete in his capacity as such accrues not to that entertainer or athlete but to another person, that income may, notwithstanding the provisions of Articles 7 (Business Profits), 15 (Independent Personal Services), and 16 (Dependent Personal Services), be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised. For purposes of the preceding sentence, income of an entertainer or athlete shall be deemed to accrue to another person if it is established that neither the entertainer or athlete, nor persons related thereto, participate directly or indirectly in the profits of such other person in any manner, including the receipt of deferred remuneration, bonuses, fees, dividends, partnership distributions, or other distributions.

ARTICLE 19: PENSIONS, SOCIAL SECURITY, AND CHILD SUPPORT PAYMENTS

1. Subject to the provisions of Article 20 (Government Service), pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment may be taxed only in that 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 shall be taxable only in that State.

3. Periodic payments for the support of a minor child made pursuant to a written separation agreement or a decree of divorce, separate maintenance or compulsory support, paid by a resident of one of the Contracting States to a resident of the other Contracting State shall be exempt from tax in both States.

ARTICLE 20: GOVERNMENT SERVICE

Remuneration, including a pension, paid from the public funds of a Contracting State or a political subdivision or a local authority thereof to a citizen or national of that State in respect of services rendered in the discharge of functions of a governmental nature shall be taxable only in that State. However, the provisions of Articles 15 (Independent Personal Services), 16 (Dependent Personal Services), or 18 (Artists and Athletes), as the case may be, shall apply, and the preceding sentence shall not apply, to remuneration paid in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or local authority thereof.

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 full-time education or training receives for the purpose of his maintenance, education, or 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 that other State as an employee of, or under contract with, a resident of the first-mentioned State, or as a participant in a program 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 by that other State for a period not exceeding one year with respect to his income from personal services in an aggregate amount not in excess of six thousand United States dollars ($6,000) or its equivalent in Sri Lanka rupees.

ARTICLE 22: OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

2. Notwithstanding paragraph 1, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention and arising in the other Contracting State may be taxed in that other State.

ARTICLE 23: LIMITATION ON BENEFITS

1. A person (other than an individual) which is a resident of one of the Contracting States shall not be entitled under this Convention to relief from taxation in the other Contracting State pursuant to Articles 10 (Dividends), 11 (Interest), and 12 (Royalties) unless:

(a) more than 50 percent of the beneficial interest in such person (or in the case of a company, more than 50 percent of the number of shares of each class of the company's shares) is owned, directly or indirectly, by any combination of one or more of:

(i) individuals who are residents of the United States;
(ii) citizens of the United States;
(iii) individuals who are residents of Sri Lanka;
(iv) companies as described in subparagraph (b); and
(v) the Contracting States;

(b) it is a company in whose principal class of shares there is substantial and regular trading on a recognized stock exchange; or

(c) the establishment, acquisition and maintenance of such person and the conduct of its operations did not have as one of its principal purposes the purpose of obtaining benefits under the convention.

2. For the purposes of subparagraph 1(b), the term "a recognized stock exchange" means

(a) the NASDAQ system owned by the National Association of Securities Dealers, Inc. and any stock exchange registered with the Securities and Exchange Commission as a national securities exchange for the purposes of the Securities Exchange Act of 1934;

(b) the Colombo Brokers Association of Sri Lanka; and

(c) any other stock exchange agreed upon by the competent authorities of the Contracting States.

ARTICLE 24: RELIEF FROM DOUBLE TAXATION

1. In the case of the United States, double taxation shall be avoided as follows: In accordance with the provisions and subject to the limitations of the law of the United States (as it may be amended from time to time without changing the general principle hereof), the United States shall allow to a resident or citizen of the United States as a credit against the United States tax the appropriate amount of tax paid to Sri Lanka; and, in the case of a United States company owning at least 10 percent of the voting stock of a company which is a resident of Sri Lanka from which it receives dividends in any taxable year, the United States shall allow credit for the appropriate amount of tax paid to Sri Lanka by that company with respect to the profits out of which such dividends are paid. Such appropriate amount shall be based upon the amount of tax paid to Sri Lanka, but the credit shall not exceed the limitations (for the purpose of limiting the credit to the United States tax on income from sources outside of the United States) provided by United States law for the taxable year. For purposes of applying the United States credit in relation to tax paid to Sri Lanka, the taxes referred to in paragraphs 2(a) and 3 of Article 2 (Taxes Covered) shall be considered to be income taxes.

2. For purposes of the credit allowed by the United States, any taxes paid in Sri Lanka by a company which is a resident of Sri Lanka in respect of a distribution or remittance of dividends shall be regarded as a tax on the shareholder.

3. In the case of Sri Lanka, double taxation shall be avoided as follows: In accordance with the provisions and subject to the limitations of the law of Sri Lanka (as it may be amended from time to time without changing the general principle hereof), Sri Lanka shall allow to a resident of Sri Lanka as a credit against the Sri Lanka tax the appropriate amount of tax paid to the United States; and in the case of a Sri Lanka company owning at least 10 percent of the voting stock of a company which is a resident of the United States from which it receives dividends in any taxable year, Sri Lanka shall allow credit for the appropriate amount of tax paid to the United States by that company with respect to the profits out of which such dividends are paid. Such appropriate amount shall be based upon the amount of tax paid to the United States, but the

credit shall not exceed the limitations (for the purpose of limiting the credit to the Sri Lanka tax on income from sources outside of Sri Lanka) provided by Sri Lanka law for the taxable year. For purposes of applying the Sri Lanka credit in relation to tax paid to the United States, the taxes referred to in paragraphs 2(b) and 3 of Article 2 (Taxes Covered) shall be considered to be income taxes.

4. For the purposes of allowing relief for double taxation pursuant to this Article, income and profits shall be deemed to arise exclusively as follows

(a) income and profits derived by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention (other than solely by reason of citizenship in accordance with paragraph 3 of Article 1 (Personal Scope)) shall be deemed to arise in that other State;

(b) income and profits derived by a resident of a Contracting State which may not be taxed in the other Contracting State in accordance with this Convention shall be deemed to arise in the first-mentioned State.

ARTICLE 25: NONDISCRIMINATION

1. Nationals of a Contracting State shall not be subject 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. This provision shall apply to persons who are not residents of one or both of the Contracting States. However, for the purposes of United States tax, a United States national who is not a resident of the United States and a Sri Lanka national who is not a resident of the United States are not in the same circumstances.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs, and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents. Nothing in this paragraph shall be construed as affecting the right of Sri Lanka to impose on a permanent establishment of an enterprise of the United States the tax referred to in subsection (1)(b) of Section 34 of the Inland Revenue Act, No. 28 of 1979, as amended, except that such tax may not exceed 15 percent of remittances, as defined in such Section.

3. Except where the provisions of paragraph 1 of Article 9 (Associated Enterprises), paragraph 7 of Article 11 (Interest), and paragraph 7 of Article 12 (Royalties) apply, interest, royalties, and other disbursements paid by a resident of a Contracting State to a resident of the other Contracting State shall, for the purposes of determining the taxable profits of the first-mentioned resident, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of a resident of a Contracting State to a resident of the other Contracting

State shall, for the purposes of determining the taxable capital of the first-mentioned resident, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

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

5. The provisions of this Article shall, notwithstanding the provisions of Article 2 (Taxes Covered), apply

(a) in relation to the United States, to taxes of every kind imposed at the national level; and

(b) in relation to Sri Lanka, to all taxes administered by the Commissioner-General of Inland Revenue.

ARTICLE 26: MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, 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 national.

2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits or other procedural limitations in the domestic law of the Contracting States, provided that the competent authority of the other Contracting State has received notification that such a case exists within three years of the first notification to such person of an action which results or will result in taxation not in accordance with the provisions of this Convention.

3. The competent authorities of the Contracting State shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. In particular the competent authorities of the Contracting States may agree

(a) to the same attribution of income, deductions, credits, or allowances of an enterprise of a Contracting State to its permanent establishment situated in the other Contracting State;

(b) to the same allocation of income, deductions, credits, or allowances between persons;

(c) to the same characterization of particular items of income;

(d) to the same application of source rules with respect to particular items of income;

(e) to a common meaning of a term;

(f) to increases in any specific amounts referred to in the Convention to reflect economic or monetary developments; and

(g) to the application of the provisions of domestic law regarding penalties, fines, and interest in a manner consistent with the purposes of the Convention.

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

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

ARTICLE 27: EXCHANGE OF INFORMATION AND ADMINISTRATIVE ASSISTANCE

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention, as well as to prevent fiscal evasion. The exchange of information is not restricted by Article 1 (Personal Scope). 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, collection, or administration of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

(a) to carry out administrative measures at variance with the laws 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 (order public).

3. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall obtain the information to which the request relates in the same manner and to the same extent as if the tax of the first-mentioned State were the tax of that other State and were being imposed by that other State. If specifically requested by the competent authority of a Contracting State, the competent authority of the other Contracting State shall provide information under this Article in the form of depositions of witnesses and authenticated copies of unedited original documents (including books, papers, statements, records, accounts, and writings), to the same extent such depositions and doc-

uments can be obtained under the laws and administrative practices of that other State with respect to its own taxes.

4. Each of the Contracting States shall endeavor to collect on behalf of the other Contracting State such amounts as may be necessary to ensure that relief granted by the Convention from taxation imposed by that other State does not enure to the benefit of persons not entitled thereto.

5. Paragraph 4 of this Article shall not impose upon either of the Contracting States the obligation to carry out administrative measures which are of a different nature from those used in the collection of its own taxes, or which would be contrary to its sovereignty, security, or public policy.

6. For the purposes of this Article, the Convention shall, notwithstanding the provisions of Article 2 (Taxes Covered), apply

(a) in relation to the United States, to taxes of every kind imposed at the national level; and

(b) in relation to Sri Lanka, to all taxes administered by the Commissioner-General of Inland Revenue.

ARTICLE 28: DIPLOMATIC AGENTS AND CONSULAR OFFICERS

Nothing in this Convention 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 29: ENTRY INTO FORCE

1. This Convention shall be subject to ratification in accordance with the applicable procedures of each Contracting State and instruments of ratification shall be exchanged at Washington as soon as possible.

2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect

(a) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of the second month next following the date on which the Convention enters into force;

(b) in respect of other taxes, for taxable periods beginning on or after the first day of January of the year in which the Convention enters into force.

ARTICLE 30: TERMINATION

1. This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention at any time after 5 years from the date on which the Convention enters into force, provided that at least 6 months' prior notice of termination has been given through diplomatic channels. In such event, the Convention shall cease to have effect

(a) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January next following the expiration of the 6 months' period;

(b) in respect of other taxes, for taxable periods beginning on or after the first day of January next following the expiration of the 6 months' period.

DONE at Colombo in duplicate, in the English and Sinhala languages, the two texts having equal authenticity, this day of March 14, 1985.

For the United States of America:

JOHN H. REED.

For the Democratic Socialist Republic of Sri Lanka:

HUGH MOLAGODA.

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