



Double Taxation Avoidance Agreement between Malaysia and Uzbekistan

Effective January 1, 2000

DEZAN SHIRA & ASSOCIATES

Corporate Establishment, Tax, Accounting & Payroll Throughout Asia

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P.U. (A) 88/1999
Signed: 6 October 1997
Effective Date: 1 January 2000

**AGREEMENT BETWEEN THE GOVERNMENT OF MALAYSIA AND THE
GOVERNMENT OF THE REPUBLIC OF UZBEKISTAN FOR THE AVOIDANCE
OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH
RESPECT TO TAXES ON INCOME AND PROFITS**

THE GOVERNMENT OF MALAYSIA
AND
THE GOVERNMENT OF THE REPUBLIC OF UZBEKISTAN

DESIRING to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and profits, have agreed as follows:

Article 1

PERSONAL SCOPE

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

Article 2

TAXES COVERED

1. This Agreement shall apply to taxes on income and profits imposed by a Contracting State, irrespective of the manner in which they are levied.

2. The taxes which are the subject of this Agreement are:

(a) in Malaysia:

(i) the income tax; and

(ii) the petroleum income tax;

(hereinafter referred to as "Malaysian tax");

(b) in the Republic of Uzbekistan:

(i) the tax on income and profits of enterprises, associations and organizations; and

- (ii) the individual income tax on the citizens of the Republic of Uzbekistan, foreign citizens and stateless persons;

(hereinafter referred to as "Uzbekistan tax").

3. This Agreement shall also apply to any identical or substantially similar taxes on income and profits which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of important changes which have been made in their respective taxation laws.

Article 3

GENERAL DEFINITIONS

1. In this Agreement, unless the context otherwise requires:

- (a) the term "Malaysia" means the territories of the Federation of Malaysia, the territorial waters of Malaysia and the sea-bed and subsoil of the territorial waters, and includes any area extending beyond the limits of the territorial waters of Malaysia, and the sea-bed and subsoil of any such area, which has been or may hereafter be designated under the laws of Malaysia as in accordance with international law as an area over which Malaysia has sovereign rights for the purposes of exploring and exploiting the natural resources, whether living or non-living;
- (b) the term "Uzbekistan" means the Republic of Uzbekistan and by the use in the geographical sense includes its territory, the territorial waters and air space over them where the Republic of Uzbekistan may exercise sovereign rights and jurisdiction including rights to use the subsoil and natural resources in accordance with international law and the laws of the Republic of Uzbekistan;
- (c) the terms "a Contracting State" and "the other Contracting State" mean Malaysia or Uzbekistan as the context requires;
- (d) the term "person" includes an individual, a company and any other body of persons which is treated as a person for tax purposes;
- (e) the term "company" means any body corporate, joint venture or any other 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 "tax" means Malaysian tax or Uzbekistan tax, as the context requires;
- (h) the term "national" means:
 - (i) any individual possessing the nationality or citizenship of a Contracting State;
 - (ii) any legal person, partnership, association and any other entity deriving its status as such from the laws in force in a Contracting State;
- (i) the term "international traffic" means any transport by a ship, aircraft, railway or road vehicle operated by an enterprise of a Contracting State, except when the ship, aircraft, railway or road vehicle is operated solely between places in the other Contracting State;
- (j) the term "competent authority" means:
 - (i) in the case of Malaysia, the Minister of Finance or his authorized representative; and
 - (ii) in the case of the Republic of Uzbekistan, the Chairman of the State Taxation Committee or his authorized representative.

2. In the application of this Agreement by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which this Agreement applies.

Article 4 **RESIDENT**

1. For the purposes of this Agreement, the term "resident of a Contracting State" means:
 - (a) in the case of Malaysia, a person who is a resident in Malaysia for the purposes of Malaysian tax; and
 - (b) in the case of Uzbekistan, a person who is resident in Uzbekistan for the purposes of Uzbekistan tax.
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 to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
- (b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
- (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
- (d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

Article 5

PERMANENT ESTABLISHMENT

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

2. The term "permanent establishment" shall include especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources including timber or other forest produce;
- (g) a farm or plantation;

- (h) a building site or construction, installation or assembly project, which exists for more than 12 months.
3. The term "permanent establishment" shall be deemed not to include:
- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
 - (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;
 - (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character.
4. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on supervisory activities in that other State for more than 12 months in connection with a building site or a construction, installation or assembly project which is being undertaken in that other State.
5. A person (other than a broker, general commission agent or any other agent of an independent status to whom paragraph 6 applies) acting in a Contracting State on behalf of an enterprise of the other Contracting State shall be deemed to be a permanent establishment in the first-mentioned State, if:
- (a) he has, and habitually exercises in the first-mentioned State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise;
 - (b) he maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise; or
 - (c) he manufactures or processes in the first-mentioned State for the enterprise goods or merchandise belonging to the enterprise.
6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries

on business in that other State through a broker, general commission agent or any other agent of an independent status, 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 shall not be considered an agent of an independent status if the transactions between the agent and the enterprise were not made under arm's length conditions.

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

Article 6

INCOME FROM IMMOVABLE PROPERTY

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

2. For the purposes of this Agreement, the term "immovable property" shall be defined in accordance with the laws 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, oil or gas wells, quarries and other places of extracting of natural resources.

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

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

Article 7

BUSINESS PROFITS

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

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses including executive and general administrative expenses, which would be deductible if the permanent establishment were an independent enterprise, insofar as they are reasonably allocable to the permanent establishment, whether incurred in the State in which the permanent establishment is situated or elsewhere.

4. If the information available to the competent authority is inadequate to determine the profits to be attributed to the permanent establishment of an enterprise, nothing in this Article shall affect the application of any law of that State relating to the determination of the tax liability of a person by the exercise of a discretion or the making of an estimate by the competent authority, provided that the law shall be applied, so far as the information available to the competent authority permits, in accordance with the principles of this Article.

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

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

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

Article 8

INCOME FROM INTERNATIONAL TRANSPORTATION

1. Income and profits derived by an enterprise of a Contracting State from the operation of ships, aircraft, railway or road vehicles in international traffic shall be taxable only in that State.

2. Paragraph 1 shall also apply to income and profits derived by a resident of a Contracting State from its participation in a pool or a joint business.

Article 9

ASSOCIATED ENTERPRISES

Where--

(a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State; or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, 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.

Article 10

DIVIDENDS

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

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

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

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

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State, of which the company paying the dividends is a resident, through a permanent establishment situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.

5. Where a company which is a resident of a Contracting State derives income or profits from the other Contracting State, that other State may not impose any

tax on the dividends paid by the company to persons who are not residents of that other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of income or profits arising in such other State.

Article 11

INTEREST

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

2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, the Government of a Contracting State shall be exempt from tax in the other Contracting State in respect of interest derived by the Government from that other State.

4. For the purposes of paragraph 3, the term "Government":

(a) in the case of Malaysia means the Government of Malaysia and shall include:

- (i) the governments of the States;
- (ii) the local authorities;
- (iii) the statutory bodies;
- (iv) the Export-Import Bank of Malaysia Berhad (EXIM Bank); and
- (v) the Bank Negara Malaysia;

(b) in the case of Uzbekistan means the Government of the Republic of Uzbekistan and shall include:

- (i) the local authorities;
- (ii) the statutory bodies;
- (iii) the National Bank of the Republic of Uzbekistan for Foreign Economic Activities; and
- (iv) the Central Bank of the Republic of Uzbekistan.

5. The term "interest" as used in this Article means income from debt claims of every kind, whether or not secured by mortgage, and in particular, income from government securities and income from bonds or debentures.

6. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

7. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, an administrative subdivision, a local authority or a statutory body thereof 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 in connection with which the indebtedness on which the interest is paid was incurred and such interest is borne by such permanent establishment then such interest shall be deemed to arise in the State in which the permanent establishment is situated.

8. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 12

ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for:

- (a) the use of, or the right to use, any patent, trade mark, design or model, plan, secret formula or process, or any copyright of scientific work or for the use of, or the right to use, industrial, commercial or scientific

equipment, or for the information concerning industrial, commercial or scientific experience;

(b) the use of, or the right to use, cinematograph films, films or tapes for radio or television broadcasting, any copyright of literary or artistic work.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case, the provisions of Article 7 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, an administrative subdivision, a local authority or statutory body thereof, or a resident of that State. Where, however, the person paying such royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 13

GAINS FROM THE ALIENATION OF PROPERTY

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) may be taxed in that other State.

3. Gains from the alienation of ships or aircraft operated by an enterprise of a Contracting State in international traffic and movable property pertaining to the operation of such ships or aircraft shall be taxable only in the State of which the enterprise is a resident.

4. Gains from the alienation of any property or assets, other than those mentioned in paragraphs 1, 2 and 3 of this Article, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

PERSONAL SERVICES

1. Subject to the provisions of Articles 15, 16, 17, 18, 19 and 20, remuneration (other than a pension) derived by an individual who is a resident of one of the other Contracting States in respect of personal (including professional) services shall be taxable only in that Contracting State unless the services are performed in the other Contracting State. If the services are so performed, such remuneration as is derived in respect thereof may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration (other than a pension) derived by an individual who is a resident of one of the Contracting States in respect of personal (including professional) services performed in the other contracting State shall be taxable only in the first-mentioned State if:

- (a) the recipient is present in that other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the calendar year concerned; and
- (b) the remuneration is paid by, or on behalf of a person who is not a resident of that State; and
- (c) the remuneration is not borne by a permanent establishment which the person paying the remuneration has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft, railways or road vehicles operated in international traffic by an enterprise of a Contracting State may be taxed in that State.

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

Article 15

DIRECTORS' FEES

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

Article 16

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Article 14 income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to remuneration or profits derived from activities exercised in a Contracting State if the visit to that State is directly or indirectly supported wholly or substantially from the public funds of the other Contracting State, an administrative subdivision, a local authority or a statutory body thereof.

Article 17

PENSIONS

Subject to the provisions of paragraph 2 of Article 18, any pension and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 18

GOVERNMENT SERVICE

1. (a) Remuneration, other than a pension, paid by a Contracting State or an administrative subdivision or a local authority or a statutory body thereof to any individual in respect of services rendered to that State or an administrative subdivision or local authority or statutory body thereof shall be taxable only in that State.

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the recipient is a resident of that other State who:

- (i) is a national of that other State; or
- (ii) did not become a resident of that other State solely for the purpose of performing the services.

2. Any pension paid by, or out of funds created by, a Contracting State or an administrative subdivision or a local authority or a statutory body thereof to any individual in respect of services rendered to that State or an administrative subdivision or local authority or statutory body thereof shall be taxable only in that State.

3. The provisions of Articles 14, 15 and 17 shall apply to remuneration or pensions in respect of services rendered in connection with any business carried on by a Contracting State or an administrative subdivision or a local authority or a statutory body thereof.

Article 19

STUDENTS AND TRAINEES

An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State and is temporarily present in the other State solely:

- (a) as a student at a recognised university, college, school or other similar recognised educational institution in that other State;
- (b) as a business or technical apprentice; or
- (c) as a recipient of a grant, allowance or award for the primary purpose of study, research or training from the Government of either State or from a scientific, educational, religious or charitable organisation or under a technical assistance programme entered into by the Government of either State, shall be exempt from tax in that other State on:
 - (i) all remittances from abroad for the purposes of his maintenance, education, study, research or training;
 - (ii) the amount of such grant, allowance or award; and
 - (iii) any remuneration not exceeding 3000 US dollars per annum in respect of services in that other State provided the services are

performed in connection with his study, research or training or are necessary for the purposes of his maintenance.

Article 20

TEACHERS AND RESEARCHERS

1. An individual who is or was a resident of a Contracting State immediately before making a visit to the other Contracting State, and who, at the invitation of any public university, college, institution primarily for research purposes or other similar public institutions, visits that other State for a period not exceeding two years solely for the purpose of teaching or research or both at such public institution shall be exempt from tax in that other State on any remuneration for such teaching or research which is subject to tax in the first-mentioned Contracting State.

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

Article 21

OTHER INCOME

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Agreement shall be taxable only in that Contracting State except that if such income is derived from sources in the other Contracting State, it may also be taxed in that other State.

Article 22

ELIMINATION OF DOUBLE TAXATION

1. Subject to the laws of Malaysia regarding the allowance as a credit against Malaysian tax of tax payable in any country other than Malaysia, the Uzbekistan tax payable under the laws of Uzbekistan and in accordance with this Agreement by a resident of Malaysia in respect of income derived from Uzbekistan shall be allowed as a credit against Malaysian tax payable in respect of that income. Where such income is a dividend paid by a company which is a resident of Uzbekistan to a company which is a resident of Malaysia and which owns not less than 10 per cent of the voting shares of the company paying the dividend, the credit shall take into account Uzbekistan tax payable by that company in respect of its income out of which the dividend is paid. The credit shall not, however, exceed that part of the Malaysian tax, as computed before the credit is given, which is appropriate to such item of income.

2. For the purposes of paragraph 1, the term "Uzbekistan tax payable" shall be deemed to include the amount of tax payable in Uzbekistan had it not been exempted or reduced in accordance with the provisions of this Agreement and under special incentives provided by the Uzbekistan laws which were in force on

the date of signature of this Agreement or any other provisions which may subsequently be introduced in Uzbekistan in modification of, or in addition to, those laws so far as they are agreed by the competent authorities of the Contracting States to be of a substantially similar character.

3. Subject to the laws of Uzbekistan regarding the allowance as a credit against Uzbekistan tax of tax payable in any country other than Uzbekistan, Malaysian tax payable under the laws of Malaysia and in accordance with this Agreement by a resident of Uzbekistan in respect of income derived from Malaysia shall be allowed as a credit against Uzbekistan tax payable in respect of that income. Where such income is a dividend paid by a company which is a resident of Malaysia to a company which is a resident of Uzbekistan and which owns not less than 10 per cent of the voting shares of the company paying the dividend, the credit shall take into account Malaysian tax payable by that company in respect of its income out of which the dividend is paid. The credit shall not, however, exceed that part of the Uzbekistan tax, as computed before the credit is given, which is appropriate to such item of income.

4. For the purposes of paragraph 3, the term "Malaysian tax payable" shall be deemed to include Malaysian tax which would, under the laws of Malaysia and in accordance with this Agreement, have been payable on any income derived from sources in Malaysia had the income not been taxed at a reduced rate or exempted from Malaysian tax in accordance with the provisions of this Agreement and the special incentives under the Malaysian laws which were in force on the date signature of this Agreement or any other provisions which may subsequently be introduced in Malaysia in modification of, or in addition to, those laws so far as they are agreed by the competent authorities of the Contracting States to be of a substantially similar character.

Article 23

NON-DISCRIMINATION

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

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

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

4. Nothing in this Article shall be construed so as to prevent either Contracting State from limiting to its nationals the enjoyment of tax incentives designed to promote economic development in that State.

Article 24

MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Agreement, he may, notwithstanding the remedies provided by the taxation laws of those States, present his case to the competent authority of the State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Agreement.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.

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

Article 25

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or for the prevention or detection of evasion or avoidance of taxes covered by this Agreement. Any information so exchanged shall be treated as secret and shall be disclosed only to persons or authorities (including a court or reviewing

authority) concerned with the assessment, collection, enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of this Agreement. Such persons or authorities shall use the information only for such purposes.

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

- (a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;
- (b) to supply information which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.

Article 26

DIPLOMATIC AGENTS AND CONSULAR OFFICERS

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

Article 27

ENTRY INTO FORCE

Each of the Contracting States shall notify to the other through diplomatic channels the completion of the procedures required by its law for the bringing into force of this Agreement. This Agreement shall enter into force on the date of the latter of these notifications and shall thereupon have effect:

- (a) in respect of taxes withheld at source, to income derived on or after the first day of January in the calendar year following the year in which this Agreement enters into force;
- (b) in respect of other taxes on income, to taxes chargeable for any year of assessment beginning on or after the first day of January of the second calendar year following the year in which this Agreement enters into force and subsequent years of assessment.

Article 28
TERMINATION

This Agreement shall remain in effect indefinitely, but either Contracting State may terminate the Agreement, through diplomatic channels, by giving to the other Contracting State written notice of termination on or before June 30th in any calendar year after the period of five years from the date on which this Agreement enters into force. In such an event the Agreement shall cease to have effect:

- (a) in respect of taxes withheld at source, to income derived on or after the first day of January in the calendar year following the year in which the notice is given;
- (b) in respect of other taxes on income, to taxes chargeable for any year of assessment beginning on or after the first day of January of the second calendar year following the year in which the notice is given.

In WITNESS whereof the undersigned, duly authorised thereto, by their respective Government, have signed this Agreement.

Done in duplicate at Kuala Lumpur this 6th day of October 1997, each in the Malay, the Uzbek and the English languages, all texts being equally authentic. In the event of divergence in the interpretation and the application of this Agreement, the English text shall prevail.

PROTOCOL

At the time of signing the Agreement between the Government of Malaysia and the Government of the Republic of Uzbekistan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Profits, the undersigned have agreed that the following provision shall form an integral part of the Agreement.

1. In connection with paragraph 1 of Article 7 "Business profits", nothing in that Article shall prevent the Contracting State from imposing tax on profits derived from sales in that State of goods or merchandise of the same or similar kind as those sold through a permanent establishment in that Contracting State, provided that those sales are evidently not conducted through that permanent establishment merely for the purpose of reducing the tax of the permanent establishment.

In WITNESS whereof the undersigned, duly authorised thereto, by their respective Governments, have signed this Protocol.

Done in duplicate at Kuala Lumpur this 6th day of October 1997, each in the Malay, the Uzbek and the English languages, all texts being equally authentic. In the event of divergence in the interpretation and the application of this Protocol, the English text shall prevail.