

**ADDITIONAL
P R O T O C O L**

**TO THE CONVENTION BETWEEN CYPRUS AND ITALY FOR THE AVOIDANCE OF
DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO
TAXES ON INCOME**

The Government of the Republic of Cyprus and the Government of the Italian Republic, desiring to conclude a Protocol to amend the Convention between Cyprus and Italy for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, with Protocol, signed at Nicosia on 24th April, 1974, and Protocol signed at Nicosia on 7th October, 1980 (hereinafter referred to as "the Convention"),

have agreed as follows:

ARTICLE I

Paragraph (3) of Article 2 "Taxes Covered", shall be deleted and replaced by the following:

- "(3) The existing taxes to which this Convention shall apply are:
- (a) in the case of Italy:
 - (i) the personal income tax;
 - (ii) the corporate income tax;
 - (iii) the regional tax on productive activities; whether or not they are collected by withholding at source (hereinafter referred to as "Italian tax");
 - (b) in the case of Cyprus:
 - (i) the income tax;
 - (ii) the corporate income tax;
 - (iii) the special contribution for the defence of the Republic; and
 - (iv) the capital gains tax; whether or not they are collected by withholding at source (hereinafter referred to as "Cyprus tax")

ARTICLE II

Paragraph 1 of Article 3 "General Definitions", shall be amended:

1. With the addition of the following new subparagraphs (a) and (b) and the re-lettering of existing subparagraphs (a) to (f) as (c) to (h):

- "(a) the term "Italy" means the Italian Republic and includes any area beyond the territorial waters which is designated as an area within which Italy, in compliance with its legislation and in conformity with the International Law, may exercise sovereign rights in respect of the exploration and exploitation of the natural resources of the seabed, the subsoil and the superjacent waters;
- (b) the term "Cyprus" means the Republic of Cyprus and, when used in a geographical sense, includes the national territory, the territorial sea thereof

as well as any area outside the territorial sea, including the contiguous zone, the exclusive economic zone and the continental shelf, which has been or may hereafter be designated, under the laws of Cyprus and in accordance with international law, as an area within which Cyprus may exercise sovereign rights or jurisdiction;"

2. With the deletion and replacement of part (2) of subparagraph (f), re-lettered as (h) with the following:

"2. in the case of Italy, the Ministry of Economy and Finance;"

ARTICLE III

Article 23 "Allowance of deduction or credit" shall be deleted and replaced by the following:

"Article 23 Elimination of Double Taxation

1. It is agreed that double taxation shall be avoided in accordance with the following paragraphs of this Article.
2. In the case of Italy:

If a resident of Italy owns items of income which are taxable in Cyprus, Italy, in determining its income taxes specified in Article 2 of this Convention, may include in the basis upon which such taxes are imposed the said items of income, unless specific provisions of this Convention otherwise provide.

In such case, Italy shall deduct from the taxes so calculated the income tax paid in Cyprus but in an amount not exceeding that proportion of the aforesaid Italian tax which such items of income bear to the entire income. The tax paid in Cyprus for which deduction is granted is only the pro rata amount corresponding to the foreign income which is included in the aggregate income.

However, no deduction shall be granted if the item of income is subjected in Italy to a substitute tax or to a final withholding tax, or to substitute taxation at the same rate as the final withholding tax, also by request of the recipient, in accordance with Italian law.

3. In the case of Cyprus:

Subject to the provisions of Cyprus Tax Law regarding credit for foreign tax, there shall be allowed as a credit against Cyprus tax payable in respect of any item of income derived from Italy the Italian tax paid under the laws of Italy and in accordance with this Convention. The credit shall not, however, exceed that part of the Cyprus tax, as computed before the credit is given, which is appropriate to such items of income or capital."

ARTICLE IV

Article 26 "Exchange of information" shall be deleted and replaced by the following:

- "(1) The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political or administrative subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention as well as to prevent fiscal evasion and tax avoidance. The exchange of information is not restricted by Articles 1 and 2.
- (2) Any information received under paragraph 1 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) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. 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.
- (3) In no case shall the provisions of paragraph 1 and 2 be construed so as to impose on a Contracting State the obligation:
 - (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
 - (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
 - (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).
- (4) If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.
- (5) In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person."

ARTICLE V

Each Contracting State shall notify to the other the completion of the procedures required by its domestic law for the entry into force of this Protocol. This Protocol shall enter into force on the date of the receipt of the later of these notifications and its provisions shall be implemented upon mutual agreement of the competent authorities of the Contracting States.

This Protocol shall remain in force as long as the Convention remains in force.

In Witness thereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Protocol.

Done in duplicate at ...Nicosia..... this 4th day of June..... 2009. in the Greek, Italian and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

For the Government
of the Republic of Cyprus



Charilaos STAVRAKIS
Minister of Finance

For the Government
of the Italian Republic



Luigi NAPOLITANO
Ambassador of the Italian Republic
to the Republic of Cyprus

Αριθμός 1154

PROTOCOL AMENDING THE CONVENTION BETWEEN CYPRUS AND ITALY
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION
OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME,
WITH PROTOCOL, SIGNED AT NICOSIA ON 24TH APRIL, 1974.

The Government of Cyprus and the Government of the Republic of Italy, desiring to conclude a Protocol to amend the Convention between the Contracting States for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, with Protocol, signed at Nicosia on 24th April, 1974 hereinafter referred to as "the Convention");

have agreed as follows :

Article 1

Paragraph 3 of Article 2 of the Convention shall be deleted and replaced by the following :

" (1) The taxes which are the subject of this Convention are :

- (a) In Cyprus
the income tax
(hereinafter referred to as "Cyprus tax") ;
- (b) in Italy :
 - (i) the personal income tax (imposta sul reddito delle persone fisiche) ;
 - (ii) the corporate income tax (imposta sul reddito delle persone giuridiche)

even if they are collected by withholding taxes at the source, (hereinafter referred to as "Italian Tax")".

Article 2

Paragraph 2 of Article 23 of the Convention shall be deleted and replaced by the following :

" (2) Where a resident of Italy owns items of income that are taxable in Cyprus, Italy may, in determining its income taxes provided for in Article 2 of this Convention, include in the basis upon which such taxes are imposed the mentioned items of income, unless express provisions of this Convention otherwise provide.

In that case, Italy shall deduct from the taxes so calculated the income tax paid in Cyprus, but the amount of deduction shall not exceed that proportion of Italian tax which the items of income bear to the entire income.

However, no deduction will be granted if the item of income is subjected in Italy to a final withholding tax by request of the recipient of the said income in accordance with the Italian laws".

Article 3

The last sentence of paragraph 3 of Article 25 shall be deleted.

Article 4

After Article 27 of the Convention shall be added the Article 27 bis that reads as follows :

" 1. Taxes withheld at source in a Contracting State will be refunded by request of the taxpayer or of the State of which he is a resident if the right to collect the said taxes is affected by the provisions of the Convention.

2. Claims for refund, that shall be produced within the time limit fixed by the law of the Contracting State which is obliged to carry out the refund, shall be accompanied by an official certificate of the Contracting State of which the taxpayer is a resident certifying the existence of the conditions required for being entitled to the application of the allowances provided for by the Convention.

3. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this Article, in accordance with the provisions of Article 25 of the Convention. These competent authorities may also, by mutual agreement, carry out other practices for the allowance of the reductions for taxation purposes provided for in the Convention.

Article 5

Paragraph 3 of Article 28 of the Convention is deleted and replaced by the following:

“Claims for refund or credits arising in accordance with this Convention in respect of any tax payable by residents of any of the Contracting States referring to the periods commencing on or after 1st January 1970 and until the entry into force of this Convention may be lodged within two years from the entry into force of this Convention”.

Article 6

1. This Protocol shall form an integral part of the Convention signed at Nicosia on 24th April, 1974, shall be ratified and the instruments of ratification shall be exchanged at Nicosia as soon as possible.

2. This Protocol shall enter into force on the date of the exchange of instruments of

For the Government of the
Republic of Cyprus,
CH. HADJIPANAYIOTOU,
(Director-General,
Ministry of Finance)

ratification and its provisions shall have effect in respect of income assessable for any taxable period commencing on or after the 1st January, 1974.

3. Claims for refund or credits arising in accordance with this Protocol in respect of any tax payable by residents of either of the Contracting States referring to the periods beginning on or after the 1st January, 1974, and until the entry into force of this Protocol shall be lodged within two years from the date of entry into force of this Protocol or from the date the tax was charged, whichever is later.

In witness whereof the undersigned, duly authorized thereto, have signed the present Protocol.

Done in duplicate at Nicosia, this day of October 7, 1980, in the Italian and English languages, both texts being equally authoritative. In case of any divergence of interpretation the English text shall prevail.

For the Government of the
Republic of Italy,
GIORGIO STEA - ANTONINI,
(Ambassador)

Mr. Director-General,

I have the honour to refer to the Protocol signed today at Nicosia amending the Convention between Cyprus and Italy for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, with Protocol, signed at Nicosia, on 24th April, 1974, and to propose, on behalf of the Government of the Republic of Italy :

- (a) that, with reference to paragraph 3 of Article 7 of the Convention, the expression “ expenses which are incurred for the purposes of the permanent establishment ” means the expenses directly connected with the activity of the permanent establishment ;
- (b) that, with reference to Article 8 of the Convention, an enterprise of a Contracting State deriving profits from the operation of ships or aircraft in international traffic shall not be subject to any local income tax imposed in the other Contracting State ;
- (c) that, with reference to paragraph 1 of Article 25 of the Convention, the expression “ notwithstanding the remedies provided by the national laws of those States ” means that the mutual agreement procedure is not alternative with the national contentious proceedings which shall be, in any case, preventively initiated, when the claim is related with an assessment of the taxes not in accordance with the Convention.

I have furthermore the honour to propose that the present Note and Your reply, confirming the acceptance by the Government of Cyprus of the above proposals, shall be regarded as constituting an agreement between the two Governments concerning the matters above mentioned.

I avail myself of this opportunity to extend to You, Mr. Director-General, the assurance of my highest consideration.

The Ambassador of Italy,
(Giorgio STEA-ANTONINI)

Nicosia, 7 October 1980.
The Director-General,
Ministry of Finance,
Nicosia.

Excellency,

I have the honour to acknowledge the receipt of Your Excellency's Note of this date which reads as follows :

“ Mr. Director-General,

I have the honour to refer to the Protocol signed today at Nicosia, amending the Convention between Cyprus and Italy for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, with Protocol, signed at Nicosia, on 24th April, 1974, and to propose on behalf of the Government of the Republic of Italy :

- (a) that, with reference to paragraph 3 of Article 7 of the Convention, the expression “ expenses which are incurred for the purposes of the permanent establishment ” means the expenses directly connected with the activity of the permanent establishment ;
- (b) that, with reference to Article 8 of the Convention, an enterprise of a Contracting State deriving profits from the operation of ships or aircraft in international traffic shall not be subject to any local income tax imposed in the other Contracting State ;
- (c) that, with reference to paragraph 1 of Article 25 of the Convention, the expression “ notwithstanding the remedies provided by the national laws of those States ” means that the mutual agreement procedure is not alternative with the national contentious proceedings which shall be, in any case, preventively initiated, when the claim is related with an assessment of the taxes not in accordance with the Convention.

I have furthermore the honour to propose that the present Note and Your reply confirming the acceptance by the Government of Cyprus and the above proposals shall be regarded as constituting an agreement between the two Governments concerning the matters above mentioned.

I avail myself of this opportunity to extend to You, Mr. Director-General, the assurance of my highest consideration”.

I have the honour to inform You that the Government of Cyprus is in agreement with the above proposals.

I avail myself of this opportunity to extend to Your Excellency the assurance of my highest consideration.

The Director-General
Ministry of Finance,
(Charalambos HADJIPANAYIOTOU)

Nicosia, 7 October 1980.

H.E. The Ambassador of Italy,
Nicosia.

CONVENTION BETWEEN CYPRUS AND ITALY FOR THE AVOIDANCE OF DOUBLE
TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO
TAXES ON INCOME

The Government of Cyprus and the Government of the Italian Republic,
Desiring to conclude a Convention to avoid double taxation and to prevent fiscal evasion
with respect to taxes on income,

Have agreed upon the following measures:

CHAPTER I

Scope of the Convention

Article 1

Personal scope

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

Article 2

Taxes covered

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

2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

3. The existing taxes to which the Convention shall apply are, in particular:

(a) In the case of Cyprus:

the income tax (hereinafter referred to as "Cyprus/tax").

(b) In the case of Italy:

(i) the tax on income from land (imposta sul reddito dei terreni);

(ii) the tax on income from buildings (imposta sul reddito dei fabbricati);

- (iii) the tax on income from movable wealth (*imposta sui redditi di ricchezza mobile*);
- (iv) the tax on agricultural income (*imposta sul reddito agrario*);
- (v) the complementary tax (*imposta complementare progressiva sul reddito*);
- (vi) the tax on companies (*imposta sulle società*) in so far as the tax is charged on income and not on capital;
- (vii) the tax on profits distributed by companies (*imposta sugli utili distribuiti dalle società*);

(hereinafter referred to as "Italian tax").

4. The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes. At the end of each year, the competent authorities of the Contracting States shall notify to each other any important changes which have been made in their respective taxation laws.

CHAPTER II

Definitions

Article 3

General definitions

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

- (a) the terms "a Contracting State" and "the other Contracting State" mean Cyprus or Italy as the context requires;
- (b) the term "person" comprises an individual, a company and any other body of persons;
- (c) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (d) the term "tax" means Italian tax or Cyprus tax as the context requires;
- (e) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (f) the term "competent authority" means:
 1. in the case of Cyprus, the Commissioner of Income Tax or his authorised representative;
 2. in the case of Italy, the Ministry of Finance.

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

Article 4

Fiscal domicile

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

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then this case shall be determined in accordance with the following rules:

- (a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);
- (b) If the Contracting 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) If he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- (d) If he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

Article 5

Permanent establishment

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

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

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, quarry or other place of extraction of natural resources;
- (g) a building site or construction or assembly project which exists for more than six months.

3. The term "permanent establishment" shall not be deemed to include:

- (a) the use of facilities solely for the purpose of storage, 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 for collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State — other than an agent of an independent

status to whom paragraph 5 applies — shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that 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.

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

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

CHAPTER III

Taxation of income

Article 6

Income from immovable property

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.

2. The term "immovable property" shall be defined in accordance with the law 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 professional services.

Article 7

Business profits

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

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

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

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

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

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

7. Where profits include items of income which are dealt with separately in other Articles of this 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 from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, of, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

3. The exemption provided in paragraph 1 of this Article shall apply to a share of the profits from the operation of ships or aircraft in international traffic derived by an enterprise of a Contracting State through participation in a pooled service, in a joint air transport operation or in an international operating agency.

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, of
- (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 arising in a Contracting State and paid to a resident of the other Contracting State, shall be taxable as follows:

(a) As respects Cyprus:

Dividends paid by a company which is a resident of Cyprus to a resident of Italy shall be exempt from any tax in Cyprus which is chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company;

(b) As respects Italy:

Dividends paid by a company which is a resident of Italy to a resident of Cyprus may be taxed in Italy but the tax so charged shall not exceed 15 percent of the gross amount of the dividends.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

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

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

3. The provisions of paragraph 1 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the dividends are taxable in that other Contracting State according to its own law.

4. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to persons who are not 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 profits or income arising in such other State.

Article 11

Interest

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

2. However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that State, but the tax so charged shall not exceed 10 percent of the amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated, by the taxation law of the State in which the income arises, to income from money lent.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a

permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the interest is taxable in that other Contracting State according to its own law.

5. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, an administrative sub-division, 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 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 Contracting State in which the permanent establishment is situated.

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

Article 12

Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State.

2. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the royalties are taxable in that other Contracting State according to its own law.

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

Article 13

Capital gains

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

2. Gains from the alienation of movable property may be taxed in the Contracting State of which the alienator is a resident.

3. The provisions of paragraph 2 shall not apply if the alienator, being a resident of a Contracting State, has in the other Contracting State a permanent establishment or a fixed base, and the movable property is attributable to that permanent establishment or to that fixed base, or the alienation of movable property takes place in that other Contracting State. In that case capital gains may be taxed in that other Contracting State according to its own law.

Paragraph 2 shall neither apply, where the movable property alienated produces an income of the kind referred to in Articles 10, 11 and 12, and such income is taxable according to the provisions of paragraph 3 of Article 10, paragraph 4 of Article 11 or paragraph 3 of Article 12, in that case capital gains may be taxed in that Contracting State, in which the income referred to is taxable.

Article 14

Independent personal services

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting State but only so much of it as is attributable to that fixed base.

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

Article 15

Dependent personal services

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned, and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

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

Article 16

Directors' fees

Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of

a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17

Artists and Athletes

Notwithstanding the provisions of Articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artists, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

Article 18

Pensions

Subject to the provisions of paragraph 1 of Article 19, pensions 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 19

Governmental functions

1. Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or an administrative subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof in the discharge of functions of a governmental nature may be taxed in that State.

2. The provisions of Articles 15, 16 and 18 shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or an administrative subdivision or a local authority thereof.

Article 20

Researchers, Professors and Teachers

A researcher, professor or teacher who makes a temporary visit to a Contracting State for a period not exceeding two years for the purpose of teaching or conducting research at a university, college, school or other educational institution, and who is, or immediately before such visit was, a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State in respect of remuneration for such teaching or research.

Article 21

Students and business apprentices

1. Payments which a student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall be exempt from tax in that other Contracting State, provided that such payments are made to him from outside that other Contracting State.

2. Remuneration which a student or business apprentice who is or was formerly a resident of a Contracting State derives from an employment which he exercises in the other Contracting State for the purpose of practical training for a period or periods not exceeding in the aggregate one year shall not be taxed in that other State.

Article 22

Income not expressly mentioned

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Convention shall be taxable only in that State.

CHAPTER IV

Article 23

Allowance of deduction or credit

1. The laws of the Contracting States shall continue to govern the taxation of income arising in either of the Contracting States except where express provision to the contrary is made in this Convention. Where income is subject to tax in both Contracting States, relief from double taxation shall be given in accordance with the following paragraphs of this Article.

2. In the case of a resident of Italy:

Italy in determining its income taxes specified in Article 2 of this Convention in the case of its residents may, regardless of any other provision of this Convention, include in the basis upon which such taxes are imposed all items of income; Italy, shall, however, deduct from the taxes so calculated the Cyprus tax on income (not exempt in Cyprus under this Convention) in the following manner:

(a) If the item of income is, according to the Italian law, subjected to the tax on income from movable wealth, the tax paid in Cyprus shall be deducted from the tax on income from movable wealth, but in an amount not exceeding that proportion of the aforesaid Italian tax which such item of income bears to the entire income.

Where the tax paid in Cyprus on such income is higher than the deduction so calculated the difference shall be deducted from the complementary tax or from the tax on companies, as the case may be, but in an amount not exceeding that proportion of such complementary or company tax which the item of income bears to the entire income;

(b) If the item of income is only subjected to the complementary tax or to the tax on companies, the deduction shall be granted from the complementary tax or from the tax on companies, as the case may be, but for that part of the tax paid in Cyprus which exceeds 25 percent of such item of income. The deduction cannot however exceed that proportion of the complementary tax or of the tax on companies which such income bears to the entire income.

3. In the case of a resident of Cyprus:

Subject to the provisions of the law of Cyprus regarding the allowance as a credit against Cyprus tax of tax payable in a territory outside Cyprus, Italian tax payable under the laws of Italy, whether directly or by deduction, in respect of income from sources within Italy shall be allowed as a credit against any Cyprus tax payable in respect of that income.

4. Where, under the laws of one of the Contracting States any tax to which this Convention applies has been wholly relieved or reduced for a limited period of time, then, for the purpose of calculating the deduction from the tax as referred to in paragraph 2 or the credit referred to in paragraph 3, such tax shall be deemed to have been paid.

CHAPTER V

Special provisions

Article 24

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.

In particular, nationals of a Contracting State who are taxable in the other Contracting State shall, if they are residents of that other Contracting State, receive any personal allowances, reliefs and reductions for taxation purposes on account of civil status which that other Contracting State grants to its residents.

2. The term "nationals" means:

(a) all individuals possessing the nationality of a Contracting State;

(b) all legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State.

3. 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.

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 Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

5. In this Article the term "taxation" means taxes of every kind and description.

Article 25

Mutual agreement procedure

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident. The claim must be lodged within two years from the date of the assessment or of the withholding of tax at the source whichever is the later.

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

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the 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 26

Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the present Convention or for the prevention of fiscal evasion. The competent authorities, however, are not obliged to supply information which is not obtainable

from documents of the tax authorities, but would necessitate special inquiries. The content of any information so exchanged shall be treated as secret and may only be disclosed to persons or authorities which are, under the laws of the Contracting State, concerned with the assessment, including judicial determination, or collection of the taxes which are the subject of this Convention. Those persons and authorities are bound to the same secrecy as the competent authorities.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States 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 particulars 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 27

Diplomatic and Consular Officials

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

CHAPTER VI

Final provisions

Article 28

Entry into force

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at (Nicosia) as soon as possible.

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

- (a) in Cyprus:
 - in respect of income assessable for the year of assessment commencing on the 1st January 1970, and subsequent years;

For the Government of Cyprus.

CHR. VENIAMIN

- (b) in Italy:

- in respect of income assessable for the taxable period commencing on or after the 1st January 1970.

3. Claims for refund or credits arising in accordance with this Convention in respect of any tax payable by residents of any of the Contracting States referring to the periods commencing on or after 1st January 1970 and until the entry into force of this Convention may be lodged within two years from the entry into force of this Convention (and for subsequent periods after the date of the coming into force of this Convention, as respects Italy within two years from the taxable period for which the tax is levied and as respects Cyprus within two years from the year of assessment for which the tax is levied).

Article 29

Termination

This Convention shall remain in force until its denouncement, through diplomatic channels, not earlier than five years after its entry into force by giving notice of termination at least six months before the end of the calendar year. In such event, the Convention shall cease to have effect:

- (a) in Cyprus;
 - in respect of income assessable for the year of assessment commencing on or after the 1st January in the calendar year next following that in which such notice is given;
- (b) in Italy;
 - in respect of income assessable for the taxable period commencing on or after the 1st January in the calendar year next following that in which such notice is given.

In Witness whereof the undersigned, duly authorised thereto, have signed the present Convention.

Done in triplicate at Nicosia the 24th day of April 1974 in the Italian, Greek and English languages, all three texts being equally authentic and in case there is any divergence of interpretation the English text shall prevail.

For the Government of Italy.

Dr. VITTORIANO MANFREDI

PROTOCOL

At the signing of the Convention between Cyprus and Italy for the avoidance of Double Taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed upon the following provisions which shall form an integral part of the said Convention:

If Cyprus, in a Convention with any other State concluded after the 1st January 1970 would reduce the tax on profits or income of the companies in relation to the dividends paid to residents of that other State, in such case the provision of paragraph 1(a) of article 10 shall not be applicable any longer, and Cyprus will extend automatically this reduction of tax to dividends paid by a company resident of Cyprus to a resident of Italy.

Done in triplicate at Nicosia the 24th day of April, 1974, in the Italian, Greek and English languages, all three texts being equally authentic and in case there is any divergence of interpretation, the English text shall prevail.

For the Government of Cyprus.

CHR. VENIAMIN

For the Government of Italy.

Dr. VITTORIANO MANFREDI