

# Double Taxation Agreement between India and Cyprus

Signed on December 21, 1995

## DEZAN SHIRA & ASSOCIATES

Corporate Establishment, Tax, Accounting & Payroll Throughout Asia

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## Cyprus

### Double Taxation Avoidance Agreement

#### **Income-tax Act, 1961: Notification under section 90: Agreement between the Republic of India and the Republic of Cyprus for avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and on capital**

**Notification No. 9930 [F. NO. 503/4/89-FTD], dtd. 26.12.1995.**

Whereas the annexed Agreement between the Government of the Republic of India and the Government of the Republic of Cyprus for the Avoidance of Double Taxation with respect to taxes on income has entered into force on 21-12-1994, after the notification by both the Contracting States to each other of the completion of the procedures required by their laws for bringing into force the said Agreement in accordance with paragraph 1 of Article 30 of the said Agreement;

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

#### **ANNEXURE**

#### **AGREEMENT BETWEEN THE REPUBLIC OF INDIA AND THE REPUBLIC OF CYPRUS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

The Government of the Republic of India and the Government of the Republic of Cyprus desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital; have agreed as follows:

#### **CHAPTER I**

#### **SCOPE OF THE AGREEMENT**

##### **Article 1**

#### **PERSONAL SCOPE**

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

##### **Article 2**

#### **TAXES COVERED**

1. This Agreement shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political sub-divisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The taxes to which this Agreement shall apply are:
  - a. **In India:**
    - i. the income-tax including any surcharge thereon;
    - ii. the wealth tax; (hereinafter referred to as "Indian tax");
  - b. **In Cyprus:**
    - i. the income tax;
    - ii. the corporate income tax;

- iii. the special contribution;
  - iv. the capital gains tax;
  - v. the immovable property tax; (hereinafter referred to as "Cyprus tax")
4. This Agreement shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of the present Agreement in addition to, or in place of, the taxes referred to in paragraph 3. The competent authorities of the Contracting States shall notify each other of any substantial changes which are made in their respective taxation laws.

## **CHAPTER II**

### **DEFINITIONS**

#### **Article 3**

##### **GENERAL DEFINITIONS**

1. In this Agreement, unless the context otherwise requires:
  - a. the term "India" means the territory of India and includes the territorial sea and airspace above it, as well as any other maritime zone in which India has sovereign rights, other rights and jurisdictions, according to the Indian Law and in accordance with international law/the U.N. Convention on the Law of the Sea.
  - b. the term "Cyprus" means the Republic of Cyprus including the national territory, the territorial sea, the continental shelf, and any other area which in accordance with international law and the law of the Republic of Cyprus has been or may hereafter be designated as an area within which the Republic of Cyprus exercises sovereign rights or has jurisdiction or any other rights and duties;
  - c. the terms "a Contracting State" and "the other Contracting State" mean India or Cyprus as the context requires;
  - d. the term "company" means any body corporate or any entity which is treated as a company or body corporate under the taxation laws in force in the respective Contracting States;
  - e. the term "competent authority" means in the case of India, the Central Government in the Ministry of Finance (Department of Revenue) or their authorised representative; and in the case of Cyprus, the Minister of Finance or his authorised representative;
  - f. the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
  - g. the term "fiscal year" means:
    - i. in the case of India, "previous year" as defined under section 3 of the Income-tax Act, 1961;
    - ii. in the case of Cyprus, "year of an assessment" as defined under section 2 of the Income-tax Law 1961 as amended;
  - h. the term "international traffic" means any transport by a ship or aircraft operated by an enterprise registered and having the headquarters (i.e. effective management) in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
  - i. the term "national" means:
    - i. in the case of India, any individual possessing the nationality of India and any legal person, partnership or association deriving its status from the laws in force in India;
    - ii. in the case of Cyprus, individuals possessing the citizenship of Cyprus and any person other than an individual deriving its status as such from the laws in force in Cyprus;
  - j. the term "person" includes an individual, a company, a body of persons and any other entity which is treated as a taxable unit under the taxation laws in force in the respective Contracting States;

- k. the term "tax" means Indian tax or Cyprus tax, as the context requires, but shall not include any amount which is payable in respect of any default or omission in relation to the taxes to which this Agreement applies or which represents a penalty imposed relating to those taxes.
2. As regards 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 any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. But this term does not include a person who is liable to tax in that State in respect only of income from sources in that State or on capital situated therein.
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; and
  - 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" includes especially:
  - a. a place of management;
  - b. a branch;
  - c. an office;
  - d. a factory;
  - e. a workshop;
  - f. a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
  - g. a building site, construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activity continues for a period of more than twelve months.
3. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:
  - a. the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
  - 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 advertising, for the supply of information or for scientific research, being activities solely of a preparatory or auxiliary character in the trade or business of the enterprise. However, this provision shall not be applicable where the enterprise maintains any other fixed place of business in the other Contracting State for any purpose or purposes other than the purposes specified in this paragraph; and
  - f. the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
4. Notwithstanding the provisions of paragraphs 1 and 2, where a person -- other than an agent of independent status to whom paragraph 5 applies -- is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts on behalf of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 3 which if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.
  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 provided that such person is acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.
  6. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

## **CHAPTER III**

### **TAXATION OF INCOME**

#### **Article 6**

##### **INCOME FROM IMMOVABLE PROPERTY**

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall also apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

#### **Article 7**

## **BUSINESS PROFITS**

1. The profits of an enterprise of a Contracting State shall be taxable only in the State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to:
  - a. that permanent establishment;
  - b. sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or
  - c. other business activities carried on in that other State of the same or similar kind as those effected through that permanent establishment.

The provisions of sub-paragraphs (b) and (c) above shall not apply if the enterprise proves that such sale or activity could not have been reasonably undertaken by the 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 attributable 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 deduction expenses which are incurred for the purposes of the business of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere in accordance with the provisions of and subject to the limitation of the tax laws of that State.
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 the Contracting State from determining the profits to be taxed by such an apportionment as may be customary, the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

## **Article 8**

### **SHIPPING AND AIR TRANSPORT**

1. Profits derived by an enterprise registered and having the headquarters (i.e. effective management) in a Contracting State from the operation by that enterprise of ships or aircraft in international traffic shall be taxable only in that State.
2. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic shall mean profits derived by an enterprise described in paragraph 1 from the transportation by sea or air respectively of passengers, mail, livestock or goods carried on by the owners or lessees or charterers of ships or aircraft including:--
  - a. the sale of tickets for such transportation on behalf of other enterprises;
  - b. other activity directly connected with such transportation; and
  - c. the rental of ships or aircraft incidental to any activity directly connected with such transportation.

3. Profits of an enterprise of a Contracting State described in paragraph 1 from the use, maintenance, or rental of containers (including trailers, barges, and related equipment for the transport of containers) used in connection with the operation of ships or aircraft in international traffic shall be taxable only in that State
4. The provisions of paragraphs 1 and 3 shall also apply to profits from participation in pool, a joint business, or an international operating agency.
5. For the purposes of this Article interest on fund connected with the operation of ships or aircraft in international traffic shall be regarded as profits derived from the operation of such ships or aircraft, and the provisions of Article 11 (Interest) shall not apply in relation to such interest.
6. Gains derived by an enterprise of a Contracting State described in paragraph 1 from the alienation of ships, aircraft or containers owned and operated by the enterprise, the income from which is taxable only in that State, shall be taxed only in that State.

## **Article 9**

### **ASSOCIATED ENTERPRISES**

1. Where:
  - a. an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
  - b. the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

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

3. Nothing in this Article shall affect the application of any law of a Contracting State relating to the determination of such liability by the exercise of a discretion or the making of an estimate by the competent authority of that State in cases which, from the information available to the competent authority of that State, it is not possible or not practicable to determine the income to be attributed to an enterprise, provided that law shall be applied, so far as the information available to the competent authority permits, consistently with the principles of this Article.
4. Where a Contracting State includes in the profits of an enterprise of that State, and taxes accordingly profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to that enterprise of the first mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting State shall, if necessary, consult each other.

## **Article 10**

### **DIVIDENDS**

1. Dividends paid by a company which is resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends, the tax so charged shall not exceed:
  - a. 10 per cent of the gross amount of the dividends if the beneficial owner is a company which owns at least ten per cent of the shares of the company paying the dividends; and

- b. 15 per cent of the gross amount of the dividends in all other cases. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.
3. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7, or Article 15, as the case may be, shall apply.
5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

## **Article 11**

### **INTEREST**

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 per cent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2:
  - a. interest arising in a Contracting State shall be exempt from tax in that State provided it is derived and beneficially owned by:
    - i. the Government, a political sub-division or a local authority of the other Contracting State; or
    - ii. the Central Bank of the other Contracting State or any agency or instrumentality (including a financial institution) wholly owned by the other Contracting State or political sub-division or local authority thereof;
  - b. interest arising in a Contracting State shall be exempt from tax in that Contracting State to the extent approved by the Government of that State if it is derived and beneficially owned by any person other than a person referred to in sub-paragraph (a), who is a resident of the other Contracting State provided that the transaction giving rise to the debt claim has been approved in this regard by the Government of the first mentioned Contracting State.
4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from Government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment

or fixed base. In such case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a political sub-division, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.
7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply 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 AND FEES FOR INCLUDED SERVICES**

1. Royalties and fees for included services 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 and fees for included services 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 or fees for included services the tax so charged shall not exceed 15 per cent of the gross amount of the royalties or fees for included services.
3. The term "royalties" in this Article means payments or credits, whether periodical or not, and however described or computed, to the extent to which they are made as consideration for:
  - a. the use of, or the right to use any copyright, patent, design or model, plan, secret formula or process, trademark or other like property or right;
  - b. the use of, or the right to use, any industrial, commercial or scientific equipment;
  - c. the supply of scientific, technical, industrial or commercial knowledge or information;
  - d. the use of, or the right to use:
    - i. motion picture films;
    - ii. films or video tapes for use in connection with television; or
    - iii. tapes for use in connection with radio broadcasting; or
  - e. total or partial forbearance in respect of the use or supply of any property or right referred to in this paragraph.
4. The term "fees for included services" in this Article means payments or credits, whether periodical or not, and however described or computed, to the extent to which they are made as consideration for:
  - a. the supply of any assistance that is ancillary and subsidiary to, and is furnished as a means of enabling the application or enjoyment of, any such property or right as is mentioned in sub-paragraph (a) of paragraph (3), any such equipment as is mentioned in sub-paragraph (b) of paragraph (3), or any such knowledge or information as is mentioned in sub-paragraph (c) of paragraph (3);
  - b. rendering of any technical or consultancy services (including the provision of technical or other personnel) if such services make available technical knowledge, experience, skill, know-how or process or consist of the development and transfer of a technical plan or technical design.
5. The provisions of paragraphs (1) and (2) shall not apply if the beneficial owner of the royalties or fees for included services, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties or fees for included services arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of

which the royalties or fees for included services are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.

6. Royalties and fees for included services shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, a local authority or a resident of that State. Where, however, the person paying the royalties or fees for included services, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or fixed base in connection with which the liability to pay the royalties or fees for included services was incurred, and such royalties or fees for included services are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties or fees for included services having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

## **Article 13**

### **TECHNICAL FEES**

1. Technical fees arising in a Contracting State which are derived by a resident of the other Contracting State may be taxed in that other State.
2. However, such technical fees 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 technical fees, the tax so charged shall not exceed 10 per cent of the gross amount of the technical fees.
3. The term "technical fees" as used in this Article means payments of any kind to any person, other than to an employee of the person making the payments, in consideration for any services of a technical, managerial or consultancy nature.
4. The provisions of paragraphs (1) and (2) shall not apply if the beneficial owner of the technical fees, being a resident of a Contracting State carries on business in the other Contracting State in which the technical fees arise through a permanent establishment situated therein, or performs in that other State independent personal services, and the technical fees are effectively connected with such permanent establishment or such services. In such case, the provisions of Article 7 or Article 15, as the case may be, shall apply.
5. Technical fees shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, a local authority or a statutory body thereof, or a resident of that State. Where, however, the person paying the technical fees, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the obligation to pay the technical fees was incurred, and such technical fees are borne by that permanent establishment, then such technical fees shall be deemed to arise in the Contracting State in which the permanent establishment is situated.
6. Where, by reason of a special relationship between the payer and the recipient or between both of them and some other person, the amount of the technical fees paid, exceeds for whatever reason, 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 law of each Contracting State due regard being had to the other provisions of this Agreement.

## **Article 14**

### **CAPITAL GAINS**

Gains derived by a resident of a Contracting State from the alienation of immovable property, referred to in Article 6, and situated in the other Contracting State may be taxed in that other State.

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

Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

## **Article 15**

### **INDEPENDENT PERSONAL SERVICES**

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 except in the following circumstances when such income may also be taxed in the other Contracting State:

- a. if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or
- b. if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in the relevant fiscal year; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.

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

## **Article 16**

### **DEPENDENT PERSONAL SERVICES**

1. Subject to the provisions of Articles 17, 19, 20, 21 and 22, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
  - a. the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the relevant fiscal year;
  - 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 home by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an

enterprise shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

#### **Article 17**

##### **DIRECTORS' FEES**

1. 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 18**

##### **INCOME EARNED BY ARTISTES AND ATHLETES**

1. Notwithstanding the provisions of Articles 15 and 16, income derived by a resident of a Contracting State as an entertainer such as theatre, motion picture, radio or television artiste or a musician or as an athlete, from his personal activities as such exercised in the other Contracting State may be taxed in that other State.
2. While income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.
3. Notwithstanding the provisions of paragraph 1, income derived by an entertainer or an athlete who is a resident of a Contracting State from his personal activities as such exercised in the other Contracting State, shall be taxable only in first-mentioned Contracting State, if the activities in the other Contracting State are supported wholly or substantially from the public funds of the first-mentioned Contracting State, including any of its political sub-divisions or local authorities.
4. Notwithstanding the provisions of paragraph 2 and Articles 7, 15 and 16, where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such in a Contracting State accrues not to the entertainer or athlete himself but to another person, that income shall be taxable only in the other Contracting State, if that other person is supported wholly or substantially from the public funds of that other State, including any of its political sub-divisions or local authorities.

#### **Article 19**

##### **REMUNERATION AND PENSIONS IN RESPECT OF GOVERNMENT SERVICE**

1.
  - a. Remuneration, other than a pension, paid by a Contracting State or a political sub-division or a local authority thereof to an individual in respect of services rendered to that State or sub-division or authority shall be taxable only in that State.
  - b. However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the individual is a resident of that State who:
    - i. is a national of that State; or
    - ii. did not become a resident of that State solely for the purpose of rendering the services.
2.
  - a. Any pension paid by, or out of funds created by a Contracting State or a political sub-division or a local authority thereof to an individual in respect of services rendered to that State or sub-division or authority shall be taxable only in that State.
  - b. However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of that other State.

3. The provisions of Articles 16, 17 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political sub-division or a local authority thereof.

## **Article 20**

### **NON-GOVERNMENT PENSIONS AND ANNUITIES**

1. Any pension, other than a pension referred to in Article 19, or any annuity derived by a resident of a Contracting State from sources within the other Contracting State may be taxed only in the first-mentioned Contracting State.
2. The term "pension" means a periodic payment made in consideration of past services or by way of compensation for injuries received in the course of performance of services.
3. The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

## **Article 21**

### **PAYMENTS RECEIVED BY STUDENTS AND APPRENTICES**

1. A student or business apprentice who is or was a resident of one of the Contracting States immediately before visiting the other Contracting State and who is present in that other State solely for the purpose of his education or training, shall be exempt from tax in that other State on:
  - a. payments made to him by persons residing outside that other State for the purposes of his maintenance, education or training; and
  - b. remuneration from employment in that other State, in an amount not exceeding US \$ 5,000 or its equivalent during any fiscal year, provided that such employment is directly related to his studies or is undertaken for the purpose of his maintenance.
2. The benefit of sub-paragraph (b) or paragraph (1) of this Article shall extend only for such period of time as may be reasonable or customarily required to complete the education or training undertaken, but in no event shall any individual have the benefit of sub-paragraph (b) of paragraph (1) of this Article for more than three consecutive years from the date of his first arrival in that other Contracting State.

## **Article 22**

### **PAYMENTS RECEIVED BY PROFESSORS, TEACHERS AND RESEARCH SCHOLARS**

1. Remuneration which a professor or teacher who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State for a period not exceeding two years for the purpose of carrying out advanced study or research or for teaching at a university, receives for such work shall not be taxed in that State, provided that such remuneration is derived by him from outside that State.
2. This Article shall not apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.
3. For the purposes of this Article and Article 21, an individual shall be deemed to be resident of a Contracting State if he is a resident in that Contracting State in the fiscal year in which he visits the other Contracting State or in the immediately preceding fiscal year.

## **Article 23**

### **OTHER INCOME**

1. Subject to the provisions of paragraph 2, items of income of a resident of a Contracting State, wherever arising, which are not expressly dealt with in the foregoing Articles of this Agreement, shall be taxable only in that Contracting State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 15, as the case may be, shall apply.
3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement and arising in the other Contracting State may also be taxed in that other State.

## **Article 24**

### **CAPITAL**

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.
2. Capital represented by 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 by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services may be taxed in that other State.
3. Capital represented by ships and aircraft operated in international traffic and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

## **CHAPTER IV**

### **METHOD FOR ELIMINATION OF DOUBLE TAXATION**

#### **Article 25**

### **AVOIDANCE OF DOUBLE TAXATION**

1. The laws in force in either of the Contracting States shall continue to govern the taxation of income and capital in the respective Contracting States except where express provision to the contrary is made in this Agreement.
2. Where a resident of India derives income or owns capital which, in accordance with the provisions of this Agreement, may be taxed in Cyprus, India shall allow as a deduction from the tax on the income of that resident an amount equal to the income-tax paid in Cyprus whether directly or by deduction; and as a deduction from the tax on the capital of that resident an amount equal to the capital-tax paid in Cyprus. Such deduction in either case shall not, however, exceed that part of the income-tax or capital-tax (as computed before the deduction is given) which is attributable, as the case may be, to the income or the capital which may be taxed in Cyprus.
3. In the case of Cyprus, double taxation shall be avoided, 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. Indian tax payable under the laws of India whether directly or by deduction in respect of profits, income or gains from sources within India shall be allowed as a credit against any Cyprus tax payable in respect of that profit, income or gains. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to such income derived in India.
4. The tax payable in a Contracting State mentioned in paragraph 2 and paragraph 3 of this Article shall be deemed to include the tax which would have been payable but for the tax incentives granted under the laws of the Contracting State and which are designed to promote economic development. For the purpose of paragraph 2 of Article 10 of the amount of tax shall be deemed

to be 10 per cent or 15 per cent, as the case may be, of the gross amount of dividend, for the purpose of paragraph 2 of Article 11, the amount of tax shall be deemed to be 10 per cent of the gross amount of interest and for the purpose of paragraph 2 of Article 12, the amount of tax shall be deemed to be 15 per cent of the gross amount of royalties and fees for included services and for the purpose of paragraph 2 of Article 13, the amount of tax shall be deemed to be 10 per cent of the gross amount of technical fees.

5. When in accordance with any provision of this Agreement income derived by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

## **CHAPTER V**

### **SPECIAL PROVISIONS**

#### **Article 26**

##### **NON-DISCRIMINATION**

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities in the same circumstances. This provision shall not be construed as preventing a Contracting State from charging the profits of a permanent establishment which an enterprise of the other Contracting State has in the first-mentioned State at a rate which is higher than that imposed on the profits of a similar enterprise of the first-mentioned Contracting State, nor as being in conflict with the provisions of paragraph 3 of Article 7 of this Agreement.
3. Nothing contained in this Article shall be construed as obliging a Contracting State to grant to persons not resident in that State any personal allowances, reliefs, reductions and deductions for taxation purposes which are by law available only to persons who are so resident.
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 in the same circumstances.
5. In this Article, the term "taxation" means taxes which are the subject of this Agreement.

#### **Article 27**

##### **MUTUAL AGREEMENT PROCEDURE**

1. Where 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 national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident. This case must be presented within three years of the date of receipt of notice of the action which gives rise to taxation not in accordance with the Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the national laws of the Contracting State.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubt arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting S