

FINAL PROTOCOL - MAY 9, 1974

Germany

The Federal Republic of Germany and the Republic of Cyprus

Have Agreed at the Signing at Nicosia on 9th May, 1974, of the Agreement between the two States for the avoidance of double taxation with respect to taxes on income and capital upon the following provisions which shall form an integral part of the said Agreement.

- (1) With reference to Article 5,

an enterprise shall be deemed to have a permanent establishment in a Contracting State and to carry on trade or business through that permanent establishment if it carries on supervisory activities in that State for more than six months in connection with a building site, or a construction, installation or assembly project which is being undertaken in that State.

- (2) With reference to Articles 6 to 21,

where, under any provision of Articles 6 to 21 of the Agreement, income derived from a Contracting State, except interest to which paragraph (3) of Article 11 applies, is relieved from tax in that State and, under the law in force in the other Contracting State, such income is subject to tax by reference to the amount thereof which is remitted to or received in that other State and not by reference to the full amount thereof, then the relief to be allowed under the Agreement in the first-mentioned State shall apply only to so much of the income as is remitted to or received in the other State.

- (3) With reference to Article 23,

notwithstanding the provisions of paragraph (1), sub-paragraph (a), of Article 23 of the Agreement, the provisions of paragraph (1), sub-paragraph (b), of that Article shall apply likewise to the profits of, and to the capital represented by property forming part of the business property of, a permanent establishment; to dividends paid by, and to the shareholding in, a company; or to gains referred to in paragraphs (1) and (2) of Article 13 of the Agreement, provided that the resident of the Federal Republic of Germany concerned does not prove that the receipts of the permanent establishment or company are derived exclusively or almost exclusively:

- (a) from producing or selling goods and merchandise, giving technical advice or rendering engineering services, or doing banking or insurance business, within Cyprus, or
- (b) from dividends paid by one or more companies, being residents of Cyprus, more than 25 per cent of the capital of which is owned by the first-mentioned company, which themselves derive their receipts exclusively or almost exclusively from producing or selling goods or

merchandise, giving technical advice or rendering engineering services, or doing banking or insurance business, within Cyprus.