

AGREEMENT OF 29TH OCTOBER, 1982

Moldova

CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF CYPRUS AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS FOR THE AVOIDANCE OF DOUBLE TAXATION OF INCOME AND PROPERTY.

The Government of the Republic of Cyprus and the Government of the Union of Soviet Socialist Republics confirming their desire, in accordance with the Final Act of the Conference on Security and Cooperation in Europe signed in Helsinki on August 1, 1975, towards the development and deepening of economic, industrial, scientific, technical and cultural cooperation, and with the aim of avoiding double taxation, have agreed upon as follows:

Article 1

Persons to which the Convention shall apply:

1. This Convention shall apply to persons who for the purposes of taxation are deemed to be residents of one or both of the Contracting States.
2. For the purposes of this Convention the term "resident of a Contracting State" means a person who, under the laws of that State, is liable to taxation therein by reason of his domicile, residence, place of effective management or any other criterion of a similar nature.
3. The term "resident of both Contracting States" means a person deemed to be a resident of each of the Contracting States for tax purposes therein during the same period of time.
4. Where by reason of the provisions of paragraphs 2 and 3 an individual is deemed to be a resident of each of the Contracting States, his status 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 each of the 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 no 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 each of the 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 each of the Contracting States regards him as its national or if he is a national of neither of them, the competent authorities of the Contracting States shall settle the question of taxation of such persons in accordance with the provisions of Article 18 of this Convention.

Article 2

Taxes Covered

1. This Convention shall apply to taxes whether of national or local character imposed in conformity with the laws of each of the Contracting States, without regard to the method of tax collection and, in particular, to taxes on income whether imposed on the total amount of income or its separate components, taxes on income from alienation of movable or immovable property, capital gains taxes and property taxes. The taxes covered are:

- (a) in the case of the Union of Soviet Socialist Republics: the income tax on foreign legal persons, the income tax on population, the agricultural tax, the tax on the owners of buildings and the ground tax;
- (b) in the case of the Republic of Cyprus: the income tax, the capital gains tax, the special contribution to the refugee relief fund and the immovable property taxes.

2. This Convention shall also apply to any taxes and levies substantially similar to those specified in paragraph 1 which are imposed after the date of signature of this Convention in addition to, or in place of, the existing taxes and levies.

Article 3

General Definitions

1. For the purposes of this Convention the terms mentioned below shall have the following meaning:

- (a) "a Contracting State" means, as the context requires, the Union of Soviet Socialist Republics (the USSR), or the Republic of Cyprus (Cyprus);
- (b) "person" means a legal person or a physical person;
- (c) "international traffic" means any transportation of load and passengers by any means of transport between places located in different Contracting States. If the transportation takes place only between places located on the territory of one Contracting State it shall not be deemed to be international traffic;
- (d) "competent authorities" means:
 - (1) in the case of the USSR -- the Ministry of Finance of the USSR or its authorised representative;

- (2) in the case of Cyprus -- the Minister of Finance or his authorized representative.

2. In the application of this Convention by the Contracting States any term not otherwise defined in this Convention shall, unless the context otherwise requires, have the meaning which it has under the laws of the Contracting State which imposes the taxes in conformity with this Convention.

Article 4

Profits of a Permanent Establishment

1. Profits derived in a Contracting State by a resident of the other Contracting State shall be liable to taxation in the first-mentioned State only if they are derived through a permanent establishment located therein and only to the extent which is attributable to the activity of such permanent establishment.

2. In the determination of the profits of a permanent establishment there shall be deducted expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses, whether incurred in the country of residence or abroad.

3. For the purposes of this Convention the term "a permanent establishment" means an agency, an office or any other fixed place of business through which a resident of a Contracting State carries on business in the other Contracting State.

4. Notwithstanding the provisions of paragraphs 1 and 3 the following kinds of activity shall not be deemed as being carried on through a permanent establishment:

- (a) construction and assembly works performed during a period of time not exceeding twelve months, including the performance of control over the construction of an object or of any assembly works. In cases where such works are performed in accordance with the programmes of intergovernmental co-operation, the competent authorities of the Contracting States may, by mutual agreement extend the twelve-month period in cases when they deem it necessary;
- (b) purchase and maintenance of goods and merchandise, including the performance of storage operations, and delivery of goods and merchandise;
- (c) conclusion of contracts through an agent or any other authorised person acting as a trustee or on any other written authorization if such activity is beyond the ordinary course of his business;
- (d) display of goods and merchandise, exhibition of exhibits as well as operations connected with their sale after the exposition;
- (e) advertising, collecting and disseminating information, marketing and other similar activity of a preparatory or an auxiliary character;

- (f) performance of planning, development and scientific research works (including joint works), engineering, testing of samples of goods, machines and equipment, technical servicing of machines and equipment, if this servicing is of a preparatory or an auxiliary character to the main activity of a person;
- (g) performance of several functions listed above, provided that this activity in the whole is of a preparatory or an auxiliary character to the main activity of a person;
- (h) performance of other types of activity of a preparatory or an auxiliary character to the main activity of a person.

5. A resident of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State by mere reason that he carries on business in that other State through a broker, commission agent or any other agent of an independent status, provided such persons are acting in the ordinary course of their business.

6. For the purposes of this Convention the fact that a resident of a Contracting State controls or is controlled by a resident of the other Contracting State shall not of itself be considered to be a reason for treating one of them as a permanent establishment of the other.

7. The provisions of this Article shall not affect exemption from taxation provided for by the other articles of this Convention.

Article 5

Profits from International Traffic

1. Profits derived by a resident of a Contracting State from international traffic operations shall not be liable to taxation in the other Contracting State.

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 or, if there is no such home harbour, in the Contracting State of which the operator of the ship is resident.

3. The provisions of this Article shall also apply to profits derived from the participation in a pool, a joint venture or in an international organization engaged in the operation of international traffic.

Article 6

Royalties

1. Payments for copyrights and licenses which are received from sources in a Contracting State by a resident of the other Contracting State shall not be liable to taxation in the first-mentioned State.

2. The term "royalties" as used in this Article means payments of any kind received as a consideration for the sale of, use of, or the right to use:

- (a) copyrights on works of science, literature and art;
- (b) inventions (whether or not protected by patents or author's certificates), innovations;
- (c) commercial specimen and samples of common use;
- (d) trade marks as well as service marks;
- (e) trade names and other similar property;
- (f) computer programmes;
- (g) tapes for the production of gramophone records and other means of sound reproduction;
- (h) tapes and films for use in broadcasting, cinema and television;
- (i) manufacturing experience, knowledge and industrial secrets (know-how).

3. The provisions of this Article shall also apply to payments in respect of:

- (a) the sale, use of, or the right to use individual samples of industrial, commercial or scientific equipment, and other scientific and technical devices;
- (b) the provision of technical services, if such payments are connected with the implementation of the provisions of this Article.

Article 7 Dividends

1. Dividends paid by a resident of a Contracting State to a resident of the other Contracting State shall not be liable to taxation in the first-mentioned State.

2. The provisions of paragraph 1 shall not affect the amount of tax chargeable on the income or profits out of which such dividends are paid.

3. For the purposes of this Convention the term "dividends" means income from shares, founders' shares and other similar rights, which is subject to the same taxation treatment as income from shares by the Contracting State of which the company paying out the dividends is a resident.

Article 8 Interest

1. Interest received from sources in a Contracting State by a resident of the other Contracting State shall not be liable to taxation in the first-mentioned State.

2. The term "interest" as used in this Article means income from loans, bank deposits, public loans, debt obligations as well as any other kind of income which, for the purposes of taxation, is subjected to the same treatment as interest in conformity with the laws of the Contracting State of which the person paying out such income is a resident.

Article 9

Taxation of Property

1. Immovable property belonging to a resident of a Contracting State and situated in the other Contracting State shall be liable to taxation only in that other State.

2. For the purposes of this Convention it is understood that immovable property is the property recognized as such under the laws of the Contracting State in the territory of which that property is situated.

3. Movable property which belongs to a resident of a Contracting State and is situated in the other Contracting State shall be liable to taxation only in the first-mentioned State.

Article 10

Income from Property

1. Income derived by a resident of a Contracting State from the sale, exchange, lease or any other form of use of the immovable property situated in the other Contracting State, shall be liable to taxation only in that other State.

2. Income derived by a resident of a Contracting State from the sale, exchange, lease or any other form of use of movable property, excluding motor vehicles, situated in the other Contracting State, shall be liable to taxation only in the first-mentioned State.

Article 11

Income of Individuals

1. Wages and other similar remunerations of an individual resident in a Contracting State received for performing activity on the territory of the other Contracting State and not exempt from taxation in accordance with paragraph 2 of this Article and other articles of this Convention, shall not be liable to taxation in that other State:

- if the above-mentioned person is present therein during a period or periods not exceeding an aggregate of 183 days in a calendar year and, in the case of technical specialists -- 365 days in two consecutive calendar years;

- if these wages and remunerations are paid by, or on behalf of, an employer who is not a resident of that other Contracting State.

2. Notwithstanding the provisions of paragraph 1, the following categories of income of individuals resident in a Contracting State shall not be liable to taxation in the other Contracting State:

- (a) income in the form of salary or wages in respect of work done in the other Contracting State connected with a construction or assembly project wherefrom the profits are exempt from taxation in that other State in accordance with paragraph 4, of Article 4 of this Convention;
- (b) income of a person present in the other Contracting State at the invitation of a government agency or institution, educational or scientific research establishment of that Contracting State to teach, conduct scientific research or participate in scientific, technical or professional conferences or for the purpose of carrying out the programmes of cooperation, if the income is derived from the activities indicated above. The provisions of this paragraph shall not apply in cases where the performance of activities indicated above mainly serves the personal interests of a resident of the first-mentioned Contracting State;
- (c) grants paid to pupils, students, postgraduate students or trainees who are present in the other Contracting State for the purpose of studying or acquiring experience in a particular field, and also cash payments received by these persons from sources outside that other Contracting State for the purpose of maintaining of subsistence level, education or training in a particular field. Privileges provided for in this paragraph shall be granted for a period necessary to achieve the object of stay;
- (d) remuneration paid to persons stationed in the other Contracting State as press, radio or television reporters or correspondents, from sources outside that other State;
- (e) salary or wages paid to personnel of transport vehicles used for international traffic by one of the Contracting States or by a person resident therein, and also the salary or wages of the personnel of a permanent establishment of a person operating these transport vehicles if the salary or wages of such personnel are received for work directly related to the performance of such traffic operations and if they are paid to persons other than residents of the State where the permanent establishment is situated;
- (f) salary or wages paid to personnel of a permanent establishment of tourist organizations if these remunerations are paid to persons other than residents of the State where the permanent establishment is situated;
- (g) income received from tour performances and other public performances;

- (h) sums of prizes, premiums and remunerations paid to participants and winners of sportive and other performances and competitions;
- (i) sums paid as compensation for damage or injury caused.

3. An individual who is a resident of a Contracting State shall not be deemed to be a resident of the other Contracting State by mere reason that he performs any of the activities enumerated in paragraph 2 on the territory of that other State.

4. In the application of the provisions of paragraphs 1 and 2, taxes shall be imposed on the basis of income received by individuals after the date of expiration of maximum favourable terms mentioned in paragraphs 1 and 2.

Article 12

Government Employees

1. Salaries, wages and other similar remuneration of a resident of a Contracting State in respect of work in government agencies or establishments of this State in the discharge of functions of a governmental character, in the territory of the other Contracting State, provided they are recognized as such under the laws of the first-mentioned State, shall not be liable to taxation in the other State.

2. Pensions, benefits and other similar remuneration of a resident of a Contracting State in consideration for past employment in governmental functions mentioned in paragraph 1, in respect of work or employment in government agencies or establishments of this State, shall not be liable to taxation in the other State.

Article 13

Other Income

Categories of income not enumerated in the foregoing articles of this Convention received by a resident of a Contracting State from sources in the other Contracting State shall not be liable to taxation in that other State.

Article 14

Special Tax Privileges

1. The provisions of this Convention shall not affect tax privileges of foreign diplomatic and consular missions, other establishments and organizations of the Contracting States which enjoy equality therewith in respect of tax privileges, the heads and members of the diplomatic personnel and staff of those missions, institutions and organizations, and also members of their families.

2. The provisions of paragraph 1 shall also apply to representatives, members of parliamentary or governmental delegations and also employees of the delegations of the

Contracting States who arrive in one of these States to participate in inter-governmental negotiations, international conferences or meetings, or on other official missions.

Article 15

Non-discrimination

1. The citizens of a Contracting State shall not be subjected in the other Contracting State to higher or more burdensome taxation than citizens of that other State in the same circumstances.
2. The taxation of a resident of a Contracting State who has a permanent establishment in the other Contracting State shall not be less favourable than the taxation of residents of a third State having permanent establishment in that other State.
3. The provisions of paragraphs 1 and 2 shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State tax reliefs which are granted to its own residents or to residents of a third State in accordance with special agreements with that third State.

Article 16

Conditions of Application of the Convention

1. This Convention shall apply to the taxation of income derived solely from such activity as is carried on in a Contracting State in conformity with the laws and regulations in force in that State.
2. The provisions of this Convention shall not affect existing agreements governing questions of taxation which were previously concluded between the Contracting States. However, where this Convention provides for a more favourable taxation treatment, the provisions of this Convention shall prevail.

Article 17

Exchange of Information

The competent authorities of the Contracting States shall, to the extent permitted by their laws, exchange such information as is necessary on changes in their tax laws, and also upon request any other material required for the carrying out of this Convention. Any such information or material shall be treated as confidential and shall be used solely for purposes connected with the implementation of this Convention.

Article 18

Settlement of Disputes

1. Where a resident of a Contracting State considers that the actions of one or both Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the laws of the Contracting State of which he is a resident, present his claim to the competent authorities of that State. Should the competent authorities which receive the claim deem it justified, they shall endeavour to reach agreement with the competent authorities of the other Contracting State with a view to avoiding taxation not in accordance with this Convention.
2. Should such an agreement be reached, the competent authorities of the appropriate Contracting State shall, if necessary, refund the overpayment, grant tax privileges or collect taxes.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties arising in the course of the application of this Convention. They may also discuss together the possibility of double taxation avoidance in cases not provided for in this Convention.

Article 19

Entry into Force of the Convention

1. The Contracting States shall notify each other through diplomatic channels of the completion of the formalities necessary for the entry into force of this Convention.
2. This Convention shall enter into force after the expiration of 30 days following the date on which the last of the notifications mentioned in paragraph 1 is passed and its provisions shall apply to taxes and levies assessed for tax periods beginning on the 1st of January or after the 1st of January of the calendar year when this Convention enters into force.

Article 20

Termination of the Convention

This Convention shall remain in force until one of the Contracting States denounces it. Either Contracting State may, after five years from the date of the entry into force of the Convention, denounce it by passing written notice of termination through diplomatic channels not later than 6 months before the end of any calendar year. In such event the Convention shall cease to have effect in respect of taxes and levies assessed for tax periods beginning on the 1st of January or after the 1st of January of the calendar year in which the notification about the termination of the Convention has been passed.