

AGREEMENT OF 29TH JUNE, 1985

Montenegro

CONVENTION BETWEEN THE REPUBLIC OF CYPRUS AND THE SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL.

THE REPUBLIC OF CYPRUS and THE SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA

DESIRING to conclude a Convention for the avoidance of double taxation with respect to taxes on income and on capital

HAVE AGREED AS FOLLOWS:

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 and on capital imposed on behalf of a Contracting State or a political subdivision or a local authority thereof, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on 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 the Convention shall apply are:

- (a) in Yugoslavia:
 - (i) the tax on income of a basic organisation of associated labour;
 - (ii) the tax on a worker's personal income;
 - (iii) the tax on personal income from independent agricultural activity;
 - (iv) the tax on personal income from independent economic activity;

- (v) the tax on personal income from independent professional activity;
- (vi) the tax on personal income from copyrights, patents and technical innovations;
- (vii) the tax on revenue from capital and capital rights;
- (viii) the tax on capital;
- (ix) the tax on total revenue of citizens;
- (x) the tax on income of a foreign person from economic and professional activities;
- (xi) the tax on a compensation of a foreign person from investments in a domestic organisation of associated labour;
- (xii) the tax on income of a foreign person from investment projects;
- (xiii) the tax on revenue of a foreign person from passenger and cargo transport;

(hereinafter referred to as "Yugoslav tax");

(b) in Cyprus:

- (i) the income tax;
- (ii) the capital gains tax;
- (iii) the immovable property tax;
- (iv) the special contribution;

(hereinafter referred to as "Cyprus tax").

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

Article 3 General Definitions

1. For the purposes of this Convention:

- (a) the term "Yugoslavia" means the Socialist Federal Republic of Yugoslavia, and when used in a geographical sense it means the territory of Yugoslavia and an area beyond the territorial sea of Yugoslavia within which Yugoslavia may, on the basis of the internal

law and in accordance with international law, exercise the rights to exploration and exploitation of the sea-bed and subsoil and their natural resources;

- (b) the term "Cyprus" means the Republic of Cyprus, and when used in a geographical sense it means the territory of Cyprus and an area beyond the territorial sea of Cyprus within which Cyprus may, on the basis of the internal law and in accordance with international law, exercise the rights to exploration and exploitation of the sea-bed and subsoil and their natural resources;
- (c) the terms "a Contracting State" and "the other Contracting State" mean Yugoslavia or Cyprus as the context requires;
- (d) the term "national" means:
 - (i) in the case of Yugoslavia, any individual possessing the nationality of the Socialist Federal Republic of Yugoslavia under the Yugoslav laws;
 - (ii) in the case of Cyprus, all individuals possessing the nationality of Cyprus, and all legal persons, partnerships and associations deriving their status as such from the laws in force in Cyprus;
- (e) the term "person":
 - (i) in the case of Yugoslavia, means an individual and any legal person;
 - (ii) in the case of Cyprus, includes an individual, a company and any other body of persons;
- (f) the term "company" means:
 - (i) in the case of Yugoslavia, an organisation of associated labour and any other legal person subject to tax;
 - (ii) in the case of Cyprus, any body corporate or any entity which is treated as a body corporate for tax purposes;
- (g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean, as the context requires, in the case of Yugoslavia, an organisation of associated labour and other self-managed organisation and community, working people who individually perform activity independently and an enterprise established outside the territory of Yugoslavia carried on by a resident of Yugoslavia, and in the case of Cyprus an enterprise carried on by a resident of Cyprus;
- (h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of 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 "competent authority" means:
 - (i) in the case of Yugoslavia, the Federal Secretariat of Finance or its authorised representative;
 - (ii) in the case of Cyprus, the Minister of Finance or his authorised representative.

2. As regards the application of the Convention by a Contracting State any term not defined therein shall have the meaning which it has under the laws of that State concerning the taxes to which the Convention applies.

Article 4 Resident

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, has in that State his domicile, residence, place of management or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 of this Article an individual is a resident of both Contracting States, then his status shall be determined as follows:

- (a) he shall be deemed to be a resident of the State in which he has a permanent home available to him. If he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
- (b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
- (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
- (d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 of this Article 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 Convention, 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, and
- (f)* a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.

4. Notwithstanding the provisions of paragraphs 1, 2 and 3 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 for collecting information for the enterprise;
- (e)* the maintenance of a fixed place of business solely for the purpose of advertising, supply of information, scientific research or similar activities which have a preparatory or auxiliary character, for the enterprise;
- (f)* the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs 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.

5. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, where a person - other than an agent of an independent status to whom paragraph 6 of this Article applies - is

acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name 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 4 of this Article 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.

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

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

Article 6

Income From Immovable Property

1. Income derived by a resident of a Contracting State from immovable property (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 in this Convention have the meaning which it has under the law of the Contracting State in which the property in question is situated. Ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 of this Article 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 of this Article 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 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. Subject to the provisions of paragraph 3 of this Article where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that

permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses 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 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. Compensation derived in Yugoslavia by a resident of Cyprus from his investments in a domestic organisation of associated labour may be taxed in Yugoslavia.

8. 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 or boat, 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 a resident.

3. The provisions of paragraph 1 of this Article shall also apply to profits from the participation in a pool, a joint business or 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, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

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

Article 10 Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.
3. Notwithstanding the provisions of paragraph 2, as long as Cyprus does not impose a tax on dividends in addition to the tax chargeable on the profits or income of a company, dividends paid by a company which is a resident of Cyprus to a resident of Yugoslavia shall be exempt from any tax in Cyprus which may be chargeable on dividends in addition to the tax chargeable on the profits or income of the company.
4. The term "dividends" as used in this Article means, in respect of Cyprus, 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 taxation laws of that State of which the company making the distribution is a resident.

This term does not comprise any compensation derived in Yugoslavia by a resident of Cyprus from his investments in a domestic organisation of associated labour.

5. The provisions of paragraph 1 of this Article shall not apply if the recipient 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 14 of this Convention, as the case may be, shall apply.

6. 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. Interest referred to in paragraph 1 of this Article may also be taxed in the Contracting State in which it arises and according to the laws of that State, but the tax so charged shall not exceed 10 per cent of the gross 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, income from debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

4. The provisions of paragraphs 1 and 2 of this Article shall not apply if the recipient 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 14 of this Convention, as the case may be, shall apply.

5. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, 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 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 State in which the permanent establishment or fixed base 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 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 recipient 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 Convention.

Article 12

Royalties

- 1.** Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
- 2.** Royalties referred to in paragraph 1 of this Article may also be taxed in the Contracting State in which they arise and according to the laws of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.
- 3.** 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 and films and tapes for television or radio broadcasting, 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.
- 4.** The provisions of paragraphs 1 and 2 of this Article shall not apply if the recipient of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, 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 are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14 of this Convention, as the case may be, shall apply.
- 5.** Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, than such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base 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 royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would be agreed upon between 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 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 Convention.

Article 13

Capital Gains

1. 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.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property 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 with the whole enterprise) or of such fixed base, may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft or boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3 of this Article, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

Independent Personal Services

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State, unless:
 - (a) 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) his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in that other Contracting State may be taxed in that other State.
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 and 18 of this Convention, 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 of this Article, 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 calendar year concerned, and
- (b) the remuneration is paid by, or on behalf of, a person 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 person has in the other State.

3. (a) Remuneration paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of an employment shall be taxable only in that State.

(b) However, such remuneration shall be taxable only in the other Contracting State if the employment is exercised in that 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 exercising employment.

4. Remuneration in respect of employment in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof, shall be taxable in accordance with the provisions of paragraphs 1 and 2, of this Article.

5. Remuneration derived by a resident of Yugoslavia in respect of employment in the Joint Economic Representation of Yugoslavia or the Tourist Federation of Yugoslavia shall be taxable only in Yugoslavia.

6. Remuneration derived by a resident of Cyprus in respect of employment in the Cyprus Tourist Organisation shall be taxable only in Cyprus.

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

Article 16

Fees Derived From Work on Joint Business Board (Directors' Fees)

1. Directors' fees and other similar payments derived by a resident of Yugoslavia in his capacity as a member of the board of directors of a company which is a resident of Cyprus may be taxed in Cyprus.

2. Fees and other similar payments derived by a resident of Cyprus in his capacity as a member of a joint business board of a company which is a resident of Yugoslavia may be taxed in Yugoslavia.

Article 17

Artistes And Athletes

1. Notwithstanding the provisions of Articles 14 and 15 of this Convention, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or 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, 14 and 15 of this Convention, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, income derived in respect of personal activities of an entertainer or an athlete in his capacity as such being a resident of a Contracting State shall be taxable only in that State if the activities are exercised in the other Contracting State within the framework of a cultural or sports exchange programme approved by both Contracting States.

Article 18

Pensions

1. 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.

2. (a) Pensions paid by a Contracting State or a political subdivision or a local authority thereof out of the budget or special funds to an individual shall be taxable only in that State.

(b) However, such pensions shall be taxable only in the other Contracting State if the individual is a resident of and a national of, that State.

3. Pensions paid to a resident of a Contracting State in respect of employment connected with a business carried on by a Contracting State or a political subdivision or a local authority thereof shall be taxable only in that State.

Article 19

Students And Business Apprentices

1. Payments which a student or business apprentice 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 solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.
2. In respect of grants, scholarships and remuneration from employment not covered by paragraph 1 of this Article, a student or business apprentice described in paragraph 1 of this Article shall, in addition, be entitled during such education or training to the same exemptions, reliefs or reductions in respect of taxes available to residents of the Contracting State which he is visiting.

Article 20

Other Income

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.
2. The provisions of paragraph 1 of this Article shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, of this Convention 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 14, of this Convention as the case may be, shall apply.

Article 21

Capital

1. Capital represented by immovable property referred to in Article 6, of this Convention 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.

Article 22

Methods For Elimination Of Double Taxation

1. In Yugoslavia, double taxation shall be avoided as follows:

- (a) Where a resident of Yugoslavia derives income or owns capital which, in accordance with the provisions of this Convention may be taxed in Cyprus, Yugoslavia shall, subject to the provisions of paragraphs 2) and 3) of this Article, exempt such income or capital from tax.
- (b) Where a resident of Yugoslavia derives income which, in accordance with the provisions of Articles 10, 11 and 12 of this Convention may be taxed in Cyprus, Yugoslavia shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Cyprus. 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 from Cyprus.
- (c) Where in accordance with any provision of the Convention income derived or capital owned by a resident of Yugoslavia is exempt from tax in Yugoslavia, Yugoslavia may in calculating the amount of tax on the remaining income or capital of such resident apply the rate of tax which would have been applicable if the exempted income or capital had not been so exempted.

2. In Cyprus, double taxation shall be avoided as follows:

- (a) Where a resident of Cyprus derives income or owns capital which is taxed in Yugoslavia, Cyprus shall allow as a deduction from the tax an amount equal to the tax paid in Yugoslavia. 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 from Yugoslavia.
- (b) Where in accordance with any provision of the Convention income derived or capital owned by a resident of Cyprus is exempt from tax in Cyprus, Cyprus may in calculating the amount of tax on the remaining income or capital of such resident apply the rate of tax which would have been applicable if the exempted income or capital had not been so exempted.

3. For the purpose of allowance as a credit in a Contracting State the tax paid in the other Contracting State shall be deemed to include the tax which is otherwise payable in that other State but has been reduced or waived by that State under its legal provisions for tax incentives.

Article 23

Non-discrimination

1. Residents 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 residents of that other State in the same circumstances are or may be subjected.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
3. Except where the provisions of Article 9, paragraph 6 of Article 11, or paragraph 6 of Article 12 of this Convention apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.
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 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 the first-mentioned State are or may be subjected.
5. The provisions of this Article shall apply to the taxes referred to in Article 2 of this Convention.

Article 24

Mutual Agreement Procedure

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.
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 a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement

reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

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 paragraphs 1, 2 and 3 of this Article. 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 States.

Article 25

Exchange Of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. Any information received 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, collection, enforcement or prosecution in respect of the taxes covered by the Convention. 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.

2. In no case shall the provisions of paragraph 1 of this Article be construed so as to impose on the competent authority of the Contracting States 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 business or official secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

Article 26

Diplomatic Agents And Consular Officers

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

Article 27

Entry Into Force

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Nicosia.
2. The Convention shall enter into force on the day of exchange of instruments of ratification and its provisions shall have effect in respect of the taxes on income and on capital for each fiscal year beginning on or after the first day of January in the calendar year following that in which the instruments of ratification have been exchanged.

Article 28

Termination

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the fifth year from the date of entry into force of the Convention. In such event, the Convention shall cease to have effect in respect of the taxes on income and on capital for each fiscal year beginning on or after the first day of January in the calendar year following that in which the notice of termination has been given.