

CONVENTION

BETWEEN

THE REPUBLIC OF CYPRUS

AND

THE KINGDOM OF THE NETHERLANDS

**FOR THE ELIMINATION OF DOUBLE TAXATION
WITH RESPECT TO TAXES ON INCOME AND THE PREVENTION OF
TAX EVASION AND AVOIDANCE**

The Government of the Republic of Cyprus

and

the Government of the Kingdom of the Netherlands,

Desiring to further develop their economic relationship and to enhance their co-operation in tax matters,

Intending to conclude a Convention for the elimination of double taxation with respect to taxes on income without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefit of residents of third jurisdictions),

Have agreed as follows:

CHAPTER I

SCOPE OF THE CONVENTION

Article 1

PERSONS COVERED

1. This Convention shall apply to persons who are residents of one or both of the Contracting States.
2. For the purposes of this Convention, income derived by or through an entity or arrangement that is treated as wholly or partly fiscally transparent under the tax law of either Contracting State shall be considered to be income of a resident of a Contracting State but only to the extent that the income is treated, for purposes of taxation by that State, as the income of a resident of that State.
3. In no case shall the provisions of paragraph 2 be construed to affect the right of a Contracting State to tax the residents of that Contracting State.

Article 2

TAXES COVERED

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Convention shall apply are in particular:
 - a) in Cyprus:
 - i) the income tax;
 - ii) the corporate income tax;
 - iii) the special contribution for the defence of the Republic; and
 - iv) the capital gains tax;(hereinafter referred to as "Cyprus tax"),

- b) in the European part of the Netherlands:
 - i) the income tax (de inkomstenbelasting);
 - ii) the wages tax (de loonbelasting);
 - iii) the company tax (de vennootschapsbelasting) including the Government share in the net profits of the exploitation of natural resources levied pursuant to the Mining Act (de Mijnbouwwet);
 - iv) the dividend tax (de dividendbelasting); and

in the Caribbean part of the Netherlands:

- i) the income tax (de inkomstenbelasting);
- ii) the wages tax (de loonbelasting);
- iii) the property tax (de vastgoedbelasting);
- iv) the revenue tax (de opbrengstbelasting);
- v) the Government share in the net profits of the exploitation of natural resources levied pursuant to the Mining Act BES (de Mijnwet BES), the Mining Decree BES (het Mijnbesluit BES) or the Petroleum Act Saba Bank BES (de Petroleumwet Saba Bank BES);

(hereinafter referred to as "Netherlands tax").

- 4. The Convention shall apply also to any identical or substantially similar taxes that 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 each other of any significant changes that have been made in their taxation laws.

CHAPTER II

DEFINITIONS

Article 3

GENERAL DEFINITIONS

- 1. For the purposes of this Convention, unless the context otherwise requires:
 - a) the terms "a Contracting State" and "the other Contracting State" mean the Republic of Cyprus (Cyprus), or the Kingdom of the Netherlands, in respect of the Netherlands, as the context requires;
 - b) the term "Cyprus" means the Republic of Cyprus and, when used in a geographical sense, includes the national territory, the territorial sea thereof as well as any area outside the territorial sea, including the contiguous zone, the exclusive economic zone and the continental shelf, which has been or may hereafter be designated under the laws of the Republic of Cyprus and in accordance with international law as an area within which the Republic of Cyprus may exercise sovereign rights or jurisdiction;

- c) the term "the Netherlands" means:
- (i) the European part of the Kingdom of the Netherlands, including its territorial sea and any area beyond and adjacent to its territorial sea within which the Kingdom of the Netherlands, in accordance with international law, exercises jurisdiction or sovereign rights; and
 - (ii) the Caribbean part of the Kingdom of the Netherlands, which is situated in the Caribbean Sea and consists of the island territories of Bonaire, Sint Eustatius and Saba, including its territorial sea and any area beyond and adjacent to its territorial sea within which the Kingdom of the Netherlands, in accordance with international law, exercises jurisdiction or sovereign rights, but excluding the parts thereof relating to Aruba, Curaçao and Sint Maarten;
- d) the term "person" includes an individual, a company and any other body of persons;
- e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- f) the term "enterprise" applies to the carrying on of any business;
- g) 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;
- h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise that 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 Cyprus the Minister of Finance or the Minister's authorised representative;
 - (ii) in the Netherlands the Minister of Finance or the Minister's authorised representative;
- j) the term "national" means any individual possessing the nationality or citizenship of the Kingdom of the Netherlands or the Republic of Cyprus and any legal person, partnership or association deriving its status as such from the laws in force in those States;
- k) the term "business" includes the performance of professional services and of other activities of an independent character;
- l) the term "recognised pension fund" of a Contracting State means an entity or arrangement established in that State that is treated as a separate person under the taxation laws of that State, and:
- i) that is established and operated exclusively or almost exclusively to administer or provide retirement benefits and ancillary or incidental benefits to individuals and that is regulated as such by that State or one of its political subdivisions or local authorities;
 - or

ii) that is established and operated exclusively or almost exclusively to invest funds for the benefits of entities or arrangements referred to in subdivision (i).

2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

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, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof as well as a recognised pension fund of that State. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

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 only 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 only 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 only 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 only 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 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavour to determine by mutual agreement the Contracting State of which such person shall be deemed to be a resident for the purposes of the Convention, having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by this Convention except to the extent and in such manner as may be agreed upon by the competent authorities of the Contracting States.

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. For the sole purpose of determining the duration of a building site or construction or installation project under paragraph 3, where an enterprise of a Contracting State carries on activities in the other Contracting State at a place that constitutes a building site or construction or installation project and these activities are carried on during one or more periods of time that, in the aggregate, exceed 30 days without exceeding twelve months, and connected activities are carried on at the same building site or construction or installation project during different periods of time, each exceeding 30 days, by one or more enterprises closely related to the first-mentioned enterprise, these different periods of time shall be added to the period of time during which the first-mentioned enterprise has carried on activities at that building site or construction or installation project.
5. 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 carrying on, for the enterprise, any other activity;

f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e),

provided that such activity or, in the case of subparagraph f), the overall activity of the fixed place of business, is of a preparatory or auxiliary character.

6. Paragraph 5 shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same Contracting State and

a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of this Article, or

b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

provided that the business activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, constitute complementary functions that are part of a cohesive business operation.

7. Notwithstanding the provisions of paragraphs 1 and 2, but subject to the provisions of paragraph 8, where a person is acting in a Contracting State on behalf of an enterprise and in doing so, habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the enterprise, and these contracts are:

(a) in the name of the enterprise, or

(b) for the transfer of the ownership of, or for the granting of the right to use, property owned by that enterprise or that the enterprise has the right to use, or

(c) for the provision of services by that 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 5 which, if exercised through a fixed place of business (other than a fixed place of business to which paragraph 6 would apply), would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

8. Paragraph 7 shall not apply where the person acting in a Contracting State on behalf of an enterprise of the other Contracting State carries on business in the first-mentioned State as an independent agent and acts for the enterprise in the ordinary course of that business. Where, however, a person acts exclusively or almost exclusively on behalf of one or more enterprises to which it is closely related, that person shall not be considered to be an independent agent within the meaning of this paragraph with respect to any such enterprise.

9. For the purposes of this Article, a person or an enterprise is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, a person or an enterprise shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person or enterprise possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise or in the two enterprises.

10. 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.

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 and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

Article 7

BUSINESS PROFITS

1. 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 that are attributable to the permanent establishment in accordance with the provisions of paragraph 2 may be taxed in that other State.
2. For the purposes of this Article and Article 21, the profits that are attributable in each Contracting State to the permanent establishment referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise.
3. Where, in accordance with paragraph 2, a Contracting State adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting States and taxes accordingly profits of the enterprise that have been charged to tax in the other State, the other State shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment to the amount of the tax charged on those profits. In determining such adjustment, the competent authorities of the Contracting States shall if necessary consult each other.
4. 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

INTERNATIONAL 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. The provisions 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

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. It is understood, however, that the fact that associated enterprises have concluded arrangements, such as cost sharing arrangements or general services agreements, for or based on the allocation of executive, general administrative, technical and commercial expenses, research and development expenses and other similar expenses, is not in itself a condition as meant in the preceding sentence.

2. 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 the 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 Convention and the competent authorities of the Contracting States shall if necessary consult each other.

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 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 beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

3. Notwithstanding the provisions of paragraph 2, such dividends shall be exempt from tax in the Contracting State of which the company paying the dividends is a resident if the dividends are beneficially owned by:

a) a company which is a resident of the other Contracting State and holds directly at least 5 per cent of the capital of the company paying the dividends throughout a 365 day period that includes the day of the payment of the dividend (for the purpose of computing that period, no account shall be taken of changes of ownership that would directly result from a corporate reorganisation, such as a merger or divisive reorganisation, of the company that holds the capital or that pays the dividend);

b) a recognised pension fund of the other Contracting State which is generally exempt under the company tax or corporate income tax laws of that other State.

4. The provisions of paragraphs 2 and 3 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

5. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights 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.

6. The provisions of paragraphs 1, 2, 3 and 8 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 and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

7. 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 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.

8. Notwithstanding the provisions of paragraphs 1, 2, and 7, dividends paid by a company which under the laws of a Contracting State is a resident of that State, to an individual who is a resident of the other Contracting State and who upon ceasing to be a resident of the first-mentioned State is taxed on the appreciation of capital for the period of residency of that individual in the first-mentioned State as meant in paragraph 5 of Article 13, may also be taxed in that State in accordance with the laws of that State, but only insofar as the assessment on the appreciation of capital is still outstanding.

Article 11

INTEREST

1. Interest arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.
2. 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.
3. The provisions of paragraph 1 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, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
4. 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 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 beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.
2. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.
3. The provisions of paragraph 1 shall not apply if the beneficial owner 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 and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

4. 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, 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 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, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.

3. 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.

4. Gains derived by a resident of a Contracting State from the alienation of shares in a company or comparable interests deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State, may be taxed in that other State. However, this paragraph shall not apply to gains derived from alienation of shares or comparable interests:

- (i) listed on a recognised stock exchange,
- (ii) in the course of a corporate reorganisation such as a qualifying merger, division and similar transaction,
- (iii) where the immovable property from which the shares derived their value is immovable property in which the business is carried on,
- (iv) when the alienator owns, directly or indirectly, either alone or with related persons 25 per cent or less of the capital or other comparable interests prior to the first alienation of shares,
- (v) when the alienator is a recognised pension fund of the first-mentioned State.

5. Where an individual has been a resident of a Contracting State and has become a resident of the other Contracting State, paragraph 6 shall not prevent the first-mentioned State from taxing under its domestic law the capital appreciation of shares, profit sharing certificates, call options and usufruct on shares and profit sharing certificates, in and debt-claims on a company for the period of residency of that individual in the first-mentioned State. In such case, the appreciation of capital by reference to which the amount was taxed in the first-mentioned State

shall not be included in the determination of the subsequent appreciation of capital by the other State.

6. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3, 4 and 5, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 15, 16 and 17, 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 any twelve month period commencing or ending in the fiscal year concerned; and
- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- c) the remuneration is not borne by a permanent establishment 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 shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

Article 15

DIRECTORS' FEES

1. Directors' fees and other remuneration 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.

2. Where a company is a resident of the Netherlands, the term "member of the board of directors" includes both a "bestuurder" and a "commissaris". The terms "bestuurder" and

“commissaris” mean respectively persons who are charged with the general management of the company and persons who are charged with the supervision thereof.

Article 16

PENSIONS, ANNUITIES AND SOCIAL SECURITY PAYMENTS

1. Subject to the provisions of paragraph 2 of Article 17, pensions and other similar remuneration, as well as annuities, derived by a resident of a Contracting State shall be taxable only in that State. Any pension and other payment under the provisions of a social security system of a Contracting State (social security pension) to a resident of the other Contracting State shall be taxable only in that other State.
2. Notwithstanding the provisions of paragraph 1, pensions or other similar remuneration, as well as annuities or social security pensions, arising in a Contracting State may also be taxed in that State, in accordance with the laws of that State, if the aggregate gross amount of the pensions and other similar remuneration, annuities and social security pensions, including pensions and other similar remuneration referred to in paragraph 2 of Article 17, exceeds in the fiscal year concerned the sum of 15,000 Euro.
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.
4. A pension or other similar remuneration or annuity shall be deemed to arise in a Contracting State insofar as the contributions or payments associated with that pension or similar remuneration or annuity, or the entitlements received from them, qualified for tax relief in that State. The transfer of a pension, other similar remuneration or annuity from a pension fund or an insurance company in one of the Contracting States to a pension fund or an insurance company in another State shall not restrict in any way the taxing rights of the first-mentioned State under this Article.
5. The provisions of this Article shall also apply in case a lump sum payment is made in lieu of a pension or other similar remuneration or annuity.

Article 17

GOVERNMENT SERVICE

1. a) Salaries, wages and other similar remuneration paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority may be taxed in that State;

b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered 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 rendering the services.

2. a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority may be taxed in that State.

b) However, such pensions and other similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
3. The provisions of Articles 14, 15 and 16, shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 18

STUDENTS

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.

Article 19

OFFSHORE ACTIVITIES

1. The provisions of this Article shall apply notwithstanding any other provision of this Convention.
2. An enterprise of a Contracting State which carries on offshore activities in the other Contracting State shall, subject to paragraph 4, be deemed in relation to those activities to be carrying on business in that other State through a permanent establishment situated therein.
3. In this Article the term "offshore activities" means activities which are carried on offshore in a Contracting State in connection with the exploration or exploitation of the seabed and its subsoil and their natural resources situated in that State, including activities in connection with production of energy from the water, currents, sun and winds.
4. The provisions of paragraph 2 shall not apply where the activities are carried on for a period not exceeding 30 days in the aggregate in any twelve month period commencing or ending in the fiscal year concerned. However, for the purposes of this paragraph:

- (a) activities carried on by an enterprise that is associated with an enterprise of a Contracting State shall be regarded as carried on by the last mentioned enterprise if the activities carried on by both enterprises are substantially the same;
 - (b) two enterprises shall be deemed to be associated if:
 - (i) an enterprise participates, directly or indirectly, in the management or control of the other enterprise or holds directly or indirectly at least 30 per cent of the capital of the other enterprise, or
 - (ii) the same person or persons participate directly or indirectly in the management or control of both enterprises or hold directly or indirectly at least 30 per cent of the capital of both enterprises.
5. For the purposes of paragraph 3 of this Article the term "offshore activities" shall be deemed not to include:
- (a) one or any combination of the activities mentioned in paragraph 5 of Article 5;
 - (b) towing or anchor handling by ships primarily designed for that purpose and any other activities performed by such ships;
 - (c) the transport of supplies or personnel by ships or aircraft in international traffic.
6. a) Subject to sub-paragraphs b) and c) of this paragraph, salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment connected with offshore activities in the other Contracting State may, to the extent that the duties are performed offshore in that other State, be taxed in that other State.
- b) However, such remuneration shall be taxable only in the first-mentioned State if:
- (i) the recipient is present in the other State for a period or periods not exceeding in the aggregate 30 days in any twelve-month period commencing or ending in the fiscal year concerned, and
 - (ii) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
 - (iii) the remuneration is not borne by a permanent establishment which the employer has in the other State.
- c) Salaries, wages and similar remuneration in respect of an employment exercised aboard a ship or aircraft operated by an enterprise of a Contracting State engaged in the transportation in international traffic of supplies or personnel to a location where offshore activities are being carried on, or in respect of any employment exercised aboard a tugboat or anchor handling vessel operated by an enterprise of a Contracting State in connection with such activities, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

7. Gains derived by a resident of a Contracting State from the alienation of:

- (a) exploration or exploitation rights; or
- (b) technical equipment or other similar property situated in the other Contracting State and directly used in offshore activities, as defined in paragraph 3, carried on in that other State; or
- (c) shares deriving more than 50 per cent of their value directly or indirectly from such rights or such property, or from such rights and such property taken together,

may be taxed in that other State.

In this paragraph "exploration or exploitation rights" means rights to assets to be produced by the exploration or exploitation of the natural resources, including the exploration or exploitation of the seabed or its subsoil of that Contracting State, rights in connection with production of energy from the water, currents, sun and winds, as well as rights to interests in or to the benefit of such assets.

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 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 and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

CHAPTER IV

ELIMINATION OF DOUBLE TAXATION

Article 21

ELIMINATION OF DOUBLE TAXATION

1. The Netherlands may include in the basis upon which taxes are imposed on its residents, the items of income which according to the provisions of this Convention may be taxed or shall be taxable only in Cyprus. In such cases, however, the Netherlands shall allow a reduction of or deduction from the Netherlands tax according to the provisions of paragraphs 2, 3, 4, 5 and 6.

2. Where a resident of the Netherlands derives items of income which according to paragraphs 1, 3 and 4 of Article 6, paragraph 1 of Article 7, paragraph 1 of Article 8, paragraph 6 of Article 10, paragraph 3 of Article 11, paragraph 3 of Article 12, paragraphs 1, 2 and 3 of Article 13, paragraph 1 of Article 14, paragraph 2 of Article 16, paragraph 1 (subparagraph a) and paragraph 2 (subparagraph a) of Article 17, paragraph 6 (subparagraph a) of Article 19 and paragraph 2 of Article 20 of this Convention may be taxed or shall be taxable only in Cyprus and are included in the basis referred to in paragraph 1, the Netherlands shall exempt such items of income by allowing a reduction of its tax. This reduction shall be computed in conformity with the provisions of the Netherlands law for the elimination of double taxation. For that purpose the said items of income shall be deemed to be included in the amount of the items of income which are exempt from Netherlands tax under those provisions.

3. The provisions of paragraph 2 shall not apply to items of income derived by a resident of the Netherlands where Cyprus applies the provisions of this Convention to exempt such items of income from tax.

4. Where a resident of the Netherlands derives items of income which according to paragraphs 2 and 8 of Article 10, paragraphs 4 and 5 of Article 13, paragraph 3 of Article 14, paragraph 1 of Article 15, paragraph 5 of Article 16, and paragraph 6 (subparagraph c) and paragraph 7 (subparagraphs a, b and c) of Article 19 of this Convention may be taxed or shall be taxable only in Cyprus, the Netherlands shall allow a deduction from its tax to the extent that these items are included in the basis referred to in paragraph 1. The amount of this deduction shall be equal to the tax paid in Cyprus on these items of income, but shall, in case the provisions of the Netherlands law for the elimination of double taxation provide so, not exceed the amount of the deduction which would be allowed if the items of income so included were the sole items for which the Netherlands gives a reduction under the provisions of the Netherlands law for the elimination of double taxation.

5. The provisions of paragraph 4 shall not restrict allowance now or hereafter accorded by the provisions of the Netherlands law for the elimination of double taxation, but only as far as the calculation of the amount of the reduction of Netherlands tax is concerned with respect to the aggregation of income from more than one jurisdiction and the carry forward of the tax paid in Cyprus on the said items of income to subsequent years.

6. Notwithstanding the provisions of paragraph 2, the Netherlands shall allow a deduction from the Netherlands tax for the tax paid in Cyprus on items of income which according to paragraph 1 of Article 7, paragraph 6 of Article 10, paragraph 3 of Article 11, paragraph 3 of Article 12 and paragraph 2 of Article 20 of this Convention may be taxed in Cyprus to the extent that these items are included in the basis referred to in paragraph 1, insofar as the Netherlands under the provisions of the Netherlands law for the avoidance of double taxation allows a deduction from the Netherlands tax of the tax levied in another country on such items of income.

For the computation of this reduction the provisions of paragraph 4 of this Article shall apply accordingly.

7. In Cyprus, double taxation shall be eliminated as follows:

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

CHAPTER V

SPECIAL PROVISIONS

Article 22

NON-DISCRIMINATION

1. 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, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
2. Stateless persons who are residents of a Contracting State shall not be subjected in either 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 the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected.
3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. 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.
4. Except where the provisions of paragraph 1 of Article 9, paragraph 4 of Article 11, or paragraph 4 of Article 12 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.
5. 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.

6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 23

MUTUAL AGREEMENT PROCEDURE

1. Where a person 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 either Contracting State. 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, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

5. Where,

- a) under paragraph 1, a person has presented a case to the competent authority of a Contracting State on the basis that the actions of one or both of the Contracting States have resulted for that person in taxation not in accordance with the provisions of this Convention; and
- b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 within two years from the date when all the information required by the competent authorities in order to address the case has been provided to both competent authorities;

any unresolved issue arising from the case shall be submitted to arbitration if the person so requests in writing. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either State. Unless a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision, that decision shall be binding on both Contracting States and shall be implemented notwithstanding any time limits in the domestic laws of these States.

Article 24

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.
2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.
3. The Contracting States may supply to an arbitration board, established under the provisions of paragraph 5 of Article 23, such information as is necessary for carrying out the arbitration procedure. The members of the arbitration board shall be subject to the limitations on disclosure described in paragraph 2 of this Article with respect to any information so released.
4. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:
 - a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
 - b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
 - c) to supply information which would disclose any trade, business, industrial, commercial, or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).
5. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 4 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

6. In no case shall the provisions of paragraph 4 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 25

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

2. For the purposes of the Convention, an individual who is a member of a diplomatic mission or consular post of a Contracting State in the other Contracting State or in a third State and who is a national of the sending State shall be deemed to be a resident of the sending State if he is subjected therein to the same obligations in respect of taxes on income as are residents of the sending State.

Article 26

ENTITLEMENT TO BENEFITS

1. Notwithstanding the other provisions of this Convention, a benefit under this Convention shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention. The competent authority of a Contracting State shall consult with the competent authority of the other Contracting State before denying a benefit under this paragraph.

2. Where a benefit under this Convention is denied to a person under paragraph 1, the competent authority of the Contracting State that would otherwise have granted this benefit shall nevertheless treat that person as being entitled to this benefit, or to different benefits with respect to a specific item of income, if such competent authority, upon request from that person and after consideration of the relevant facts and circumstances, determines that such benefits would have been granted in the absence of the transaction or arrangement referred to in paragraph 1. The competent authority of the Contracting State to which the request has been made shall consult with the competent authority of the other State before rejecting a request made under this paragraph by a resident of that other State.

Article 27

TERRITORIAL EXTENSION

1. This Convention may be extended, either in its entirety or with any necessary modifications, to Aruba, Curaçao or Sint Maarten if the part of the Kingdom of the Netherlands concerned imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and shall be subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed in notes to be exchanged through diplomatic channels.

2. Unless otherwise agreed the termination of the Convention shall not also terminate the Convention for any part of the Kingdom of the Netherlands to which it has been extended under this Article.

CHAPTER VI

FINAL PROVISIONS

Article 28

ENTRY INTO FORCE

1. This Convention shall enter into force on the last day of the month following the month in which the later of the notifications has been received in which the respective Contracting States have notified each other in writing that the formalities constitutionally required in their respective States have been complied with, and its provisions shall have effect for taxable years and periods beginning, and taxable events occurring, on or after the first day of January in the calendar year following that in which the Convention has entered into force.
2. Notwithstanding the provision of paragraph 1, the provisions of paragraph 5 of Article 23 and paragraph 3 of Article 24 shall only apply if, after the signing of this Convention, Cyprus has introduced the necessary legal basis in relation to these provisions. In such case, Cyprus shall inform the Netherlands through diplomatic channels of the date from which Cyprus has introduced the necessary legal basis.

Article 29

TERMINATION

1. This Convention shall remain in force until terminated by one of the Contracting States. Either State may terminate the Convention, through diplomatic channels, by giving written notice of termination. In such event the Convention shall cease to have effect for taxable years and periods beginning, and taxable events occurring, after the end of the calendar year in which the notice of termination has been given if the notice has been

given in the first six months of a calendar year. If a notice has been given in the last six months of a calendar year, the Convention shall cease to have effect for taxable years and periods beginning, and taxable events occurring, after the end of the calendar year following the calendar year in which the notice of the termination has been given.

2. Notice of termination shall be regarded as having been given by a Contracting State on the date of receipt of such notice by the other Contracting State.

IN WITNESS whereof the undersigned, duly authorised thereto, have signed this Convention.

DONE at Nicosia, on 1st day of June, 2021, in duplicate, in the Greek, Dutch and English languages, all texts being equally authentic. In case of divergence of interpretation the English text shall prevail.

**For the Government of the
Republic of Cyprus**



**Constantinos Petrides
Minister of Finance of
to the Republic of Cyprus**

**For the Government of the
Kingdom of the Netherlands**



**Elke Merks-Schaapveld
Ambassador of the Netherlands
the Republic of Cyprus**

**PROTOCOL TO THE CONVENTION BETWEEN THE REPUBLIC OF CYPRUS AND THE
KINGDOM OF THE NETHERLANDS FOR THE ELIMINATION OF DOUBLE TAXATION
WITH RESPECT TO TAXES ON INCOME AND THE PREVENTION OF TAX EVASION
AND AVOIDANCE**

With respect to the Convention concluded between the Republic of Cyprus and the Kingdom of the Netherlands for the elimination of double taxation with respect to taxes on income and the prevention of tax evasion and avoidance, the undersigned have agreed that the following provisions shall form an integral part of the Convention.

1. Ad paragraph 3 of Article 4

It is understood that in determining the residence of a person, the competent authorities shall have regard to:

- i) where the senior management of the person is carried on;
- ii) where the meetings of the board of directors or equivalent body are held;
- iii) where the chief executive officer and other senior executives usually carry on their activities;
- iv) where the person's headquarters are located;
- v) which State's laws govern the legal status of the person;
- vi) where the person's accounting records are kept;
- vii) the extent and nature of the economic nexus of the person to each State; and
- viii) whether determining that the person is a resident of one of the Contracting States but not of the other State for the purposes of the Convention would carry the risk of an improper use of the Convention or inappropriate application of the domestic law of either State.

Although this list of factors is not exhaustive, in the absence of the factor viii) above the list of factors at i) to vii) above will generally be determinative.

The competent authorities shall apply the provisions of paragraph 3 of Article 4 on a case by case basis. As the facts upon which an agreement is reached may change over time the competent authorities may revisit agreements, particularly where there are significant changes in the relevant facts.

2. Ad Articles 10 and 20

1. Notwithstanding paragraphs 1 and 2 of Article 10 and Article 20, the Netherlands shall not be prevented from applying its domestic tax law with respect to an interest in a tax exempt Investment Institution ("vrijgestelde beleggingsinstelling") pursuant to the company tax of the Netherlands. However, if the beneficial owner is a resident of Cyprus, the tax so charged shall not exceed 15 per cent of the gross amount of the income so taxed.
2. The provisions of paragraphs 2 and 3 of Article 10 shall not affect the right of the Caribbean part of the Netherlands to impose revenue tax in accordance with its laws.
3. The provisions of paragraph 3 of Article 10 shall not apply to dividends paid by or to a person who is a Fiscal Investment Institution (Fiscale Beleggingsinstelling) for the purposes of the company tax of the Netherlands.

3. Ad Articles 10 and 13

It is understood that an item of income received in connection with the (partial) liquidation of a company or a purchase of own shares by a company is treated as income from shares and not as capital gains.

4. Ad Article 24

1. The provisions of Article 24 shall apply accordingly to information that is relevant for carrying out the income-related regulations under the laws of the Netherlands by the tax authorities of the Netherlands.

2. Any information received under paragraph 1 of this Article in connection with Article 24 of this Convention, shall be used only for the purpose of the determination and levying of the contributions and the determination and granting of the benefits under the income related regulations as meant in paragraph 1 of this Article.

3. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of Article 24 of this Convention.

5. EU Law on administrative assistance

It is understood that the Contracting States shall apply all measures for administrative assistance, available under the law of the European Union.

IN WITNESS whereof the undersigned, duly authorised thereto, have signed this Protocol.

DONE at Nicosia, on 1st day of June, 2021, in duplicate, in the Greek, Dutch and English languages, all texts being equally authentic. In case of divergence of interpretation the English text shall prevail.

**For the Government of the
Republic of Cyprus**



**Constantinos Petrides
Minister of Finance of
to the Republic of Cyprus**

**For the Government of the
Kingdom of the Netherlands**



**Elke Merks-Schaapveld
Ambassador of the Netherlands
the Republic of Cyprus**