

SYNTHESISED TEXT OF THE MLI AND THE CONVENTION BETWEEN **THE ARAB REPUBLIC OF EGYPT** AND **THE REPUBLIC OF MALTA** FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

General disclaimer on the Synthesised text document

This document presents the synthesised text for the application of the Convention between **the Arab Republic of Egypt** and **the Republic of Malta** with respect to Taxes on Income signed on **20 February 1999** (the “Convention”), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by **Egypt** on **7 June 2017** and by **Malta** on **7 June 2017** (the “MLI”).

The document was prepared on the basis of the MLI position of by **Egypt** submitted to the Depository upon ratification on **30 September 2020** and of the MLI position of **Malta** submitted to the Depository upon ratification on **18 December 2018**. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on the Convention

The authentic legal texts of the Convention and the MLI take precedence and remain the legal texts applicable.

The provisions of the MLI that are applicable with respect to the provisions of the Convention are included in boxes throughout the text of this document in the context of the relevant provisions of the Convention. The boxes containing the provisions of the MLI have generally been inserted in accordance with the ordering of the provisions of the 2017 OECD Model Tax Convention.

Changes to the text of the provisions of the MLI have been made to conform the terminology used in the MLI to the terminology used in the Convention (such as “Covered Tax Agreement” and “Convention”/“Agreement”, “Contracting Jurisdictions” and “Contracting States”), to ease the comprehension of the provisions of the MLI. The changes in terminology are intended to increase the readability of the document and are not intended to change the substance of the provisions of the MLI. Similarly, changes have been made to parts of provisions of the MLI that describe existing provisions of the Convention: descriptive language has been replaced by legal references of the existing provisions to ease the readability.

In all cases, references made to the provisions of the Convention or to the Convention must be understood as referring to the Convention as modified by the provisions of the MLI, provided such provisions of the MLI have taken effect.

References

The authentic legal texts of the MLI and the Convention can be found [www.eta.gov.eg]

Disclaimer on the entry into effect of the provisions of the MLI

The provisions of the MLI applicable to this Convention do not take effect on the same dates as the original provisions of the Convention. Each of provisions of the MLI could take effect on different dates, depending on the types of taxes involved (taxes withheld at source or other taxes levied) and on the choices made by **the Arab Republic of Egypt** and **the Republic of Malta** in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: **30 September 2020** for **Egypt** and **18 December 2018** for **Malta**.

Entry into force of the MLI: **1 January 2021** for **Egypt** and **1 April 2019** for **Malta**. This document provides specific information on the dates on or after which each of the provisions of the MLI has effect with respect to the Convention throughout this document and has effect as follows:

(a) The provisions of the MLI shall have effect in each Contracting State with respect to the Convention:

- (i) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2021; and
- (ii) (a) with respect to all other taxes levied by Egypt, for taxes levied with respect to taxable periods beginning on or after 1 July 2021.
(b) with respect to all other taxes levied by Malta, for taxes levied with respect to taxable periods beginning on or after 1 January 2022.

b) Notwithstanding (a), Article 16 (Mutual Agreement Procedure) of the MLI shall have effect with respect to the Convention for a case presented to the competent authority of a Contracting State on or after 1 January 2021, except for cases that were not eligible to be presented as of that date under the Convention prior to its modification by the MLI, without regard to the taxable period to which the case relates.

**CONVENTION
BETWEEN
THE ARAB REPUBLIC OF EGYPT
AND
THE REPUBLIC OF MALTA
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME**

[MODIFIED by paragraph 3.6.2. of Article 6(3) of the MLI]

The Government of the Arab Republic of Egypt and the Government of the Republic of Malta,

~~{Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,}~~

The following paragraph 1 and paragraph 3 of Article 6 of the MLI {replace the text referring to an intent to eliminate double taxation in the preamble of this Convention :}

ARTICLE 6 OF THE MLI – PURPOSE OF A COVERED TAX AGREEMENT

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

Intending to eliminate double taxation with respect to the taxes covered by this Convention 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 the Convention for the indirect benefit of residents of third jurisdictions),

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 The existing taxes to which this Convention shall apply are:
 - (a) **in Egypt:**
 - (i) the tax on income derived from immovable property (including the agriculture land tax and the building tax);
 - (ii) the unified tax on income of individuals;
 - (iii) the tax on corporation profits;
 - (iv) the development duty of the financial resources of the State; and
 - (v) supplementary taxes imposed as percentage of taxes mentioned above or otherwise;
(hereinafter referred to as “Egyptian tax”)
 - (b) **in Malta :**
 - (i) the income tax;
(hereinafter referred to as “Malta tax”)
- 2 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 each other of any substantial changes which have been made in their respective taxation laws.

ARTICLE 3 GENERAL DEFINITIONS

- 1 For the purposes of this Convention, unless the context otherwise requires:
 - (a) the term “**Egypt**” means the Arab Republic of Egypt and , when used in a geographical sense, means the territory and the territorial waters of the Arab Republic of Egypt and its exclusive economic zone and continental shelf as defined in accordance with international law;
 - (b) the term “**Malta**“ means the Republic of Malta and, when used in a geographical sense, means the Island of Malta, the Island of Gozo and the other islands of the Maltese archipelago, including the territorial waters thereof , and any area outside the territorial waters of Malta which has been or may hereafter be designated, in accordance with international law

and under the law of Malta concerning the continental shelf , as an area within which the rights of Malta with respect to the seabed and subsoil and their natural resources may be exercised;

- (c) the terms “ a Contracting State” and “ the other Contracting State” mean Malta or Egypt, as the context requires ;
- (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 which is treated as a body corporate for tax purposes;
- (f) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (g) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (h) the term “competent authority” means:
 - (i) in Egypt: the Minister of Finance or his authorized representative.
 - (ii) in Malta: the Minister responsible for Finance or his authorized representative.
- (j) the term “national” means:
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person, partnership or association deriving its status as such from the law in force in a Contracting State;

- 2 As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which 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, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. But this term does not include 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 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 (center of vital interests);

- (b) if the State in which he has his center 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 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 including an offshore drilling site .

3 The term “permanent establishment” likewise encompasses:

- (a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than six months;
- (b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within a Contracting State for a period or periods aggregating more than six months within any 12 month period .

- 4 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 or display 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 or display ;
 - (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 of a preparatory or auxiliary character;
 - (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
- 5 Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 7 applies – is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:
- (a) has and habitually exercises in that State an authority to conclude Contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 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; or
 - (b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.
- 6 Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.

- 7 An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.
- 8 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) 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, 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, or to explore for, 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 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, 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 or with other associated enterprises with which it deals.

- 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 Contracting 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 an apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article .
- 5 No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
- 6 For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
- 7 Where profits include items of income which are dealt with separately in other Articles of this 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 of an enterprise of a Contracting state from the operation of ships or aircraft in International Traffic shall be taxable only in the State.
- 2 The provisions of paragraph 1 shall also apply to profits derived 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.

- 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 made 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:
 - (a) where the dividends are paid by a company which is a resident of Egypt to a resident of Malta who is the beneficial owner thereof, the Egyptian tax so charged shall not exceed 10 percent of the gross amount of the dividends;
 - (b) where the dividends are paid by a company which is a resident of Malta to a resident of Egypt who is the beneficial owner thereof, Malta tax on the gross amount of the dividends shall not exceed that chargeable on the profits out of which the dividends are paid.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

- (c) under the law in force in Malta, income tax paid or payable by a company, as is referable to that part of its profits which is distributed by way of dividends, is assimilated with the personal income tax of the shareholder in receipt of such a dividend. In

the shareholder's hands, the dividend is charged to tax gross and the relevant amount of tax, so assimilated, is set off against the shareholder's tax liability on his income from all liable sources.

- 3 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.
- 4 The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base . In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
- 5 Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

ARTICLE 11

INTEREST

- 1 Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
- 2 However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 percent of the gross amount of the interest.
- 3 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.
- 4 The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent

establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, 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 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.
- 7 Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to the other Contracting State, its Central Bank, a political subdivision or a local authority thereof in relation to any debentures, or loans guaranteed, insured or financed by a Contracting State, its Central Bank, a political subdivision or a local authority thereof shall be exempt from tax in the first-mentioned State.

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 However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 12 percent of the gross amount of the royalties.
- 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, or films or tapes used for radio or television 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 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, 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, 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, then 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 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 **[REPLACED by paragraph 1 of Article 4 of the MLI][Gains from the alienation of shares of the capital stock of a company the property of which consists directly or indirectly principally of immovable property situated in a Contracting State may be taxed in that State.]**

The following paragraph 4 of Article 9 of the MLI replaces paragraph {2} of Article {13} of this Convention:

ARTICLE 9 OF THE MLI – CAPITAL GAINS FROM ALIENATION OF SHARES OR INTERESTS OF ENTITIES DERIVING THEIR VALUE PRINCIPALLY FROM IMMOVABLE PROPERTY

For purposes of *[the Convention]*, gains derived by a resident of a *[Contracting State]* from the alienation of shares or comparable interests, such as interests in a partnership or trust, may be taxed in the other *[Contracting State]* if, at any time during the 365 days preceding the alienation, these shares or comparable

interests derived more than 50 per cent of their value directly or indirectly from immovable property (real property) situated in that other [*Contracting State*].

- 3 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 income or 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.
- 4 Gains from the alienation of ships or aircraft operated in international traffic by an enterprise of a Contracting State, or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.
- 5 Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4 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 . However, such income may also be taxed in the other Contracting State in the following circumstances:
 - (a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State ; or
 - (b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned; in that case, only as so much of the income as is derived from the activity exercised in the 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, 18 and 19, 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 establish-ment or a fixed base which the employer has in the other State .
- 3 Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State.

ARTICLE 16 DIRECTORS' FEES

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

ARTICLE 17 ENTERTAINERS AND SPORTSMEN

- 1 Notwithstanding the provisions of Articles 14 and 15, 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 a sportsman, 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 a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

ARTICLE 18 PENSIONS AND ANNUITIES

- 1 Pensions and annuities arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in the first-mentioned State.
- 2 The term “annuities” means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an

obligation to make the payments in return for adequate and full consideration in money or money's worth.

ARTICLE 19 GOVERNMENT SERVICE

- 1 (a) Salaries, wages and other similar remuneration paid by, or out of funds created by, a Contracting State or a political sub-division or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only 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 The provisions of Articles 15, 16 and 18 shall apply to salaries, wages and other similar remuneration, and to pensions, 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 20 PAYMENTS RECEIVED BY STUDENTS AND APPRENTICES

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 purposes of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

ARTICLE 21 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, 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, as the case may be, shall apply.

ARTICLE 22 ELIMINATION OF DOUBLE TAXATION

- 1 Where a resident of a Contracting state derives income which, in accordance with the provisions of this Convention, may be taxed in the other Contracting state, the first-mentioned State shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in that other State. Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in that other State.
- 2 Where, in accordance with any provision of this Convention, income derived by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless in calculating the amount of tax on the remaining income of such resident, take into account exempted income.
- 3 For the purposes of deduction from the tax on income 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 Contracting State but has been reduced or waived by that Contracting State under its legal provisions for tax incentives.

ARTICLE 23 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 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 paragraph 1 of Article 9, paragraph 6 of Article 11, or paragraph 6 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.

- 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 provision of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description which are the subject of this Convention.

ARTICLE 24 MUTUAL AGREEMENT PROCEDURE

- 1 ~~[The first sentence of paragraph 1 of Article 24 of this Convention is **REPLACED** by paragraph 1 of Article 16 of the MLI][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 State, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national.]~~

The following first sentence of paragraph 1 of Article 16 of the MLI replaces the {first sentence} of paragraph {1} of Article {24} of this Convention:

ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

Where a person considers that the actions of one or both of the Contracting States result or will result for that person in taxation not in accordance with the provisions of this Convention, that person may, irrespective of the remedies provided by the domestic law of those Contracting States, present the 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 communication with each other directly for the purpose of reaching an Agreement in the sense of the preceding paragraphs.

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. The exchange of information is not restricted by Article 1. 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) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, 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 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 (public order).

ARTICLE 26

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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.

ARTICLE PREVENTION OF TREATY ABUSE

The following paragraph 1 of Article 7 of the MLI applies and supersedes the provisions of this Convention:

ARTICLE 7 OF THE MLI –PREVENTION OF TREATY ABUSE (Principal purposes test provision)

Notwithstanding any provisions of [*the Convention*], a benefit under [*the 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 [*the Convention*].

ARTICLE 27 ENTRY INTO FORCE

- 1 Each Contracting State shall notify the other, through diplomatic channels, of the completion of the procedures required by its domestic law for the entry into force of this Convention.
- 2 This Convention shall enter into force on the later date of these notifications and shall thereupon effect:
 - (a) **in Egypt:**
 - (i) in respect of tax withheld at source, on amounts paid or credited on or after the first day of January in the calendar year following that in which the Convention enters into force; and
 - (ii) in respect of other taxes, for taxation years beginning on or after the first day of January in the calendar year following that in which the Convention enters into force;
 - (b) **in Malta:**

in respect of taxes on income derived during any calendar year or accounting period, as the case may be, beginning on or after the first day of January in the calendar year following the date on which the Convention enters into force.

ARTICLE 28 TERMINATION

This Convention shall remain in force indefinitely unless terminated by either 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 beginning after the expiration of a period of five years from the date of entry into force of this Convention. In such event, the Convention shall cease to have effect:

(a) in Egypt:

- (i) in respect of tax withheld at source, on amounts paid or credited on or after the first day of January in the calendar year following that in which the notice is given; and
- (ii) in respect of other taxes, for taxation years beginning on or after the first day of January in the calendar year following that in which the notice is given;

(b) in Malta :

in respect of taxes on income derived during any calendar year or accounting period, as the case may be, beginning on or after the first day of January in the calendar year following the date on which the notice is given.

IN WITNESS WHEREOF the undersigned, being duly authorized there to by their respective Governments, have signed this Convention.

Done at this day of , 199 , in duplicate in the, -----, Arabic 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 MALTA

FOR
THE GOVERNMENT OF THE
ARAB REPUBLIC OF EGYPT

PROTOCOL

At the signing of the Convention between the Arab Republic of Egypt and the Republic of Malta for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, the undersigned have agreed that:

With reference to Article 10, under the law in force in Malta, income tax paid or payable by a company, as is referable to that part of its profits which is distributed by way of dividends, is assimilated with the personal income tax of the shareholder in receipt of such a dividend. In the shareholder's hands, the dividend is charged to tax gross and the relevant amount of tax, so assimilated, is set off against the shareholder's tax liability on his income from all liable sources.

IN WITNESS WHEREOF the undersigned, being duly authorised there to, have signed this Protocol.

Done at this day of , 199 , in duplicate in the Arabic, ----- and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

FOR
THE GOVERNMENT OF THE
ARAB REPUBLIC OF EGYPT

FOR
THE GOVERNMENT OF THE
REPUBLIC OF MALTA