

1999 Income Tax Convention and Final Protocol

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CONVENTION BETWEEN THE GOVERNMENT OF THE PORTUGUESE REPUBLIC AND THE GOVERNMENT OF THE HELLENIC REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the Portuguese Republic and the Government of the Hellenic Republic, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

Chapter I.

Scope of the Convention

Article 1 Personal Scope

This Convention shall apply to persons who are residents of one or both of the Contracting States.

Article 2 Taxes Covered

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political or administrative 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, as well as taxes on capital appreciation.

3. The existing taxes to which the Convention shall apply are in particular:

a) In the case of the Portuguese Republic:

- i) Personal income tax (imposto sobre o rendimento das pessoas singulares - IRS);
- ii) Corporate income tax (imposto sobre o rendimento das pessoas colectivas - IRC);
- iii) Local surtax on corporate income tax (derrama);
(hereinafter referred to as "Portuguese tax");

b) In the case of the Hellenic Republic:

- i) The income tax on natural persons;
- ii) The income tax on legal persons;
(hereinafter referred to as "Hellenic tax").

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

Chapter II.

Definitions

Article 3 General Definitions

1. For the purposes of this Convention, unless the context otherwise requires:

- a) The term "Portugal" means the territory of the Portuguese Republic situated in the European Continent, the archipelagoes of Azores and Madeira, the respective territorial sea and any other zone in which, in accordance with the laws of Portugal and international law, the Portuguese Republic has its jurisdiction or sovereign rights with respect to the exploration and exploitation of the natural resources of the sea bed and subsoil, and of the superjacent waters;
- b) The term "Hellenic Republic" comprises the territories of the Hellenic Republic and the part of the sea bed and its subsoil under the Mediterranean Sea, over which the Hellenic Republic has sovereign rights in accordance with international law;
- c) The term "person" includes an individual, a company and any other body or person;
- d) The term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

e) 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;

f) The terms "a Contracting State" and "the other Contracting State" mean the Hellenic Republic and the Portuguese Republic, as the context requires;

g) The term "international traffic" means any transport by a ship or aircraft, except when the ship or aircraft is operated solely between places in a Contracting State;

h) 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 laws in force in a Contracting State;

i) The term "competent authority" means:

In the case of the Portuguese Republic, the Minister of Finance, the director general of Taxation (director-geral das Contribuições e Impostos) or their authorized representative and in the case of the Hellenic Republic, the Minister of Finance or his authorised representative.

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 which 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 or administrative subdivision or local authority thereof. 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 or capital situated therein.

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, then it shall be deemed to be a resident only 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;

f) A mine, an oil or gas well, a quarry or any other place of extraction of natural resources; and

g) An installation or structure used for the exploration of natural resources.

3. A building site or construction, installation or assembly project, or activities consisting of planning, supervising, consulting, any auxiliary work or any other activity in connection therewith constitute a permanent establishment but only if the project, the activities or the work last more than six months.

4. The term permanent establishment also includes the furnishing of services, comprising technical assistance and consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, where the activities of that nature continue for a period or periods amounting to or exceeding in the aggregate 120 days in any 12 month period.

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 belong 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 subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

6. 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 on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 5 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.

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

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.

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 and to income from immovable property used for the performance of independent personal services.

5. The foregoing provisions shall also apply to income from movable property which, under the taxation law of the Contracting State in which the property in question is situated, is assimilated to income from immovable property.

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.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. 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.

5. 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.

6. The provisions of this article shall not affect where profits include items of income, which are dealt with separately in other articles of this Convention, then the provisions of those articles.

Article 8 Shipping and Air Transport

1. Profits derived by an enterprise of a Contracting State from the operation of a ship in international traffic shall be taxable only in that Contracting State.

2. Notwithstanding the provisions of paragraph 1, profits derived from the operation of ships in international traffic shall be taxable only in the Contracting State in which the ships are registered or by which they are documented.

3. Profits derived by an enterprise of a Contracting State from the operation of aircraft in international traffic shall be taxable only in that Contracting State.

4. The provisions of paragraphs 1, 2 and 3 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

5. The provisions of paragraphs 3 and 4 shall also apply to profits derived by a consortium of enterprises from the operation of aircraft in international traffic, but only so much of them as corresponds to the participation held in that consortium by an enterprise of a Contracting State.

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, where that other State considers the adjustment justified. 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 such dividends.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

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

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 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. The term "dividends" also includes, with regard to Portugal, profits attributed under an arrangement for participation in profits (associação em participação).

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 States 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 beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 15 per cent of the gross amount of the interest. The competent authorities of the Contracting State shall by mutual agreement settle the mode of application of this limitation.

3. The term "interest", as used in this article, means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which income arises.

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 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 payment shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

7. The provisions of this article shall not apply if the debt-claim in respect of which the interest is paid was created or assigned mainly for the purpose of taking advantage of this article and not for bona

fide commercial reasons. In such case the amount of interest shall be taxable according to the laws of each Contracting State, due regard being to the other provisions of this Convention.

Article 12 Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. 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 beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term "royalties", as used in this article, means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and films or tapes 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. The term "royalties" also includes payments in consideration for technical assistance in connection with the use of or the right to use any copyright goods or information as referred under this paragraph.

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 where the payer is 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 fixed base in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by that 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.

7. The provisions of this article shall not apply if the right or the property giving rise to the royalties was created or assigned mainly for the purpose of taking advantage of this article and not for bona fide commercial reasons. In such case the amount of royalties shall be taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13 Capital Gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the profits of such ships or aircraft are taxable according to the provisions of Article 8.

4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, 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 be taxed in the other Contracting State if:

- a) He has a fixed base regularly available to him in the other State for the purpose of performing his activities; or
 - b) His stay in the other State is for a period or periods exceeding in the aggregate 183 days in any 12 month period commencing or ending in the fiscal year concerned;
- but only so much thereof as is attributable to that fixed base or to services performed in that 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, 19 and 20, 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 12 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 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, may be taxed in the Contracting State in which the profits from the operation of the ship or aircraft are taxable according to the provisions of Article 8.

Article 16 Director's Fees

Director's fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or supervisory board (in Portugal, conselho fiscal) or of another similar organ of a company which is a resident of the other Contracting State may be taxed in that other State, provided that any remuneration paid by that company to a member of each organs in respect of the exercise of a continuous activity shall be taxable according to the provisions of Article 15.

Article 17 Artists 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 artist, 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

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 19 Government Service

1. a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political or administrative subdivision 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. a) Any pension paid by, or out of funds created by, a Contracting State or a political or administrative subdivision 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 pension 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 15, 16, 17 and 18 shall apply to salaries, wages and other similar remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political or administrative subdivision or a local authority thereof.

Article 20 Professors and Students

- 1. Subject to provisions of Article 19, a professor or teacher who is or was immediately before a resident of a Contracting State and who visits the other State for a period not exceeding two years solely for the purpose of teaching, carrying out research or giving lectures undertaken in the public interest at a university or educational institution shall be exempt from tax in that other State on his remuneration from such activity, provided that such remuneration is derived from sources outside that other State.
- 2. Payments which a student or business apprentice who is or was immediately before a resident of a Contracting State and who is present in the other Contracting 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, or are derived as a remuneration from a part-time activity exercised in that other Contracting State up to the limits deemed reasonable for the purposes of his study or training.

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.

Chapter IV.

Methods for Elimination of Double Taxation

Article 22

- 1. Subject to the provisions of the laws of Portugal regarding the allowance as a credit against Portuguese tax of tax payable in a territory outside Portugal (which shall not affect the general principle hereof):
 - a) Where a resident of Portugal derives income which, in accordance with the provisions of this Convention may be taxed in the Hellenic Republic, Portugal shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in the Hellenic Republic. 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 the Hellenic Republic;
 - b) Where a company which is a resident of Portugal derives dividends from a company which is a resident of the Hellenic Republic in the capital of which the first mentioned company holds directly a participation of at least 25 per cent, Portugal shall allow as a deduction, in calculating the taxable profit subject to corporate income tax, 95 per cent of those dividends comprised in the taxable base, according to the conditions laid down by Portuguese law.
- 2. Subject to the provisions of the laws of the Hellenic Republic regarding the allowance as a credit against Hellenic tax of tax payable in a territory outside the Hellenic Republic (which shall not affect the general principle hereof):
 - a) Portuguese tax payable under the laws of Portugal and in accordance with this Convention, whether directly or by deduction, on income from sources within Portugal (excluding in the case of a dividend tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any Hellenic tax computed by reference to the same income by reference to which Portuguese tax is computed;
 - b) In the case of a dividend paid by a company which is a resident of Portugal to a company which is a resident of the Hellenic Republic and which holds directly or indirectly 25 per cent or more of the

capital in the company paying the dividend, the credit shall take into account [in addition to any Portuguese tax creditable under the provisions of subparagraph (a) of this paragraph] Portuguese tax payable by the company in respect of the profits out of which such dividend is paid.

3. For the purposes of paragraph 2 income derived by a resident of the Hellenic Republic which may be taxed in Portugal in accordance with this Convention shall be deemed to be derived from sources in Portugal.

4. Where in accordance with any provisions 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 the exempted income.

Chapter V.

Special Provision

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. 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 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, of paragraphs 6 and 7 of Article 11, or paragraphs 6 and 7 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 subject in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirement to which other similar enterprises of the first-mentioned State are or may be subjected.

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

Article 24 Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of this Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national. The case must be presented within two 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.

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.

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) concerned with 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 States the obligation:

- a) To carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) To supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- c) To supply information, which would disclose any trade, business, industrial, commercial or professional secret or process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

Article 26 Members of Diplomatic Missions and Consular Posts

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

Chapter VI.

Final Provisions

Article 27 Entry Into Force

1. This Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible.

2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect:

a) In the Portuguese Republic:

- i) In respect of taxes withheld at source, the fact giving rise to them appearing on or after the first day of January in the calendar year next following the year in which the Convention enters into force;
- ii) In respect of other taxes, as to income arising in any taxable period beginning on or after the first day of January in the calendar year next following the year in which the Convention enters into force.

b) In the Hellenic Republic:

- i) In respect of taxes withheld at source, to income derived on or after the first day of January in the calendar year next following the year in which the Convention enters into force;
- ii) In respect of other taxes, to income arising in any taxable period beginning on or after the first day of January in the calendar year next following the year in which the Convention enters into force:

Article 28 Termination

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year. In such event, the Convention shall cease to have effect:

a) In the Portuguese Republic:

- i) In respect of taxes withheld at source, the fact giving rise to them appearing on or after the first day of January in the calendar year next following the date on which the period specified in the said notice of termination expires;
- ii) in respect of other taxes, as to income arising in the taxable period beginning on or after the first day of January in the calendar year next following the date on which the period specified in the said notice of termination expires.

b) In the Hellenic Republic:

i) In respect of taxes withheld at source, to income derived on or after the first day of January in the calendar year next following the date on which the period specified in the said notice of termination expires;

ii) in respect of other taxes, to income arising in the taxable period beginning on or after the first day of January in the calendar year next following the date on which the period specified in the said notice of termination expires.

In witness whereof the undersigned, duly authorised thereto, have signed this Convention.

Done at Lisbon, on December 2nd, 1999, in three originals, in the Portuguese, Greek and English languages, each text being equally authentic, the English text prevailing in case of doubt.

FOR THE GOVERNMENT OF THE PORTUGUESE REPUBLIC:

FOR THE GOVERNMENT OF THE HELLENIC REPUBLIC:

PROTOCOL

At the moment of signing the Convention between the Portuguese Republic and the Hellenic Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed upon the following which shall be an integral part of the Convention.

Ad Article 2

The Portuguese substitute inheritance tax (Imposto sobre sucessões e doações por avença) on securities is not income tax, and consequently is not covered by the scope of the Convention.

Ad Article 16

According to Greece this article also comprises the remuneration of a partner in his capacity as a manager of limited liability company or partnership. This corresponds to the interpretation of this article done by Portugal concerning in particular any manager of a limited liability company or a partnership.

Ad Article 23

1. The provisions of Article 23 do not preclude the application of any revision of the tax law of the Contracting States dealing with thin capitalisation problems.

2. The provisions of Article 23 shall be construed in the sense that insofar as the deductibility of the incurred disbursements is concerned, each Contracting State may apply its own procedures regarding the burden of proof.

In witness whereof, the undersigned, duly authorised thereto, have signed this Protocol.

Done at Lisbon, on December 2nd, 1999, in three originals, in the Portuguese, Greek and English languages, each text being equally authentic, the English text prevailing in case of doubt.

FOR THE GOVERNMENT OF THE PORTUGUESE REPUBLIC:

FOR THE GOVERNMENT OF THE HELLENIC REPUBLIC: