

A.L. 337 ta' l-2004

**ATT DWAR IT-TAXXA FUQ L-INCOME
(KAP. 123)****Ordni ta' l-2004 dwar Helsien minn Taxxa Doppja
(Taxxi fuq l-Income) (Repubblika tal-Litwanja)**

BIS-SAHHA tas-setgħat mogħtija bl-artikolu 76 ta' l-Att dwar it-Taxxa fuq l-Income, il-Prim Ministru u Ministru tal-Finanzi għamel l-ordni li ġej:-

1. It-titolu ta' dan l-ordni hu Ordni ta' l-2004 dwar Helsien minn Taxxa Doppja (Taxxi fuq *Income*) (Repubblika tal-Litwanja). Titolu.

2. B'dan qiegħed jiġi dikjarat -

Arranġamenti
jkollhom effett.

(a) illi l-arranġamenti speċifikati fil-Ftehim muri fl-Iskeda li tinsab ma' dan l-Ordni saru mar-Repubblika tal-Litwanja sabiex jagħtu helsien minn taxxa doppja dwar it-taxxi li ġejjin imposti bil-liġijiet tar-Repubblika tal-Litwanja:

(i) it-taxxa fuq profitti ta' persuni ġuridici (*juridiniu asmenu pelno mokestis*);

(ii) it-taxxa fuq l-income ta' persuni naturali (*fiziniu asmenu pajamu mokestis*);

(b) illi huwa spedjenti li dawk l-arranġamenti għandu jkollhom effett;

(c) illi l-Ftehim beda jseħħ fit-2 ta' Frar, 2004.

SKEDA

**FTEHIM
BEJN IL-GVERN TA' MALTA
U L-GVERN TAR-REPUBBLIKA TAL-LITWANJA
GHALL-EVITAR TA' TAXXA DOPPJA
U L-PREVENZJONI TA' EVAŻJONI FISKALI
DWAR TAXXI FUQ L-*INCOME***

Il-Gvern ta' Malta u l-Gvern tar-Repubblika tal-Litwanja, billi jixtiequ jagħmlu Ftehim għall-evitar ta' taxxa doppja u l-prevenzjoni ta' evażjoni fiskali dwar taxxi fuq *l-income*, ftehm u kif ġej:

Artiklu 1

PERSUNI KOPERTI

Dan il-Ftehim għandu japplika għal persuni li jkunu residenti fi Stat Kontraenti wiehed jew fit-tnejn li huma.

Artiklu 2

TAXXI KOPERTI

1. Dan il-ftehim għandu japplika għat-taxxi fuq *l-income* imposti f'isem Stat Kontraenti jew l-awtoritajiet lokali tiegħu, irrispettivament mill-mod kif dawn jingabru.

2. Għandhom jitqiesu bhala taxxi fuq *l-income* it-taxxi kollha imposti fuq *l-income* totali, jew fuq elementi ta' *income*, inklużi taxxi fuq kull qliegh mit-trasferiment ta' proprjetà mobbli jew immobbli.

3. It-taxxi eżistenti li għalihom japplika dan il-Ftehim huma b'mod partikolari:

a) fil-Litwanja:

(i) it-taxxa fuq profitti ta' persuni ġuridiċi (*juridiniu asmenu pelno mokestis*);

(ii) it-taxxa fuq *l-income* ta' persuni naturali (*fiziniu asmenu pajamu mokestis*);

(hawnhekk iżjed 'il quddiem imsejha "it-taxxa tal-Litwanja");

b) f' Malta:

it-taxxa fuq l-*income*;

(hawnhekk iżjed 'il quddiem imsejha "it-taxxa ta' Malta").

4. Il-Ftehim ghandu japplika wkoll ghal kull taxxa identika jew sostanzjalment simili li jiġu imposti wara d-data meta jiġi ffirmat dan il-Ftehim b'żieda ma', jew minflok, it-taxxi eżistenti. L-awtoritajiet kompetenti ta' l-Istati Kontraenti għandhom jgħarrfu lil xulxin b'kull tibdil sostanzjali li jkun sar fil-liġijiet dwar it-taxxa rispettivi tagħhom.

Artiklu 3

TIFSIRIET ĠENERALI

1. Għall-għanijiet ta' dan il-Ftehim, kemm-il darba r-rabta tal-kliem ma tehtiegx xort'ohra:

a) il-frazi "Litwanja" tfisser ir-Repubblika tal-Litwanja u, meta tintuża f'sens ġeografiku, tfisser it-territorju tar-Repubblika tal-Litwanja u kull area oħra adjacenti mal-baħar territorjali tar-Repubblika tal-Litwanja li fi hdnhom taht l-liġijiet tal-Litwanja u skond id-dritt internazzjonali, id-drittijiet tal-Litwanja jistgħu jiġu eżercitati għar-rigward ta' qiegh il-baħar u s-sottoswol u r-rizorsi naturali relattivi;

b) il-frazi "Malta" tfisser the Repubblika ta' Malta u, meta użata f'sens ġeografiku, tfisser il-Gżira ta' Malta, il-Gżira ta' Ghawdex u l-gżejjer l-oħra ta' l-arċipelagu Malti inklużi l-ibhra territorjali tagħhom, kif ukoll kull area ta' qiegh il-baħar, is-sottoswol tiegħu u l-kolonna ta' baħar sovraġacenti u adjacenti għall-ibhra territorjali, fejn ir-Repubblika ta' Malta għandha drittijiet sovrani, ġurisdizzjoni, jew kontroll skond id-dritt internazzjonali u d-dritt nazzjonali tagħha, inkluża l-leġislazzjoni tagħha għar-rigward ta' l-esplorazzjoni tal-blata kontinentali u l-esplorazzjoni tar-rizorsi naturali tagħha;

ċ) il-frazzjiet "Stat Kontraenti" u "l-Istat Kontraenti l-iehor" ifissru Litwanja jew Malta skond ir-rabta tal-kliem;

d) il-frazi "persuna" tinkludi individwu, kumpannija u kull korp ta' persuni ieħor;

e) il-frazi "kumpannija" tfisser kull korp magħqud jew kull enti li jkun trattat bhala korp magħqud għall-iskopijiet ta' taxxa;

f) il-frażijiet “impriza ta’ Stat Kontraenti” u “impriza ta’ l-Istat Kontraenti l-iehor” ifissru rispettivament impriza ġestita minn residenti ta’ Stat Kontraenti u impriza ġestita minn residenti ta’ l-Istat Kontraenti l-iehor;

g) il-frażi “traffiku internazzjonali” tfisser kull trasport b’bastiment jew b’ingeni ta’ l-ajru, mhaddma minn impriza ta’ Stat Kontraenti, hliet meta l-bastiment jew l-ingeni ta’ l-ajru jiġu unikament imhaddma bejn postijiet fl-Istat Kontraenti l-iehor;

h) il-frażi “awtorità kompetenti” tfisser:

(i) fil-Litwanja, il-Ministru tal-Finanzi jew ir-rappreżentant awtorizzat tiegħu,

(ii) f’Malta, il-Ministru responsabbli għall-finanzi jew ir-rappreżentant awtorizzat tiegħu;

i) il-frażi “ċittadin” tfisser:

(i) individwu li jkollu ċ-ċittadinanza ta’ Stat Kontraenti;

(ii) persuna ġuridika, soċjetà assoċjazzjoni jew entità oħra li jiksbu l-istatus tagħhom bhala tali mil-liġijiet li jkunu fis-seħh fi Stat Kontraenti.

2. Għar-rigward ta’ l-applikazzjoni tal-Ftehim f’kull żmien minn Stat Kontraenti, kull frażi li ma tkunx imfissra fih għandha, kemm-il darba r-rabta tal-kliem ma tehtiegħ xort’oħra, t-tifsira mogħtija lilha f’dak il-waqt taħt il-liġi ta’ dak l-Istat għall-finijiet tat-taxxi li dwarhom ikun japplika l-Ftehim kif din tkun tipprevalixxi fuq tifsira mogħtija lil dik il-frażi taħt liġijiet oħra ta’ dak l-Istat.

Artiklu 4

RESIDENTI

1. Għall-finijiet ta’ dan il-Ftehim, il-frażi “residenti ta’ Stat Kontraenti” tfisser kull persuna li, taħt il-liġijiet ta’ dak l-Istat, hija soġġetta għat-taxxa hemmhekk minhabba d-domicilju, r-residenza, post tal-manijġ, post ta’ inkorporazzjoni jew xi kriterju ieħor ta’ xorta simili, u tinkludi wkoll lil dak l-Istat u lil xi awtorità lokali tiegħu. Din il-frażi, madankollu, ma tinkludix lil xi persuna li tkun soġġetta għat-taxxa f’dak l-Istat għar-rigward biss ta’ *income* minn ghejjun f’dak l-Istat.

2. Meta minhabba d-dispożizzjonijiet tal-paragrafu 1 individwu jkun residenti taż-żewġ Stati Kontraenti, allura l-istatus tiegħu għandu jiġi stabbilit kif ġej:

a) huwa għandu jitqies li jkun residenti biss ta’ l-Istat li fih ikollu dar permanenti għad-dispożizzjoni tiegħu; jekk huwa jkollu dar permanenti għad-

dispożizzjoni tiegħu fiż-żewġ Stati, huwa għandu jittqies li jkun residenti biss ta' l-Istat li miegħu r-relazzjonijiet personali u ekonomiċi tiegħu jkunu l-aktar marbuta (ċentru ta' interessi vitali);

b) jekk l-Istat li fih huwa jkollu ċ-ċentru ta' interessi vitali ma jistax jiġi determinat, jew jekk huwa ma jkollux għad-dispożizzjoni tiegħu dar permanenti f'ebda Stat, huwa għandu jittqies li jkun residenti ta' l-Istat li fih soltu jirrisjedi;

ċ) jekk huwa soltu jirrisjedi fiż-żewġ Stati jew f'ebda wiehed minnhom, huwa għandu jittqies li jkun residenti ta' l-Istat li tiegħu jkun ċittadin;

d) jekk huwa jkun ċittadin taż-żewġ Stati jew ta' l-ebda wiehed minnhom, l-awtoritajiet kompetenti ta' l-Istati Kontraenti għandhom jiddeċiedu l-każ bi ftehim bejnithom.

3. Meta minhabba d-dispożizzjonijiet tal-paragrafu 1 persuna li ma tkunx individwu tkun residenti taż-żewġ Stati Kontraenti, l-awtoritajiet kompetenti ta' l-Istati Kontraenti għandhom jagħmlu mill-aħjar biex jirrangaw il-kwistjoni bi ftehim reciproku. Fin-nuqqas ta' tali arrangament, għall-finijiet tal-Ftehim, il-persuna ma jkollha ebda jedd li tagħmel xi talba għal beneficcji pprovduti b'dan il-Ftehim.

Artiklu 5

STABILIMENT PERMANENTI

1. Għall-finijiet ta' dan il-Ftehim, il-frazi "stabiliment permanenti" tfisser post tan-negozju fiss li minnu jitmexxa għalkollox jew f'parti minnu x-xogħol ta' impriża.

2. Il-frazi "stabiliment permanenti" tinkludi b'mod speċjali:

a) post ta' maniġġ;

b) fergħa;

ċ) uffiċċju;

d) fabbrika;

e) hanut tax-xogħol; u

f) minjiera, bir taż-żejt jew tal-gass, barriera jew kull post iehor ta' estrazzjoni ta' riżorsi naturali.

3. Il-frazi "stabiliment permanenti" tinkludi b'mod speċjali:

a) art li tkun qeghda tinbena, proġett ta' kostruzzjoni, assemblaġġ jew stallazzjoni jew attivitajiet ta' sorveljanza li jkollhom x'jaqsmu ma' dan, iżda biss meta dik l-art, dak il-proġett jew dawk l-attivitajiet ikomplu għal perjodu ta' aktar minn sitt xhur;

b) l-ġhoti ta' servizzi, inklużi servizzi ta' konsulenza, minn impriża ta' Stat Kontraenti permezz ta' impjegati jew persunal ieħor imqabba mill-impriża għaldaqstant, iżda biss sakemm dawk l-attivitajiet ikomplu għal perjodu jew perjodi li flimkien iġibu iktar minn sitt xhur matul xi perjodu ta' tnaħ il-xahar li jkun.

4. Minkejja d-dispożizzjonijiet ta' qabel ta' dan l-Artiklu, il-frazi "stabbiliment permanenti" għandha titqies li ma tinkludix:

a) l-użu ta' faċilitajiet għall-iskop uniku ta' hżin, wiri jew tqassim ta' oġġetti jew merkanzija li jkunu proprjetà ta' l-impriża;

b) il-manutenzjoni ta' hażna ta' oġġetti jew merkanzija li tkun proprjetà ta' l-impriża għall-iskop uniku ta' hżin, wiri jew tqassim;

ċ) il-manutenzjoni ta' hażna ta' oġġetti jew merkanzija li tkun proprjetà ta' l-impriża għall-iskop uniku ta' proċessar minn impriża oħra;

d) il-manutenzjoni ta' post fiss ta' negozju għall-iskop uniku ta' xiri ta' oġġetti jew merkanzija jew ta' ġbir ta' taġhrif għall-impriża;

e) il-manutenzjoni ta' post fiss ta' negozju għall-iskop uniku li tiġi ġestita, għall-impriża, xi attività oħra ta' xorta preparatorja jew awżiljarja;

f) il-manutenzjoni ta' post fiss ta' negozju għall-iskop uniku ta' xi kombinazzjoni ta' attivitajiet imsemmija fis-subparagrafi a) sa e), kemm-il darba l-attività kollha tal-post tan-negozju fiss li tirriżulta minn din il-kombinazzjoni tkun waħda ta' xorta preparatorja jew awżiljari.

5. Minkejja l-provvedimenti tal-paragrafi 1 u 2, meta persuna - li ma tkunx aġent bi status indipendenti li għalih japplika l-paragrafu 6 - tkun qed taġixxi f'isem impriża u jkollha, u abitwalment teżerċita, fi Stat Kontraenti awtorità biex tikkonkludi kuntratti f'isem l-impriża, dik l-impriża għandha titqies li jkollha stabbiliment permanenti f'dak l-Istat għar-rigward ta' kull attività li dik l-impriża, kemm-il darba l-attivitajiet ta' dik il-persuna jkunu limitati għal dawk imsemmija fil-paragrafu 4 illi, jekk dawn jiġu eżerċitati minn go post tan-negozju fiss, ma jirrendux lil dan il-post tan-negozju fiss bħala stabbiliment permanenti taht il-provvedimenti ta' dak il-paragrafu.

6. Impriża ma għandhiex titqies li jkollha stabbiliment permanenti fi Stat Kontraenti biss minhabba li tkun tiġġestixxi negozju f'dak l-Istat permezz ta' sensal, aġent b'kummissjoni ġenerali jew kull aġent ieħor bi status indipendenti, sakemm dawk il-persuni jkunu qed jaġixxu fil-kors ordinarju tan-negozju taġghom. Madankollu,

meta l-attivitajiet ta' tali aġent ikunu mogħtija għalkollox jew kwazi għalkollox għal dik l-impriza, huwa ma jitqiesx bħala aġent bi status indipendenti fil-kuntest tat-tifsira ta' dan il-paragrafu.

7. Il-fatt li kumpannija li tkun residenti ta' Stat Kontraenti tkun tikkontrolla jew tkun minn kumpannija li tkun residenti ta' l-Istat Kontraenti l-iehor, jew li tkun tiġġestixxi negozju f'dak l-Istat l-iehor (sew permezz ta' stabbiliment permanenti sew xort'ohra), m'għandux fih innifsu jikkostitwixxi lil xi kumpannija wahda jew l-ohra stabbiliment permanenti tal-kumpannija l-ohra.

Artiklu 6

INCOME MINN PROPRJETÀ IMMOBBLI

1. *Income* li jinkiseb minn residenti ta' Stat Kontraenti minn proprjetà immobbli (inkluż *income* mill-agrikoltura jew hidma fil-boskijiet) li jkunu jinsabu fl-Istat Kontraenti l-iehor jista' jiġi intaxxat f'dak l-Istat l-iehor.

2. Il-frazi "proprjetà immobbli" għandu jkollha t-tifsira li għandha taht il-liġi ta' l-Istat Kontraenti li fih tkun tinsab il-proprjetà involuta. Id-disposizzjonijiet ta' dan il-Ftehim li jirrigwardaw il-proprjetà immobbli għandhom ikunu japplikaw ukoll għal proprjetà aċcessorja għal proprjetà immobbli, bhejjem f'razzett u tagħmir li jintuza fl-agrikoltura u fil-hidma fil-boskijiet, drittijiet li għalihom japplikaw il-provvedimenti tal-liġi ġenerali dwar il-proprjetà ta' l-art, kull għażla jew jedd simili li tiġi akkwistata proprjetà immobbli, l-użufrutt tal-proprjetà immobbli u drittijiet dwar hlasijiet varjabbli jew fissi bħala korrispettiv għal hidma fi, jew id-dritt li jinhadmu, jew għall-esplorazzjoni ta', depożiti minerali, għejjun u rizorsi ohra naturali. Bastimenti jew inġenji ta' l-ajru ma għandhomx jitqiesu bħala proprjetà immobbli.

3. Il-provvedimenti tal-paragrafu 1 għandhom ikunu japplikaw għal *income* li jinkiseb mill-użu dirett, kiri, jew użu ta' kull xorta ta' proprjetà immobbli.

4. Meta l-proprjetà ta' ishma jew ta' jeddijiet korporattivi ohra f'kumpannija ikun jagħti l-jedd lis-sid ta' dawk l-ishma jew jeddijiet korporattivi għat-tgawdija ta' proprjetà immobbli li tkun qed tinzamm mill-kumpannija, l-*income* mill-użu dirett, kiri, jew użu f'kull forma ohra ta' dak il-jedd ta' tgawdija jista' jiġi intaxxat fl-Istat Kontraenti fejn tkun tinsab il-proprjetà immobbli.

5. Il-provvedimenti tal-paragrafi 1, 3 u 4 għandhom japplikaw ukoll għall-*income* minn proprjetà immobbli ta' impriza u għal *income* minn proprjetà immobbli użata għall-għemil ta' servizzi personali indipendenti.

Artiklu 7

PROFITTI MINN NEGOZJU

1. Il-profitti ta' impriza ta' Stat Kontraenti ghandhom jiġu intaxxati biss f'dak l-Istat kemm-il darba l-impriza ma tmexxi negozju fl-Istat Kontraenti l-iehor permezz ta' stabbiliment permanenti li jkun qiegħed hemmhekk. Jekk l-impriza tkun qiegħda tmexxi negozju kif hawn aktar qabel imsemmi, il-profitti ta' l-impriza jistgħu jiġu intaxxati fl-Istat l-iehor iżda biss għal dik il-parti minnhom daqskemm tkun attribwibbli għal dak l-istabbiliment permanenti.

2. Bla hsara għall-provvedimenti tal-paragrafu 3, meta impriza ta' Stat Kontraenti tkun tmexxi negozju fl-Istat Kontraenti l-iehor permezz ta' stabbiliment permanenti li jkun qiegħed hemmhekk, għandhom f'kull Stat Kontraenti jiġu attribwiti lil dak l-istabbiliment permanenti il-profitti li kien ikun mistenni jagħmel kieku kien impriza distinta u separata li taħdem fl-istess attivitajiet jew oħrajn bħallhom taħt l-istess kundizzjonijiet jew oħrajn bħallhom u li taħdem indipendentement għalkollox mill-impriza li tagħha tkun stabbiliment permanenti.

3. Sabiex jiġu stabbiliti l-profitti ta' stabbiliment permanenti, għandhom ikunu permessi bhala tnaqqis dawk l-ispejjeż li jsiru għall-ghanijiet ta' l-istabbiliment permanenti, inklużi l-ispejjeż eżekuttivi u amministrattivi generali li jkunu saru, sew fl-Istat li fih ikun hemm l-istabbiliment permanenti sew band'ohra.

4. Sakemm tkun il-konswetudni fi Stat Kontraenti li jstabbilixxi l-profitti li għandhom jiġu attribwiti lil stabbiliment permanenti minhabba fi tqassim tal-profitti totali ta' l-impriza lill-partijiet diversi tagħha, ebda haġa fil-paragrafu 2 ma għandha tipprekludi lil dak l-Istat Kontraenti milli jstabbilixxi l-profitti li għandhom jiġu intaxxati b'dak it-tqassim skond ma jista' jkun konswetudinarju; il-metodu ta' tqassim li jiġi adottat għandu, madankollu, jsir hekk li r-riżultat għandu jkun skond il-prinċipji li jinsabu f'dan l-Artiklu.

5. Ebda profitti ma għandhom jiġu attribwiti lil stabbiliment permanenti minhabba biss f'li jsir ix-xiri minn dak l-istabbiliment permanenti ta' oġġetti jew merkanzija għall-impriza.

6. Għall-ghanijiet tal-paragrafi preċedenti, l-profitti li għandhom jiġu attribwiti lill-istabbiliment permanenti għandhom jiġu stabbiliti bl-istess metodu sena wara l-oħra kemm-il darba ma jkunx hemm raġuni tajba u suffiċjenti biex dan ma jsirx.

7. Meta l-profitti jkunu jinkludu oġġetti ta' *income* li qiegħdin jiġu trattati separatament f'artikli oħra ta' dan il-Ftehim, għaldaqshekk il-provvedimenti ta' dawk l-Artikli ma jintlaqtux bil-provvedimenti ta' dan l-Artiklu.

Artiklu 8

TBAHHIR U TRASPORT BL-AJRU

1. Il-profitti ta' impriża ta' Stat Kontraenti mit-thaddim ta' bastimenti jew ingeni ta' l-ajru fi traffiku internazzjonali ghandhom jiġu intaxxati biss f'dak l-Istat.

2. Il-provvedimenti tal-paragrafu 1 ghandhom ukoll japplikaw ghal profitti miksubin mill-partecipazzjoni f'*pool*, negozju bi shab jew aġenzija b'operat internazzjonali.

Artiklu 9

IMPRIŻI ASSOĊJATI

1. Meta

a) impriża ta' Stat Kontraenti tipparteċipa sew direttament sew indirettament fit-tmexxija, kontroll jew kapital ta' impriża ta' l-Istat Kontraenti l-iehor, jew

b) l-istess persuni jipparteċipaw sew direttament sew indirettament fit-tmexxija, kontroll jew kapital ta' impriża ta' Stat Kontraenti u ta' impriża ta' l-Istat Kontraenti l-iehor,

u f'kull każ isiru jew jiġu imposti kondizzjonijiet bejn iż-żewġ impriži fir-relazzjonijiet kummerċjali jew finanzjarji tagħhom li ma jkunux jaqblu ma' dawk li kieku kienu jiġu magħmula bejn impriži indipendenti, f'dak il-każ il-profitti li, kieku ma kienux dawk il-kondizzjonijiet, kienu jakkumulaw ghal waħda mill-impriži, iżda, minhabba dawk il-kondizzjonijiet, ma ġewx hekk akkumulati, jistgħu jiġu inklużi fil-profitti ta' dik l-impriża u intaxxati skond hekk.

2. Meta Stat Kontraenti ikun jinkludi fil-profitti ta' impriża ta' dak l-Istat - u skond hekk jintaxxa - profitti li fuqhom impriża ta' l-Istat Kontraenti l-iehor ġiet intaxxata f'dak l-Istat l-iehor u l-profitti hekk inklużi jkunu profitti li kienu jinqalghu mill-impriża ta' l-ewwel Stat li kieku l-kondizzjonijiet magħmula bejn iż-żewġ impriži kienu dawk li kienu jsiru bejn żewġ impriži indipendenti, għaldaqshekk dak l-Istat l-iehor jista' jagħmel it-tibdil li jmiss fl-ammont tat-taxxa imposta hemmhekk fuq dawk il-profitti. Biex jiġi stabbilit it-tibdil, ghandhom jitqiesu kif dovut il-provvedimenti l-oħra ta' dan il-Ftehim u l-awtoritajiet kompetenti ta' l-Istati Kontraenti ghandhom jekk iħossu jikkonsultaw lil xulxin.

Artiklu 10

DIVIDENDI

1. Dividendi mhallsa minn kumpanija li tkun residenti ta' Stat Kontraenti lil residenti ta' l-Istat Kontraenti l-iehor tista' tigi intaxxata f'dak l-Istat.

2. Izda, dawk id-dividendi jistghu ukoll jigu intaxxati fl-Istat Kontraenti li tieghu l-kumpanija li tkun thallas id-dividendi tkun residenti u skond il-ligijiet ta' dak l-Istat, izda:

a) meta d-dividendi jithallsu minn kumpanija li tkun residenti tal-Litwanja lil residenti ta' Malta li jkun is-sid benefiċjarju tad-dividendi, it-taxxa tal-Litwanja hekk imposta m'għandhiex tkun iżjed minn:

(i) 5 fil-mija ta' l-ammont gross tad-dividendi jekk is-sid benefiċjarju jkun kumpanija (minbarra soċjetà) li jkollha direttament mill-inqas 25 fil-mija mill-kapital tal-kumpanija li tkun qed thallas id-dividendi;

(ii) 15 fil-mija ta' l-ammont gross tad-dividendi fil-każijiet l-oħra kollha;

b) meta d-dividendi jithallsu minn kumpanija li tkun residenti ta' Malta lil residenti tal-Litwanja li jkun is-sid benefiċjarju tad-dividendi, it-taxxa ta' Malta fuq l-ammont gross tad-dividendi m'għandhiex tkun iżjed minn dik li tithallas fuq il-profitti li minnhom jithallsu d-dividendi.

Dan il-paragrafu ma jolqotx l-intaxxar tal-kumpanija għar-rigward tal-profitti li minnhom jithallsu d-dividendi.

3. Il-frazi "dividendi" kif din tintuża f'dan l-Artiklu tfisser *income* minn ishma jew minn drittijiet oħra, li ma jkunux pretensjonijiet ta' debitu, il-parteciċipazzjoni fi profitti, kif ukoll *income* minn drittijiet korporattivi li jingħata l-istess trattament fl-intaxxar bhallikieku kien *income* minn ishma skond il-ligijiet ta' l-Istat li tieghu l-kumpanija li tkun qed tagħmel it-tqassim tkun residenti.

4. Il-provvedimenti tal-paragrafi 1 u 2 m'għandhomx japplikaw jekk is-sid benefiċjarju tad-dividendi, li jkun residenti ta' Stat Kontraenti, imexxi negozju fl-Istat Kontraenti l-iehor li tieghu tkun residenti l-kumpanija li thallas id-dividendi, permezz ta' stabbiliment permanenti li jkun sitwat hemmhekk, jew li jkun jagħmel f'dak l-Istat l-iehor servizzi personali indipendenti minn bażi stabbilita sitwata hemmhekk, u l-*holding* li dwarhom id-dividendi jkunu mhallsa jkollu x'jaqsam effettivament ma' dak l-istabbiliment permanenti jew bażi stabbilita. F'dak il-każ għandhom japplikaw il-provvedimenti ta' l-Artiklu 7 jew ta' l-Artiklu 14, skond il-każ.

5. Meta kumpanija li tkun residenti ta' Stat Kontraenti tikseb profitti jew *income* mill-Istat Kontraenti l-iehor, dak l-Istat l-iehor ma jista' jimponi ebda taxxa fuq id-dividendi mhallsa mill-kumpanija, hlief daqskemm dawk id-dividendi jithallsu lil residenti ta' dak l-Istat l-iehor jew daqskemm il-*holding* li dwaru jithallsu d-dividendi jkun effettivament konness ma' dak l-istabbiliment permanenti jew bażi stabbilita sitwati f'dak Istat l-iehor, lanqas jassoġġetta l-profitti mhux imqassma tal-kumpanija għal taxxa fuq il-profitti mhux imqassma tal-kumpanija, ukoll jekk id-dividendi mhallsa jew il-profitti mhux imqassma jkunu kollha kemm huma jew f'parti minnhom jikkonsistu fi profitti jew *income* li jinqalghu f'dak l-Istat l-iehor.

Artiklu 11

MGHAX

1. Mghax li jinqala' fi Stat Kontraenti u jithallas lil residenti ta' l-Istat Kontraenti l-iehor jista' jiġi intaxxat f'dak Istat l-iehor.

2. Madankollu, dak l-imghax jista' wkoll jiġi intaxxat fl-Istat Kontraenti fejn dan joriġina u skond il-liġijiet ta' dak l-Istat, iżda jekk is-sid benefiċjarju ta' dak ta' l-imghax ikun residenti ta' l-Istat Kontraenti l-iehor, it-taxxa hekk mitluba m'għandhiex teccedi 10 fil-mija ta' l-ammont gross ta' l-imghax.

3. Minkejja d-dispożizzjonijiet tal-paragrafu 2 mghax li joriġina fi Stat Kontraenti, li l-Gvern ta' l-Istat Kontraenti l-iehor jikseb u jkun is-sid benefiċjarju tiegħu, inklużi l-awtoritajiet lokali tiegħu, il-Bank Ċentrali jew xi istituzzjoni finanzjarja li kollha kemm hi tkun proprjetà ta' dak il-Gvern, jew mghax miksub fuq xi self kif garantit minn dak il-Gvern, għandu jkun eżenti mit-taxxa fl-Istat l-ewwel imsemmi.

4. Il-frazi "mghax" kif inhi wżata f'dan l-Artiklu tfisser *income* minn pretensjonijiet ta' debitu ta' kull xorta, sew jekk assigurati b'ipoteka sew jekk le, u sew jekk ikollhomx dritt li jippartecipaw fil-profitti tad-debitur sew jekk le, u b'mod partikolari, *income* minn titoli tal-Gvern u *income* minn *bonds* jew *debentures*, inklużi *premiums* u premjijiet relatati ma dawk it-titoli, *bonds* jew *debentures*. Il-frazi "mghax" m'għandhiex tinkludi *income* li jkun ittrattat bħala dividend taht id-dispożizzjonijiet ta' l-Artiklu 10. Hlasijiet ta' penali għal hlas tardiv ma jitqiesux bħala mghax għall-finijiet ta' dan l-Artiklu.

5. Il-provvedimenti tal-paragrafi 1, 2 u 3 m'għandhomx japplikaw jekk is-sid benefiċjarju ta' l-imghax, li jkun residenti ta' Stat Kontraenti, ikun qed imexxi negozju fl-Istat Kontraenti l-iehor li fih jinqala' l-imghax, permezz ta' stabbiliment permanenti sitwat hemmhekk, jew jagħmel servizzi personali indipendenti f'dak Istat l-iehor minn bażi stabbilita sitwata hemmhekk, u l-pretensjoni ta' debitu li dwarha jithallas l-imghax tkun effettivament konnessa ma' dak l-istabbiliment permanenti jew bażi stabbilita. F'każ bħal dak għandhom japplikaw il-provvedimenti ta' l-Artiklu 7 jew ta' l-Artiklu 14, skond il-każ.

6. Ghandu jitqies li jorigina mgħax fi Stat Kontraenti meta min ihallas ikun residenti ta' dak l-Istat. Meta, madankollu, l-persuna li tkun qed thallas l-imghax, sew jekk tkun residenti ta' Stat Kontraenti sew jekk le, jkollha fi Stat Kontraenti stabbiliment permanenti jew bażi fissa li f'konnessjoni mieghu tkun inkisbet il-qagħda ta' debitu li fuqu jithallas l-imghax, u dak l-imghax jingarr minn dak l-istabbiliment permanenti jew minn dik il-baži fissa, allura dak l-imghax għandu jitqies bhala li jorigina fl-Istat fejn ikunu jinsabu l-istabbiliment permanenti jew baži fissa.

7. Meta, minhabba f'relazżjoni speċjali bejn min ihallas u s-sid benefiċjarju jew bejn it-tnejn li huma u xi persuna oħra, l-ammont ta' l-imghax, wara li titqies xi tkun il-pretenzjoni ta' debitu li dwarha jithallas, ikun iżjed mill-ammont li kien ikun miftiehem bejn min ihallas u s-sid benefiċjarju fin-nuqqas ta' dik ir-relazzjoni, il-provvedimenti ta' dan l-Artiklu għandhom ikunu japplikaw biss għall-ammont l-aħhar imsemmi. F'każ bħal dak, il-parti żejda tal-ħlasijiet tibqa' taxxabbli skond il-liġijiet ta' kull Stat Kontraenti, fil-qies tal-provvedimenti l-oħra ta' dan il-Ftehim.

Artiklu 12

ROYALTIES

1. *Royalties* li jinqalghu fi Stat Kontraenti u jithallsu lil residenti ta' l-Istat Kontraenti l-iehor jistghu jiġu intaxxati f'dak Istat l-iehor.

2. Madankollu, dawk ir-*royalties* jistghu jiġu intaxxati wkoll fl-Istat Kontraenti fejn jinqalghu u skond il-liġijiet ta' dak l-Istat, iżda jekk is-sid benefiċjarju tar-*royalties* ikun residenti ta' l-Istat Kontraenti l-iehor, it-taxxa hekk imposta m'għandhiex tkun iżjed minn 10 fil-mija ta' l-ammont gross ta' *royalties*.

3. Il-frazi "*royalties*" kif din tintuża f'dan l-Artiklu tfisser ħlasijiet ta' kull xorta li jsiru b'korrispettiv għall-użu ta', jew għall-jedd ta' l-użu, ta' kull dritt ta' l-awtur ta' xogħol letterarju, artistiku jew xjentifiku inklużi *films* ċinematografiċi u *films* jew *tapes* u mezzi oħra ta' riproduzzjoni bix-xbiha jew bil-hoss għax-xandir bir-radju jew bit-televiżjoni, kull *privattiva*, *trade mark*, disinn jew mudell, pjan, formula jew proċess sigrieti, jew għall-użu ta', jew id-dritt li jintuża, tagħmir industrijali, kummerċjali jew xjentifiku, jew għal informazzjoni dwar konozzenza industrijali, kummerċjali jew xjentifika.

4. Il-provvedimenti tal-paragrafu 1 m'għandhomx japplikaw jekk is-sid benefiċjarju tar-*royalties*, li jkun residenti ta' Stat Kontraenti, ikun qed imexxi negozju fl-Istat Kontraenti l-iehor li fih ir-*royalties* jinqalghu, permezz ta' stabbiliment permanenti sitwat hemmhekk, jew ikun jagħmel servizzi personali indipendenti f'dak Istat l-iehor minn baži stabbilita sitwata hemmhekk, u d-dritt jew il-proprjetà li dwarhom jithallsu r-*royalties* ikunu effettivament konnessi ma' dak l-istabbiliment permanenti jew baži stabbilita. F'dak il-każ, għandhom japplikaw il-provvedimenti ta' l-Artiklu 7 jew l-Artiklu 14, skond il-każ.

5. *Royalties* ghandhom jitqiesu li jinjalghu fi Stat Kontraenti meta min ihallashom ikun residenti ta' dak l-Istat. Meta, madankollu, l-persuna li thallas ir-*royalties*, sew jekk tkun residenti ta' Stat Kontraenti sew jekk ma tkunx, ikollha fi Stat Kontraenti stabbiliment permanenti jew baži stabbilit li dwaru jkun ittiehed l-obbligu li jithallsu r-*royalties*, u dawk ir-*royalties* ikunu r-responsabbiltà ta' dak l-istabbiliment permanenti jew baži stabbilit, allura dawk ir-*royalties* ghandhom jitqiesu li jinjalghu fl-Istat li fih ikun qieghed l-istabbiliment permanenti jew baži stabbilit.

6. Meta, minhabba r-relazzjoni speċjali bejn min ihallas u s-sid benefiċjarju jew bejnithom it-tnejn u xi persuna oħra, l-ammont tar-*royalties*, fil-qies ta' x'ikun l-użu, id-dritt jew l-informazzjoni li jithallsu għalihom, ikun iżjed mill-ammont li kien ikun miftiehem bejn min ihallas u s-sid benefiċjarju fin-nuqqas ta' dik ir-relazzjoni, il-provvedimenti ta' dan l-Artiklu ghandhom japplikaw biss għall-ammont l-aħhar imsemmi. F'dak il-każ, il-parti żejda tal-hlasijiet ghandha tibqa' taxxabli skond il-liġijiet ta' kull Stat Kontraenti, wara li jitqiesu l-provvedimenti l-oħra ta' dan il-Ftehim.

Artiklu 13

TRASFERIMENT TA' PROPRJETÀ

1. *Income* jew qligh li jinkiseb minn residenti ta' Stat Kontraenti mit-trasferiment ta' proprjetà immobbli imsemmi fl-Artiklu 6 u sitwat fl-Istat Kontraenti l-iehor jew mgħaxxijiet li jixxiebhu f'kumpannija li l-assi tagħha jkunu jikkonsistu direttament jew indirettament principlament minn dik il-proprjetà jista' jiġi intaxxat f'dak l-Istat l-iehor.

2. Qligh mit-trasferiment ta' proprjetà mobbli li tagħmel parti mill-proprjetà tan-negozju ta' stabbiliment permanenti li impriza ta' Stat Kontraenti jkollha fl-Istat Kontraenti l-iehor jew ta' proprjetà mobbli li tkun tappartjeni għal baži stabbilita disponibbli għal residenti ta' Stat Kontraenti fl-Istat Kontraenti l-iehor bil-ghan li jitwettqu servizzi personali indipendenti, inkluż dak il-qligh mit-trasferiment ta' dak l-istabbiliment permanenti (wahdu jew flimkien ma' l-impriza kollha) jew ta' dik il-baži stabbilita, jista' jiġi intaxxat f'dak l-Istat l-iehor.

3. Qligh li jinkiseb minn impriza ta' Stat Kontraenti li tkun qed thaddem bastimenti jew inġenji ta' l-ajru fi traffiku internazzjonali mit-trasferiment ta' bastimenti jew inġenji ta' l-ajru fi traffiku internazzjonali jew proprjetà mobbli li tkun tappartjeni għat-thaddim ta' dawk il-bastimenti jew inġenji ta' l-ajru, ghandhom jiġu intaxxati biss f'dak l-Istat.

4. Qligh mit-trasferiment ta' proprjetà li ma tkunx dik imsemmija fil-paragrafi 1, 2 u 3 ghandu jiġi intaxxat biss fl-Istat Kontraenti li tiegħu ikun residenti min jittrasferixxi.

Artiklu 14

SERVIZZI PERSONALI INDIPENDENTI

1. *Income* li jinkiseb minn residenti ta' Stat Kontraenti ghal servizzi professjonali jew attivitajiet ohra ta' xorta indipendenti ghandu jkun intaxxat biss f'dak l-Istat kemm-il darba ma jkollux baži fissa stabbilita regolarment disponibbli ghalih fl-Istat Kontraenti l-iehor bil-ghan li jwettaq l-attivitajiet tieghu. Jekk huwa jkollu tali baži fissa, l-*income* jista' jiġi intaxxat fl-Istat l-iehor iżda biss daqstant minnu daqskemm ikun attribwibbli ghal dik il-baži fissa. Jekk individwu li jkun residenti ta' Stat Kontraenti ma jkollux tali baži fissa, iżda jkun joqghod fl-Istat Kontraenti l-iehor ghal perjodu jew ghal perjodi li b'kollox ikunu ta', jew li fit-total ikunu jaqbzu l-183 ġurnata f'perjodu ta' 12 il-xahar li jkun u li jibda ghaddej jew itemm fis-sena fiskali in kwistjoni, huwa ghandu jitqies bhala li jkollu baži fissa regolarment disponibbli ghalih f'dak l-Istat l-iehor u l-*income* li jinkiseb mill-attivitajiet tieghu hawn aktar qabel imsemmija li jitwettqu f'dak l-Istat l-iehor ghandhom ikunu attribwibbli ghal dik il-baži fissa.

2. Il-frazi "servizzi professjonali" tinkludi attivitajiet letterarji, artistici, edukattivi jew ta' tagħlim li huma speċjalment indipendenti kif ukoll l-attivitajiet indipendenti ta' tobbi, avukati, inġiniera, periti, dentisti u *accountants*.

Artiklu 15

SERVIZZI PERSONALI DIPENDENTI

1. Bla hsara għall-provvedimenti ta' l-Artikli 16, 18 u 19, is-salarji, il-pagi u kumpens iehor bhala dak li jinkisbu minn residenti ta' Stat Kontraenti dwar xi impieg ghandhom jiġu intaxxati biss f'dak l-Istat kemm-il darba l-impieg ma jiġix eżerċitat fl-Istat Kontraenti l-iehor. Jekk l-impieg jiġi hekk eżerċitat, dak il-kumpens li jinkiseb minnu jista' jiġi intaxxat f'dak l-Istat l-iehor.

2. Minkejja l-provvedimenti tal-paragrafu 1, il-kumpens li jinkiseb minn residenti ta' Stat Kontraenti dwar impieg eżerċitat fl-Istat Kontraenti l-iehor ghandu jiġi intaxxat biss fl-Istat l-ewwel imsemmi jekk:

a) min jirċevih ikun preżenti fl-Istat l-iehor ghal perjodu jew perjodi li ma jaqbxuz it-total ta' 183 ġurnata f'perjodu ta' 12 il-xahar li jibda ghaddej jew itemm fis-sena kalendarja involuta, u

b) il-kumpens jithallas minn, jew f'isem, prinċipal li ma jkunx residenti ta' l-Istat l-iehor, u

c) il-kumpens ma jkunx piż fuq l-istabbiliment permanenti jew baži stabbilit li l-prinċipal ikollu fl-Istat l-iehor.

3. Minkejja l-provvedimenti preċedenti ta' dan l-Artiklu, il-kumpens li jinkiseb dwar impieg eżerċitat abbord bastiment jew inġenji ta' l-ajru operati fi traffiku internazzjonali minn impriza ta' Stat Kontraenti għandu jiġi intaxxat biss f'dak l-Istat.

Artiklu 16

DRITTIJIET TAD-DIRETTURI

Id-drittijiet tad-diretturi u hlasijiet simili ohra li jinkisbu minn residenti ta' Stat Kontraenti fil-kapaċità tiegħu ta' membru tal-bord ta' diretturi jew ta' xi organu iehor simili ta' kumpannija li tkun residenti ta' l-Istat Kontraenti l-iehor jistgħu jiġu intaxxati f'dak l-Istat l-iehor.

Artiklu 17

ARTISTI U SPORTIVI

1. Minkejja l-provvedimenti ta' l-Artikli 14 u 15, *income* li jinkiseb minn residenti ta' Stat Kontraenti bhala uhud li jagħtu spetaklu, bhal artisti tat-teatru, tal-*films* ċinematografiċi, tar-radju jew tat-televiżjoni, jew bhala mużiċista, jew bhala sportiv, mill-attivitajiet personali tiegħu bhala tali li jiġu eżerċitati fl-Istat Kontraenti l-iehor, jistgħu jiġu intaxxati f'dak l-Istat l-iehor.

2. Meta *income* dwar attivitajiet personali eżerċitati minn min jagħti spetaklu jew sportiv fil-kapaċità tiegħu bhala tali jingabar mhux minn min jagħti spetaklu jew l-isportiv innifsu iżda minn xi persuna ohra, dak l-*income* jista', minkejja l-provvedimenti ta' l-Artikli 7, 14 u 15, jiġi intaxxat fl-Istat Stat Kontraenti li fih l-attivitajiet ta' min jagħti spetaklu jew ta' l-isportiv jiġu eżerċitati.

3. Il-provvedimenti tal-paragrafi 1 u 2 m'għandhomx japplikaw għal *income* li jinkiseb minn attivitajiet imwettqa fi Stat Kontraenti minn min jagħti spetaklu jew sportiv jekk iż-żjara f'dak l-Istat tkun għalkollox jew principalment appoġġata minn fondi pubblici ta' xi Stat Kontraenti wiehed jew it-tnejn li huma jew mill-awtoritajiet lokali tiegħu. F'dak il-każ, l-*income* għandu jkun taxxabli biss fl-Istat Kontraenti li tiegħu min jagħti spetaklu jew l-isportiv ikun residenti.

Artiklu 18

PENSJONIJIET U HLASIJET TAS-SIGURTÀ SOĊJALI

1. Bla hsara għall-provvedimenti tal-paragrafu 2 ta' l-Artiklu 19, pensjonijiet u kumpens iehor simili li jithallsu lil residenti ta' Stat Kontraenti minhabba f'xi impieg imghoddi għandhom jiġu intaxxati biss f'dak l-Istat.

2. Minkejja d-dispożizzjonijiet tal-paragrafu 1, il-pensjonijiet imhallsa u hlasijiet ohra li jinharġu bis-saħħa tal-liġijiet tas-Sigurtà Soċjali ta' Stat Kontraenti għandhom jiġu intaxxati biss f'dak l-Istat.

Artiklu 19

SERVIZZ TAL-GVERN

1. a) Salarji, pagi u kull rimunerazzjoni ohra simili, minbarra pensjoni, mhallsa minn Stat Kontraenti jew minn awtorità lokali tiegħu lil xi individwu għar-rigward ta' servizzi mogħtijin lil dak l-Istat jew awtorità jew qasam għandhom jiġu intaxxati biss f'dak l-Istat.

b) Madankollu, kull salarju, paga u rimunerazzjoni ohra simili bħal dawk għandhom jiġu intaxxati biss f'dak l-Istat Kontraenti l-iehor jekk is-servizzi jingħataw f'dak l-Istat u l-individwu jkun residenti f'dak l-Istat u:

(i) jkun ċittadin ta' dak l-Istat; jew

(ii) ma jkunx sar residenti ta' dak l-Istat unikament sabiex jaqdi dawk is-servizzi.

2. a) Kull pensjoni mhallsa minn, jew li tohroġ minn fond mahluq minn, Stat Kontraenti jew minn awtorità lokali tiegħu lil xi individwu għar-rigward ta' servizzi mogħtija lil dak l-Istat jew awtorità jew qasam għandhom jiġu intaxxati biss f'dak l-Istat.

b) Madankollu, dik il-pensjoni għandha tiġi intaxxata biss fl-Istat Kontraenti l-iehor jekk l-individwu jkun residenti ta', u ċittadin ta', dak l-Istat.

3. Il-provvedimenti ta' l-Artikli 15, 16, 17 u 18 għandhom japplikaw għal kull salarju, paga u rimunerazzjoni ohra simili u pensjonijiet għar-rigward ta' servizzi mogħtijin f'dak li għandu x'jaqsam ma' negozju li jkun ġestit minn Stat Kontraenti jew minn awtorità lokali tiegħu.

Artiklu 20

STUDENTI

Student, apprendist jew *trainee* li jkun preżenti fi Stat Kontraenti unikament għall-fini ta' l-edukazzjoni jew it-taħriġ tiegħu u li jkun, jew li minnufih qabel ma kien hekk preżenti kien, residenti ta' l-Istat Kontraenti l-iehor, jkun eżenti mit-taxxa fl-ewwel imsemmi Stat dwar hlasijiet li huwa jircievi minn barra dak l-ewwel imsemmi Stat għall-finijiet tal-manteniment, edukazzjoni jew taħriġ tiegħu.

Artiklu 21**ATTIVITAJIET OFFSHORE**

1. Id-disposizzjonijiet ta' dan l-Artikolu għandhom ikunu japplikaw minkejja d-disposizzjonijiet ta' l-Artiklu 4 sa 20 ta' dan il-Ftehim.

2. Għall-finijiet ta' dan l-Artikolu, il-frazi "attivitajiet *offshore*" tfisser attivitajiet li jitwettqu *offshore* fi Stat Kontraenti f'dak li għandu x'jaqsam ma' l-esplorazzjoni jew l-esplojtazzjoni ta' qiegh il-baħar u s-sottoswol u r-rizorsi naturali tagħhom li jinsabu f'dak l-Istat.

3. Persuna li tkun residenti fi Stat Kontraenti u li tkun qed twettaq attivitajiet *offshore* fl-Istat Kontraenti l-ieħor għandha, bla ħsara għall-paragrafu 4, titqies li tkun qegħda tiġġestixxi negozju f'dak l-Istat l-ieħor permezz ta' stabbiliment permanenti jew ta' bażi fissa li tkun tinsab hemmhekk.

4. Id-dispożizzjonijiet tal-paragrafu 3 ma għandhomx japplikaw meta l-attivitajiet *offshore* jitwettqu għal perjodu jew perjodi li ma jeċċedux b'kollox 30 jum f'xi perijodu ta' tmax-il xahar li jkun. Għall-finijiet ta' dan il-paragrafu:

a) attivitajiet *offshore* imwettqa minn persuna li tkun assoċjata ma' xi persuna oħra għandhom jitqiesu li jkunu qegħdin jiġu ġestiti mill-persuna l-oħra jekk l-attivitajiet in kwistjoni jkunu sostanzjalment l-istess bħalma jkunu dawk li jkunu qegħdin jitwettqu mill-persuna l-ewwel imsemmija, hliet meta dawk l-attivitajiet jitwettqu fl-istess żmien bħalma jkunu qed jitwettqu l-attivitajiet tagħha nnifisha;

b) persuna għandha titqies li tkun assoċjata ma' xi persuna oħra jekk waħda tkun kontrollata direttament jew indirettament mill-oħra, jew it-tnejn ikunu kontrollati direttament jew indirettament minn terza persuna jew minn terzi persuni.

5. Salarji, pagi u rimunerazzjoni oħra simili miksuba minn residenti ta' Stat Kontraenti għar-rigward ta' xi impieg li jkollu x'jaqsam ma' attivitajiet *offshore* fl-Istat Kontraenti l-ieħor jistgħu, sal-limitu li d-dmirijiet tagħhom jitwettqu *offshore* f'dak l-Istat l-ieħor, jiġu intaxxati f'dak l-Istat l-ieħor. Madankollu, dik ir-rimunerazzjoni għandha tkun taxxabli biss fl-Istat l-ewwel imsemmi jekk l-impieg isir għal prinċipal li ma jkunx residenti ta' l-Istat l-ieħor u għal perijodu jew perjodi li ma jkunux jeċċedu b'kollox it-30 ġurnata f'xi perijodu ta' tmax-il xahar li jkun.

6. Kull qliegh li jinkiseb minn residenti ta' Stat Kontraenti mit-trasferiment ta':

a) drittijiet ta' esplorazzjoni jew ta' esplojtazzjoni; jew

b) proprjetà li tkun tinsab fl-Istat Kontraenti l-ieħor li tintuża f'dak li għandu x'jaqsam ma' l-attivitajiet *offshore* imwettqa f'dak l-Istat l-ieħor; jew

ċ) iškma li jiksbu l-valur tagħhom jew il-parti l-kbira mill-valur tagħhom direttament jew indirettament minn dawk id-drittijiet jew minn dik il-proprjetà jew minn dawk id-drittijiet u dik il-proprjetà meħudin flimkien;

jista' jiġi intaxxat f'dak l-Istat l-ieħor.

F'dan il-paragrafu l-frazi "drittijiet ta' esplorazzjoni jew ta' esplotazzjoni" t'fisser id-drittijiet għal assi li għandhom jiġu prodotti b'attivitajiet *offshore* li jiġu ġestiti fl-Istat Kontraenti l-ieħor, jew għal kull interess fi jew għal xi benefiċċju ta' dawk l-assi.

Artiklu 22

INCOME IEHOR

1. Elementi ta' *income* ta' residenti ta' Stat Kontraenti, jinjalghu minn fejn jinjalghu, li ma jkunux ittrattati fl-Artiklu ta' hawn aktar qabel ta' dan il-Ftehim għandhom ji;u intaxxati biss f'dak l-Istat. Madankollu, dawk l-elementi ta' *income*, li joriġinaw fl-Istat Kontraenti l-ieħor, jistghu wkoll jiġu intaxxati f'dak l-Istat l-ieħor.

2. Il-provvedimenti tal-paragrafu 1 ma għandhomx japplikaw għal *income*, li ma jkunx *income* minn proprjetà immobbli kif imfisser fil-paragrafu 2 ta' l-Artiklu 6, jekk min jirċievi dak l-*income*, għax ikun residenti ta' Stat Kontraenti, jiġġestixxi negozju fl-Istat Kontraenti l-ieħor permezz ta' stabbiliment permanenti li jkun jinsab f'dak l-Istat, jew iwettaq f'dak Istat l-ieħor servizzi personali indipendenti minn bażi stabbilita li tkun tinsab hemmhekk, u d-dritt jew il-proprjetà li dwarhom jithallas l-*income* jkun effettivament konness ma' dak l-istabbiliment permanenti jew bażi fissa, f'dak il-każ għandhom japplikaw il-provvedimenti ta' l-Artiklu 7 jew ta' l-Artiklu 14, skond il-każ.

Artiklu 23

EVITAR TA' TASSAZZJONI DOPPJA

1. Fil-każ tal-Litwanja, it-tassazzjoni doppja għandha tiġi eliminata kif ġej:

Meta residenti tal-Litwanja jikseb *income* li, skond dan il-Ftehim, jista' jkun intaxxat f'Malta, kemm-il darba ma jiġix provdut trattament iktar favorevoli fil-liġi domestika tagħha, il-Litwanja għandha tippermetti bhala tnaqqis mit-taxxa fuq l-*income* ta' dak ir-residenti ammont daqsinsew it-taxxa fuq l-*income* li jithallas fuqu f'Malta. Dak it-tnaqqis m'għandux, madankollu, jeccedi dik il-parti tat-taxxa fuq l-*income* fil-Litwanja, kif din tkun maħduma qabel ma jingħata t-tnaqqis, li tkun attribwibbli għall-*income* li jista' jiġi intaxxat f'Malta.

2. Fil-każ ta' Malta, it-tassazzjoni doppja għandha tiġi eliminata kif ġej:

Bla hsara għall-provvedimenti tal-liġi ta' Malta li tirrigwarda l-ghoti bi kreditu għat-taxxa ta' Malta għar-rigward tat-taxxa barranija, meta, skond il-provvedimenti ta' dan il-Ftehim, ikun hemm inklużi fi stima ta' Malta *income* minn sorsi fil-Litwanja, it-taxxa tal-Litwanja fuq dak l-*income* għandu jiġi permess bhala kreditu għat-taxxa ta' Malta relattiva li tithallas dwarhom.

3. Għall-fini tal-paragrafi 1 u 2 il-frazzjonijiet “it-taxxa fuq l-*income* li jithallas fuqu f'Malta” u “it-taxxa tal-Litwanja fuq dak l-*income*” għandhom għall-ewwel hames snin li matulhom ikun applikabbli dan il-Ftehim, jitqiesu li jinkludu it-taxxa ta' Malta jew it-taxxa tal-Litwanja li kieku kienet tithallas iżda li tkun giet imnaqqsa jew rinunzjata taht id-dispożizzjonijiet dwar l-incentivi tal-liġi ta' Malta jew tal-liġi tal-Litwanja kontemplati biex jipromwovu żvilupp ekonomiku daqstant li t-tnaqqis jew l-eżenzjoni jingħataw għal profitti minn attivitajiet industrijali jew ta' manifattura jew mill-biedja, s-sajd jew it-turiżmu b'dan li fil-każ ta' l-applikazzjoni tal-paragrafu 1 l-attivitajiet isiru ġewwa Malta u fil-każ ta' l-applikazzjoni tal-paragrafu 2 l-attivitajiet jitwettqu ġewwa l-Litwanja.

Artiklu 24

EBDA DISKRIMINAZZJONI

1. Iċ-ċittadini ta' Stat Kontraenti ma għandhomx jiġu assoġġettati fl-Istat Kontraenti l-iehor għal xi tassazzjoni jew għal xi htieġa li jkunu konnessi ma' dan li tkun diversa jew ta' iktar piż mit-tassazzjoni u htiegiet konnessi li għalihom ċittadini ta' dak l-Istat l-iehor fl-istess ċirkostanzi, b'mod partikolari għar-rigward ta' residenza, huma jew jistgħu jkunu assoġġettati. Dan il-provvediment għandu, minkejja l-provvedimenti ta' l-Artiklu 1, jkun japplika wkoll għal persuni li ma jkunux residenti ta' xi wiehed jew taż-żewġ Stati Kontraenti.

2. L-intaxxar fuq stabbiliment permanenti li impriza ta' Stat Kontraenti jkollha fl-Istat Kontraenti l-iehor ma għandux jingabar inqas favorevolment f'dak l-Istat l-iehor mit-tassazzjoni miġbura fuq imprizi ta' dak l-Istat l-iehor li jkun qieghed iwettaq l-istess attivitajiet. Dan il-provvediment m'għandux jiftiehem bhala li jobbliga lil Stat Kontraenti li jikkonċedi lil residenti ta' l-Istat Kontraenti l-iehor xi *allowances*, helsien u tnaqqis personali għall-ghanijiet ta' tassazzjoni minhabba fl-istatus ċivili jew responsabbiltajiet familjari li jikkonċedi lir-residenti tiegħu.

3. Hlief fejn il-provvedimenti tal-paragrafu 1 ta' l-Artiklu 9, paragrafu 7 ta' l-Artiklu 11, jew paragrafu 6 ta' l-Artiklu 12 japplikaw, mghax, *royalties* u hlasijiet ohra li jithallsu minn impriza ta' Stat Kontraenti lil residenti ta' l-Istat Kontraenti l-iehor għandhom, għall-ghan li jiġu stabbilit x'inhuma l-profitti taxxabbli ta' dik l-impriza, jiġu mnaqqsa taht l-istess kondizzjonijiet bhallikieku kienu mħallsa residenti ta' l-ewwel imsemmi Stat.

4. Imprizi ta' Stat Kontraenti, li l-kapital tagħhom ikun għalkollox jew f'parti minnu proprjetà jew taht il-kontroll, sew dirett sew mhux dirett, minn residenti wiehed

jew iktar ta' l-Istat Kontraenti l-iehor, ma jkunux suġġetti fl-Istat l-ewwel imsemmi ghal xi tassazzjoni jew htieġa konnessa ma' dan li tkun xort'ohra jew ta' iktar piż mit-tassazzjoni u htigiet konnessi li ghalihom ikun jew jistgħu jkunu assoġġettati l-imprizi ta' l-ewwel imsemmi Stat.

Artiklu 25

PROCĊEDURA GĦAL FTEHIM REĊIPROKU

1. Meta persuna jidhrilha li l-azzjonijiet ta' xi wiehed jew taż-żewġ Stati Kontraenti jirrizultawlu jew jistgħu jirrizultawlu f'tassazzjoni li ma tkunx skond il-provvedimenti ta' dan il-Ftehim, huwa jista', irrispettivament mir-rimedji pprovduti mil-liġi domestika ta' dawk l-Istati, jipprezenta l-każ tiegħu quddiem l-awtorità kompetenti ta' l-Istat Kontraenti li tiegħu huwa jkun residenti jew, jekk il-każ tiegħu jkun jaqa' taht il-paragrafu 1 ta' l-Artiklu 24, lil dik ta' l-Stat Kontraenti li tiegħu huwa jkun ċittadin. Il-każ għandu jiġi ppreżentat fi żmien tliet snin minn l-ewwel avviz ta' l-azzjoni li tirrizulta f'intaxxar li ma jkunx skond il-provvedimenti tal-Ftehim.

2. L-awtorità kompetenti għandha tistharreġ, jekk ikunx jidhrilha li l-oġġezzjoni tkun ġustifikata u jekk hi nnifisha ma tkunx tista' tasal għal soluzzjoni sodisfaċenti, li tirisolvi l-każ bi ftehim reċiproku ma' l-awtorità kompetenti ta' l-Istat Kontraenti l-iehor, bil-ghan li tiġi evitata tassazzjoni li ma tkunx skond il-Ftehim. Meta jintlahaq ftehim dan għandu jiġi implimentat minkejja kull terminu ta' żmien fil-liġi domestika ta' l-Stat Kontraenti.

3. L-awtoritajiet kompetenti ta' l-Istati Kontraenti għandhom jistharrġu kif jirrisolvu permezz ta' ftehim reċiproku kull diffikultà jew dubbju li jista' jitnissel dwar l-interpretazzjoni jew l-applikazzjoni tal-Ftehim. Dawn jistgħu wkoll jikkonsultaw flimkien għall-eliminazzjoni ta' tassazzjoni doppja f'dawk il-każijiet li m'hemm xejn provdut dwarhom fil-Ftehim.

4. L-awtoritajiet kompetenti ta' l-Istati Kontraenti jistgħu jikkomunikaw ma' xulxin direttament għall-iskop li jilhqu ftehim fis-sens tal-paragrafi preċedenti.

Artiklu 26

SKAMBJU TA' INFORMAZZJONI

1. L-awtoritajiet kompetenti ta' l-Istati Kontraenti għandhom jiskambjaw dik l-informazzjoni li tistra' tkun mehtieġa għat-twettiq tal-provvedimenti ta' dan il-Ftehim jew ta' l-liġijiet domestiċi ta' l-Istati Kontraenti għar-rigward ta' taxxi koperti bil-Ftehim sakemm l-intaxxar li jsir tahtom ma jkun kuntrarju għall-Ftehim. L-iskambju ta' informazzjoni mhuwiex ristrett bl-Artiklu 1. Kull informazzjoni li tiġi riċevuta mill-Istat Kontraenti għandha tiġi ttrattata bhala wahda sigrieta bl-istess mod bhall-informazzjoni miksuba taht il-liġijiet domestiċi ta' dak l-Istat u għandha tiġi żvelata biss lil persuni jew awtoritajiet (inklużi qrati u korpi amministrattivi) li jkollhom

x'jaqsmu ma' l-istima jew fil-ġbir ta', l-infurzar jew prosekuzzjoni dwar, jew id-deċizzjoni ta' appelli dwar, it-taxxi koperti bil-Ftehim. Dawk il-persuni jew awtoritajiet ghandhom jużaw dik l-informazzjoni biss ghal dawk l-ghanijiet. Huma jistghu jiżvelaw l-informazzjoni fi proċeduri tal-qorti bil-miftuh jew f' deċiżjonijiet gudizzjarji.

2. F'ebda każ ma ghandhom il-provvedimenti tal-paragrafu 1 jiftiehm bħala li jimponu fuq Stat Kontraenti l-obbligu:

a) li jwettaq miżuri amministrattivi li ma jkunux jaqblu mal-liġijiet u mal-prattika amministrattiva ta' dak jew ta' l-Istat Kontraenti l-iehor;

b) li jagħti informazzjoni li ma tkunx tista' tinkiseb taħt il-liġijiet jew fil-kors normali ta' l-amministrazzjoni ta' dak jew ta' l-Istat Kontraenti l-iehor;

ċ) li jagħti informazzjoni li tikxef xi sigriet ta' senġha, negozju, industrija, kummerċ jew professjoni jew proċess tal-kummerċ, jew informazzjoni, li meta tiġi żvelata din tkun tmur kontra l-ordni pubbliku (*ordre public*).

Artiklu 27

LIMITAZZJONI TA' BENEFIĊĠI

1. Meta taħt xi disposizzjoni ta' dan il-Ftehim xi *income* jinheles mit-taxxa fi Stat Kontraenti u, taħt il-lihi fis-seħh fl-Istat Kontraenti l-iehor, persuna, għar-rigward ta' dak l-*income*, tkun soġġetta għat-taxxa b'riferenza għall-ammont relattiv li jinghata lura jew li jiġi riċevut f'dak l-Istat Kontraenti l-iehor u mhux b'riferenza għall-ammont shih relattiv, allura l-helsien li jkollu jiġi permess taħt dan il-Ftehim fl-Istat Kontraenti l-ewwel imsemmi għandu jkun japplika biss għal daqstant mill-*income* daqskemm jiġi intaxxat fl-Istat Kontraenti l-iehor.

2. Id-disposizzjonijiet ta' dan il-Ftehim ma ghandhomx japplikaw għal persuni li jkunu qeghdin igawdu xi trattament fiskali speċjali bis-saħħa tal-liġijiet jew tal-prattika amministrattiva ta' xi wiehed mill-Istati Kontraenti li jiġu identifikati fi Protokoll ma' dan il-Ftehim. Lanqas m'għandhom japplikaw għal *income* li jinkiseb minn dawk il-persuni minn xi residenti ta' l-Istat Kontraenti l-iehor, lanqas għal ishma jew drittijiet ohra f'dawk il-persuni li jkunu l-proprjetà ta' dak ir-residenti.

3. Minkejja kull disposizzjoni ohra ta' dan il-Ftehim, residenti ta' Stat Kontraenti m'għandux jirċievi l-benefiċċju ta' xi tnaqqis fi jew eżenzjoni minn taxxi kif hemm provdut dwarhom f'dan il-Ftehim mill-Istat Kontraenti l-iehor jekk l-ghan ewlieni jew wiehed mill-ghanijiet ewlenin tal-holqien jew l-eżistenza ta' dak ir-residenti jew ta' xi persuna konnessa ma' dak ir-residenti kienet sabiex jinkisbu l-benefiċċji taħt dan il-Ftehim li kieku xort'ohra ma kienux jinghataw.

Artiklu 28

MEMBRI TA' MISSJONIJIET DIPLOMATIČI U KARIGI KONSULARI

Ebda haġa f'dan il-Ftehim ma għandha tolqot il-privileġġi fiskali tal-membri ta' missjonijiet diplomatiċi jew ta' karigi konsulari taħt ir-regoli ġenerali tad-dritt internazzjonali jew taħt il-provvedimenti ta' kull ftehim speċjali.

Artiklu 29

BIDU FIS-SEHH

Dan il-Ftehim għandu jiġi ratifikat u għandu jidhol fis-seħh fit-tletin jum wara d-data li tiġi l-iktar tard mill-avviżi li jindikaw li ż-żewġ Stati jkunu harsu l-proċeduri legali domestiċi meħtieġa f'kull Stat sabiex il-Ftehim jidhol fis-seħh. Il-Ftehim għandu japplika:

a) fil-Litwanja:

(i) għar-rigward ta' taxxi li jinżammu minn ras il-ghajn fuq l-*income* miksub matul xi sena kalendarja jew perjodu ta' kontijiet, skond il-każ, li jibda fl-ewwel jum ta' Jannar, jew wara, minnufih wara s-sena li fiha l-Ftehim jidhol fis-seħh; u

(ii) għar-rigward ta' taxxi ohra fuq il-profitti u *income* miksuba matul xi sena kalendarja jew perjodu ta' kontijiet, skond il-każ, li jibda fl-ewwel jum ta' Jannar, jew wara, minnufih wara s-sena li fiha l-Ftehim jidhol fis-seħh;

b) f'Malta:

għar-rigward ta' taxxi fuq l-*income* miksuba matul xi sena kalendarja jew żmien ta' kontijiet, skond il-każ, li jibdew fl-ewwel jum ta' Jannar, jew wara, minnufih wara s-sena li fiha l-Ftehim jibda jseħh.

Artiklu 30

TERMINAZZJONI

1. Dan il-Ftehim għandu jibqa' jseħh sakemm jiġi terminat minn Stat Kontraenti. Kull wiehed mill-Istati Kontraenti jista' jtemm il-Ftehim, permezz ta' kanali diplomatiċi, billi jagħti avviż tat-terminazzjoni mill-inqas sitt xhur qabel it-tmiem ta' xi sena kalendarja li tibda għaddejja wara l-iskadenza ta' perjodu ta' hames snin minn meta l-Ftehim jidhol fis-seħh. F'dak il-każ, il-Ftehim ma għandux jibqa' fis-seħh:

a) fil-Litwanja:

(i) għar-rigward ta' taxxi li jinżammu minn ras il-ghajn fuq l-*income* miksub matul xi sena kalendarja jew perjodu ta' kontijiet, skond il-każ, li jibda fl-ewwel jum ta' Jannar, jew wara, minnufih wara s-sena li fiha jinghata l-avviż; u

(ii) għar-rigward ta' taxxi ohra fuq il-profitti u *income* miksuba matul xi sena kalendarja jew perjodu ta' kontijiet, skond il-każ, li jibda fl-ewwel jum ta' Jannar, jew wara, minnufih wara s-sena li fiha jinghata l-avviż;

b) f'Malta:

għar-rigward ta' taxxi fuq l-*income* miksuba matul xi sena kalendarja jew perjodu ta' kontijiet, skond il-każ, li jibdew fl-ewwel jum ta' Jannar, jew wara, minnufih wara s-sena li fiha jinghata l-avviż tat-terminazzjoni.

B'xiehda ta' dan is-sottoskritti, awtorizzati kif imiss biex jagħmlu dan, iffiraw dan il-Ftehim.

Magħmul in duplikat f'Vilnius, fis-17 ta' Mejju, 2001, fl-ilsien Ingliz u dak Litwan, ż-żewġ testi awtentiċi ndaqs.

JOE BORG
Għall-Gvern ta' Malta

ANTANAS VALIONIS
Għall-Gvern tar-Repubblika tal-Litwanja

PROTOKOLL

Fil-waqt ta' l-iffirar tal-Ftehim bejn il-Gvern ta' Malta u l-Gvern tar-Repubblika tal-Litwanja dwar helsien minn taxxa doppja u l-prevenzjoni ta' evażjoni fiskali dwar it-taxxi fuq l-*income* (hawnhekk iżjed 'il quddiem imsejjaż "il-Ftehim") is-sottoskritti ftiehm fuq dawn id-dispożizzjonijiet li ġejjin li jiffurmaw parti integrali mill-Ftehim.

1. B'riferenza għall-paragrafu 3 ta' l-Artiklu 4

Jiftiehem li taht il-leġislazzjoni domestika tal-Litwanja, kumpannija tista' biss titqies li tkun residenti għal finijiet ta' taxxa jekk din tkun inkorporata fil-Litwanja. Jekk qatt tinbidel dik il-leġislazzjoni biex tippovdi li r-residenza għal finijiet ta' taxxa tkun stabbilita wkoll abbażi tal-post ta' maniġġ effettiv ta' kumpannija, allura meta kumpannija tkun titqies bżala li hija residenti taż-żewġ Stati Kontraenti, din għandha titqies li tkun residenti biss ta' l-Istat Kontraenti fejn ikun jinsab il-post ta' maniġġ effettiv tagħha. Dan il-provvediment għandu jkun japplika mid-data minn meta jkollha seħħ dik il-bidla fil-leġislazzjoni.

2. B'riferenza għall-paragrafu 1 ta' l-Artiklu 7

Jiftiehem li profitti ta' impriza ta' Stat Kontraenti miksubin mill-bejgħ ta' oġġetti jew merkanzija fl-Istat Kontraenti l-iehor ta' l-istess xorta jew ta' xorta simili bħal dawk mibjugħin, jew minn attivitajiet ta' kummerç ohra ġestiti fl-Istat Kontraenti l-iehor ta' l-istess xorta jew ta' xorta simili bħal dawk li jitwettqu, permezz ta' stabbiliment permanenti li jkun jinsab f'dak l-Istat l-iehor jistgħu jitqiesu bhala attribwibbli għal dak l-istabbiliment permanenti jekk jiġi stabbilit li kull bejgħ jew attività bħal dawk kienu strutturati b'mod maħsub biex jevita t-tassazzjoni f'dak l-Istat l-iehor.

3. B'riferenza għall-paragrafu 3 ta' l-Artiklu 7

Jiftiehem li l-ispejjeż li għandhom jiġu permessi bhala tnaqqis minn Stat Kontraenti għandhom jinkludu biss spejjeż li jistgħu jitnaqqsu taht il-liġijiet domestiċi ta' dak l-Istat.

4. B'riferenza għal paragrafu 2 ta' l-Artiklu 27 jiftiehem li:

a) fil-każ tal-Litwanja, m'hemm ebda leġislazzjoni jew prattika amministrattiva li tahta persuni jistgħu igawdu xi trattament fiskali speċjali;

b) fil-każ ta' Malta, il-persuni li jgawdu trattament fiskali speċjali huma dawn li ġejjin:

(i) persuni li jkollhom jedd għal benefiċċju tat-taxxa speċjali taht l-Att ta' l-1994 dwar Ċentru għas-Servizzi Finanzjarji ta' Malta, hliet għal dawk il-persuni li jagħżlu li jkunu soġġetti għad-disposizzjonijiet normali ta' l-Att dwar it-Taxxa fuq l-*Income* (Kap. 123) u ta' l-Att ta' l-1994 dwar l-Amministrazzjoni tat-Taxxa; jew

(ii) persuni u sa dak il-limitu li taht id-dispożizzjonijiet ta' l-Att ta' l-1973 dwar il-Bastimenti Merkantili, ma jkunux soġġetti għat-taxxa fuq il-profitti miksubin mit-thaddim ta' bastimenti fi traffiku internazzjonali; jew

(iii) persuni li jkollhom jedd għal xi benefiċċju ta' taxxa speċjali dwar id-distribuzzjonijiet minn xi *trust* bla hsara għad-dispożizzjonijiet ta' l-Att dwar it-*Trusts* fil-kuntest li trust kif stipulata f'dak l-Att ma tkunx vestita b'personalità ġuridika u għaldaqshekk ma tistax tibbenefika taht dan il-Ftehim skond il-jeddijiet li għandha;

ċ) jekk xi liġi li tkun sostanzjalment simili għal dawk indikati fis-subparagrafu b) ta' dan il-paragrafu tiġi leġislata minn xi wiehed mill-Istati Kontraenti u jiġi miftiehem mill-awtoritajiet kompetenti ta' l-Istati Kontraenti li din għandha tiġi inkluzja skond ma hemm fil-paragrafu 2 ta' l-Artiklu 27, persuni

li jkollhom jedd ghal xi benefiċċju ta' taxxa speċjali tahta jkunu esklużi bl-istess mod mid-dispożizzjonijiet ta' dan il-Ftehim.

B'xiehda ta' dan is-sottoskritti, awtorizzati kif imiss, iffirmaw dan il-Ftehim.

Magħmul in duplikat f'Vilnius, illum is-17 ta' Mejju, 2001, fl-ilsien Inġliż u u dak Litwan, iż-żewġ testi awtentiċi ndaqs.

JOE BORG
Għall-Gvern ta' Malta

ANTANAS VALIONIS
Għall-Gvern tar-Repubblika tal-Litwanja

L.N. 337 of 2004

**INCOME TAX ACT
(CAP. 123)**

**Double Taxation Relief (Taxes on Income)
(Republic of Lithuania) Order, 2004**

IN exercise of the powers conferred by article 76 of the Income Tax Act, the Prime Minister and Minister of Finance has made the following order:-

Citation.

1. The title of this order is the Double Taxation Relief (Taxes on Income) (Republic of Lithuania) Order, 2004.

Arrangements to have effect.

2. It is hereby declared:-

(a) that the arrangements specified in the Convention set out in the Schedule to this Order have been made with the Republic of Lithuania with a view to affording relief from double taxation in relation to the following taxes imposed by the laws of the Republic of Lithuania:

(i) the tax on profits of legal persons (*juridiniu asmenu pelno mokestis*);

(ii) the tax on income of natural persons (*fiziniu asmenu pajamu mokestis*);

(b) that it is expedient that those arrangements should have effect;

(c) that the Convention has entered into force on the 2nd February, 2004.

SCHEDULE

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

The Government of Malta and the Government of the Republic of Lithuania, 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:

Article 1

PERSONS COVERED

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 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.

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

a) in Lithuania:

(i) the tax on profits of legal persons (*juridiniu asmenu pelno mokestis*);

(ii) the tax on income of natural persons (*fiziniu asmenu pajamu mokestis*);

(hereinafter referred to as “Lithuanian tax”);

b) in Malta:

the income tax;

(hereinafter referred to as “Malta tax”).

4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant 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 “Lithuania” means the Republic of Lithuania and, when used in the geographical sense, means the territory of the Republic of Lithuania and any other area adjacent to the territorial sea of the Republic of Lithuania within which under the laws of the Republic of Lithuania and in accordance with international law, the rights of Lithuania may be exercised with respect to the sea bed and its sub-soil and their natural resources;

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, as well as any area of the sea bed, its sub-soil and the superjacent water column adjacent to the territorial waters, wherein the Republic of Malta exercises sovereign rights, jurisdiction, or control in accordance with international law and its national law, including its legislation relating to the exploration of the continental shelf and exploitation of its natural resources;

c) the terms “a Contracting State” and “the other Contracting State” mean Lithuania or Malta, 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 Lithuania, the Minister of Finance or his authorised representative;

(ii) in Malta, the Minister responsible for finance or his authorised representative;

i) the term “national” means:

(i) any individual possessing the nationality of a Contracting State;

(ii) any legal person, partnership, association or other entity deriving its status as such from the laws in force in a Contracting State.

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

Article 4

RESIDENT

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes that State and any 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.

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

a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);

b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;

c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;

d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement. In the absence of such agreement, for the purposes of the Convention, the person shall not be entitled to claim any benefits provided by this Convention.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term “permanent establishment” includes especially:

a) a place of management;

b) a branch;

c) an office;

d) a factory;

e) a workshop, and

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

3. 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 of a Contracting State through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue for a period or periods aggregating more than six months within any twelve 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, display or delivery of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity 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 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

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

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

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term “immovable property” shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The provisions of this Convention relating to immovable property shall apply also to 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, any option or similar right to acquire immovable property, 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, boats 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. Where the ownership of shares or other corporate rights in a company entitles the owner of such shares or corporate rights to the enjoyment of immovable property held by the company, the income from the direct use, letting, or use in any other form of such right to enjoyment may be taxed in the Contracting State in which the immovable property is situated.

5. The provisions of paragraphs 1, 3 and 4 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.

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

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. 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 that State.

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

Article 9

ASSOCIATED ENTERPRISES

1. Where

a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

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

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but:

a) where the dividends are paid by a company which is a resident of Lithuania to a resident of Malta who is the beneficial owner thereof, the Lithuanian tax so charged shall not exceed:

(i) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;

(ii) 15 per cent of the gross amount of the dividends in all other cases;

b) where the dividends are paid by a company which is a resident of Malta to a resident of Lithuania 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.

3. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from

other 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 beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2 interest arising in a Contracting State, derived and beneficially owned by the Government of the other Contracting State, including its local authorities, the Central Bank or any financial institution wholly owned by that Government, or interest derived on loans guaranteed by that Government shall be exempt from tax in the first-mentioned State.

4. 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. The term "interest" shall not include any income which is treated as a dividend under the provisions of Article 10. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1, 2 and 3 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.

6. 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.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12

ROYALTIES

1. Royalties arising in a Contracting State and 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.

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 and other means of image or sound reproduction 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 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

ALIENATION OF PROPERTY

1. Income or 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 or shares or comparable interests in a company the assets of which consist directly or indirectly mainly of such property 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 derived by an enterprise of a Contracting State operating ships or aircraft in international traffic 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 that State.

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 an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base. If an individual who is a resident of a Contracting State has no such a fixed base but he stays in the other Contracting State for a period or periods exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, he shall be deemed to have a fixed base regularly available to him in that other State and the income that is derived from his activities referred to above that are performed in that other State shall be attributable to that fixed base.

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 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 by an enterprise of a Contracting State may be taxed in that State.

Article 16

DIRECTORS' FEES

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

Article 17

ARTISTES 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.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Contracting State by an entertainer or a sportsman if the visit to that State is wholly or mainly supported by public funds of one or both of the Contracting States or local authorities thereof. In such case, the income shall be taxable only in the Contracting State of which the entertainer or sportsman is a resident.

Article 18

PENSIONS AND SOCIAL SECURITY PAYMENTS

1. 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.

2. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under the social security legislation of a Contracting State 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 local authority thereof to an individual in respect of services rendered to that State 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 local authority thereof to an individual in respect of services rendered to that State 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 to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a local authority thereof.

Article 20

STUDENTS

A student, an apprentice or a trainee who is present in a Contracting State solely for the purpose of his education or training and who is, or immediately before being so present was, a resident of the other Contracting State shall be exempt from tax in the first-mentioned State on payments received from outside that first-mentioned State for the purpose of his maintenance, education or training.

Article 21

OFFSHORE ACTIVITIES

1. The provisions of this Article shall apply notwithstanding the provisions of Articles 4 to 20 of this Convention.

2. For the purposes of this Article, the term “offshore activities” means activities carried on offshore in a Contracting State in connection with the exploration or

exploitation of the sea bed and sub-soil and their natural resources situated in that State.

3. A person who is a resident of a Contracting State and carries on offshore activities in the other Contracting State shall, subject to paragraph 4, be deemed to be carrying on business in that other State through a permanent establishment or a fixed base situated therein.

4. The provisions of paragraph 3 shall not apply where the offshore activities are carried on for a period or periods not exceeding in the aggregate 30 days in any twelve month period. For the purposes of this paragraph:

a) offshore activities carried on by a person who is associated with another person shall be deemed to be carried on by the other person if the activities in question are substantially the same as those carried on by the first-mentioned person, except when those activities are carried on at the same time as its own activities;

b) a person shall be deemed to be associated with another person if one is controlled directly or indirectly by the other, or both are controlled directly or indirectly by a third person or third persons.

5. Salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment connected with offshore activities in the other Contracting State may, to the extent that the duties are performed offshore in that other State, be taxed in that other State. However, such remuneration shall be taxable only in the first-mentioned State if the employment is carried on for an employer who is not a resident of the other State and for a period or periods not exceeding in the aggregate 30 days in any twelve month period.

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

a) exploration or exploitation rights; or

b) property situated in the other Contracting State which is used in connection with the offshore activities carried on in that other State; or

c) shares deriving their value or the greater part of their value directly or indirectly from such rights or such property or from such rights and such property taken together;

may be taxed in that other State.

In this paragraph the term “exploration or exploitation rights” means rights to assets to be produced by offshore activities carried on in the other Contracting State, or to interests in or to the benefit of such assets.

Article 22

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. However, such items of income, arising in the other Contracting State, may also be taxed in that other 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 23

ELIMINATION OF DOUBLE TAXATION

1. In the case of a resident of Lithuania, double taxation shall be eliminated as follows:

Where a resident of Lithuania derives income which, in accordance with this Convention, may be taxed in Malta, unless a more favourable treatment is provided in its domestic law, Lithuania shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid thereon in Malta. Such deduction shall not, however, exceed that part of the income tax in Lithuania, as computed before the deduction is given, which is attributable to the income which may be taxed in Malta.

2. In the case of a resident of Malta, double taxation shall be eliminated as follows:

Subject to the provisions of the law of Malta regarding the allowance of a credit against Malta tax in respect of foreign tax, where, in accordance with the provisions of this Convention, there is included in a Malta assessment income from sources within Lithuania, the Lithuanian tax on such income shall be allowed as a credit against the relative Malta tax payable thereon.

3. For the purpose of paragraphs 1 and 2 the terms “income tax paid thereon in Malta” and “the Lithuanian tax on such income” shall for the first five years during which this Convention is applicable, be deemed to include the Malta tax or the Lithuanian tax which would have been paid but which has been reduced or waived under incentive provisions of the Malta law or the Lithuanian law designed to promote economic development to the extent that reduction or exemption is granted for profits

from industrial or manufacturing activities or from agriculture, fishing or tourism provided that in the case of application of paragraph 1 the activities are carried out within Malta and in the case of application of paragraph 2 the activities are carried out within Lithuania.

Article 24

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 7 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.

Article 25

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within

three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 26

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 State the obligation:

a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

Article 27

LIMITATION OF BENEFITS

1. Where under any provision of this Convention any income is relieved from tax in a Contracting State and, under the law in force in the other Contracting State, a person, in respect of that income, is subject to tax by reference to the amount thereof which is remitted to or received in that other Contracting State and not by reference to the full amount thereof, then the relief to be allowed under this Convention in the first-mentioned Contracting State shall apply only to so much of the income as is taxed in the other Contracting State.

2. The provisions of this Convention shall not apply to persons enjoying a special fiscal treatment by virtue of the laws or the administrative practice of either one of the Contracting States which are identified in a Protocol to this Convention. Neither shall they apply to income derived from such persons by a resident of the other Contracting State, nor to shares or other rights in such persons owned by such a resident.

3. Notwithstanding any other provision of this Convention, a resident of a Contracting State shall not receive the benefit of any reduction in or exemption from taxes provided for in this Convention by the other Contracting State if the main purpose or one of the main purposes of the creation or existence of such resident or any person connected with such resident was to obtain the benefits under this Convention that would not otherwise be available.

Article 28

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 29

ENTRY INTO FORCE

1. The Governments of the Contracting States shall notify each other, through diplomatic channels, that the legal requirements for the entry into force of this Convention have been complied with.

2. The Convention shall enter into force on the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect:

B 5760

a) in Lithuania:

(i) in respect of taxes withheld at source, on 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 on income, for taxes chargeable for any fiscal year 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 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 immediately following the date on which the Convention enters into force.

Article 30

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 written 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 Lithuania:

(i) in respect of taxes withheld at source, on income derived on or after the first day of January in the calendar year next following the year in which the notice has been given;

(ii) in respect of other taxes on income, for taxes chargeable for any fiscal year beginning on or after the first day of January in the calendar year next following the year in which the notice has been 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 immediately following the date on which the notice is given.

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

Done in duplicate at Vilnius this 17th day of May 2001, in the English and Lithuanian languages, both texts being equally authentic.

JOE BORG
For the Government of Malta

ANTANAS VALIONIS
For the Government of the
Republic of Lithuania

PROTOCOL

At the signing of the Convention between the Government of the Republic of Lithuania and the Government of Malta for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (hereinafter referred to as “the Convention”) the undersigned have agreed upon the following provisions which form an integral part of the Convention.

1. With reference to paragraph 3 of Article 4

It is understood that under the domestic legislation in Lithuania, a company may only be considered resident for tax purposes if it is incorporated in Lithuania. Should such legislation be changed to provide for tax residence to be established also on the basis of the place of effective management of a company, then where a company is considered to be a resident of both Contracting States, it shall be deemed to be a resident only of the Contracting State in which its place of effective management is situated. This provision shall be applicable from the date from which the said change in legislation shall have effect.

2. With reference to paragraph 1 of Article 7

It is understood that profits of an enterprise of a Contracting State derived from the sale of goods or merchandise in the other Contracting State of the same or similar kind as those sold, or from other business activities carried on in the other Contracting State of the same or similar kind as those effected, through a permanent establishment situated in that other State may be considered attributable to that permanent establishment if it is established that such sales or activities were structured in a manner intended to avoid taxation in that other State.

3. With reference to paragraph 3 of Article 7

It is understood that the expenses to be allowed as deductions by a Contracting State shall include only expenses that are deductible under the domestic laws of that State.

4. With reference to paragraph 2 of Article 27 it is understood that:

a) in the case of Lithuania, there is no legislation or administrative practice under which persons may enjoy special fiscal treatment;

b) in the case of Malta, the persons who enjoy a special fiscal treatment are the following:

(i) persons entitled to a special tax benefit under the Malta Financial Services Centre Act, 1994, except for those persons who opt to be subject to the normal provisions of the Income Tax Act (Cap. 123) and of the Income Tax Management Act, 1994; or

(ii) persons who and to the extent to which under the provisions of the Merchant Shipping Act, 1973 are not subject to tax on the profits derived from the operation of ships in international traffic; or

(iii) persons entitled to any special tax benefit in respect of distributions by a trust subject to the provisions of the Trusts Act given that a trust as laid down in that Act is not vested with legal personality and therefore cannot benefit under this Convention in its own right;

c) if any law substantially similar to those indicated in sub-paragraph b) of this paragraph is enacted by either Contracting State and it is agreed by the competent authorities of the Contracting States that it be included within the terms of paragraph 2 of Article 27, persons entitled to any special tax benefit thereunder shall likewise be excluded from the provisions of this Convention.

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

Done in duplicate at Vilnius this 17th day of May 2001, in the English and Lithuanian languages, both texts being equally authentic.

JOE BORG
For the Government of Malta

ANTANAS VALIONIS
For the Government of the
Republic of Lithuania