L.N. 99 of 2009

INCOME TAX ACT
(CAP. 123)

Double Taxation Relief (Taxes on Income) (United Arab Emirates) Order, 2009

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

Citation.

1. This title of this order is the Double Taxation Relief (Taxes on Income) (United Arab Emirates) Order, 2009.

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 United Arab Emirates with a view to affording relief from double taxation in relation to the following taxes imposed by the laws of the United Arab Emirates:

- income tax; and

- corporation tax;

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

(c) that the Convention has entered into force on the 18th May, 2007.

SCHEDULE

Regulation 2

CONVENTION BETWEEN

MALTA

AND

THE UNITED ARAB EMIRATES

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 United Arab Emirates, 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 by a Contracting State, 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 and taxes on the total amounts of wages or salaries paid by enterprises.

3. The existing taxes to which this Convention shall apply are:

(a) in Malta:

the income tax;

(hereinafter referred to as "Malta tax").

(b) in the United Arab Emirates:

(i) income tax; and

(ii) corporation tax;

(hereinafter referred to as “U.A.E. 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 "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 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;

(b) the term "United Arab Emirates", means the United Arab Emirates and when used in a geographical sense, means the area in which the territory is under its soveregnity as well as the territorial sea, airspace and submarine areas over which the United Arab Emirates exercises, in conformity with international law and the law of the United Arab Emirates sovereign rights, including the mainland and islands under its jurisdiction in respect of any activity carried on in connection with the exploration for or the exploitation of the natural resources;

(c) the terms "a Contracting State" and "the other Contracting State" mean the United Arab Emirates 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 that 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 Malta: the Minister responsible for finance or his authorised representative;

(ii) in the United Arab Emirates: the Minister of Finance and Industry or his authorised representative;

(i) the term "national" means:

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

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

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 Agreement, the term “resident of a Contracting State” means:

(a) in the case of Malta, any person who, under the laws of Malta, 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;

(b) in the case of the United Arab Emirates, an individual who is resident of the United Arab Emirates including such a resident individual who is a national of the United Arab Emirates or who is domiciled in the United Arab Emirates, and a company which is incorporated or has its place of management in the United Arab Emirates.

2. For the purposes of paragraph 1, the term "resident of a Contracting State" shall include:

(a) the government of a Contracting State and any political subdivision or local authority thereof;
(b) any government institution created in a Contracting State under the laws of that State.

3. 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.

4. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

Article 5

PERMANENT ESTABLISHMENT

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

2. The term "permanent establishment" includes especially:

(a) a place of management;
(b) a branch;
(c) an office;
(d) a factory;
(e) a workshop; and
(f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources including an offshore drilling site.

3. The term "permanent establishment" likewise encompasses:

(a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than twelve months;

(b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within a Contracting State for a period of more than twelve months.

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) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, 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. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

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

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of 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 shall be taxable only in that other State.

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

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent

establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State shall 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 shall be taxable only in that other State.

2. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, 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.

4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would

have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12

ROYALTIES

1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.

2. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, 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.

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

Article 13

CAPITAL GAINS

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

2. Gains from the alienation of shares or comparable interests in a company the assets of which consist directly or indirectly principally of immovable property situated in a Contracting State may be taxed in that State.

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

4. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic, or from movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.

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

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that

State. However, such income may be taxed in the other Contracting State in the following circumstances:

(a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or

(b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned; in that case, only so much of the income as is derived from the activity exercised in the other Contracting State may be taxed in that other State.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned, and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and

(c) the remuneration is not borne by a permanent 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, or aboard a boat engaged in inland waterways transport shall be taxable only in the Contracting State where the enterprise is situated provided that the employee is not a resident of the other Contracting State.

Article 16

DIRECTORS' FEES

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

Article 17

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.

VERŻJONI ELETTRONIKA

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 political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

2. (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

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

3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20

STUDENTS AND BUSINESS APPRENTICES

A student or business apprentice 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

OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 22

ELIMINATION OF DOUBLE TAXATION

1. In the case 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 the United Arab Emirates, the U.A.E. tax on such income shall be allowed as a credit against the relative Malta tax payable thereon.

2. In the case of the United Arab Emirates, double taxation shall be eliminated as follows:

Where a resident of the United Arab Emirates derives income which in accordance with the provisions of this Agreement may be taxed in Malta, the United Arab Emirates shall allow as a deduction from tax on income of that person an amount equal to the tax on income paid in Malta.

Article 23

NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances,

reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 4 of Article 11, or paragraph 4 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

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 24

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 23, 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 for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 25

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting 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 26

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

Article 27

HYDROCARBONS

Nothing in this Convention shall affect the right of either one of the Contracting States, or of any of their local Governments or local authorities thereof to apply their domestic laws and regulations related to the taxation of income and profits derived from hydrocarbons and its associated activities situated in the territory of the respective Contracting State, as the case may be.

Article 28

ENTRY INTO FORCE

1. 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. This Convention shall enter into force thirty days after the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect:

(a) 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.

(b) in the Unite Arab Emirates;

(i) in respect of tax withheld at source to income derived on or after 1 January in the year next following the date on which the Convention enters in to force;

(ii) in respect of other taxes on income, for taxable years beginning on or after 1 January in the year next following the date on which the Convention enters in to force.

Article 29

TERMINATION

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year beginning after the expiration of a period of five years from the date of its entry into force. In such event, the Convention shall cease to have effect:

(a) 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.

(b) in the United Arab Emirates:

(i) in respect of tax withheld at source to income derived on or after 1 January in the year next following that in which the notice of termination is given;

(ii) in respect of other taxes on income, for taxable years beginning on or after 1 January in the year next following that in which notice of termination is given.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Convention.

DONE in Abu Dhabi on Monday 13th March 2006 in duplicate in the English and Arabic languages, both texts being equally authentic.

For the Government of Malta	For the Government of United Arab Emirates
Dr Michael Frendo Minsiter of Foreign Affairs	Dr Mohammed Khifan Bin Khirbash

VERŻJONI ELETTRONIKA

PROTOCOL

At the signing of the Convention between Malta and the United Arab Emirates 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 shall form an integral part of the Convention.

1. With reference to Article 3, paragraph 3 (e):

   It is understood that the meaning of the term "company" will be construed in accordance with the provisions of law of the Contracting States.

2. With reference to Article 4, paragraph 2:

   It is understood that:
   (i) in the case of the United Arab Emirates, a Government institution shall include the following types of entities created under public law by the Government of the United Arab Emirates, or by a local Government of one of the Emirates or by a local Government authority thereof: foundations, corporations, authorities, funds, banks, agencies, and other wholly owned entities directly or indirectly owned by the above;
   (ii) the Central Bank of the U.A.E., Abu Dhabi Investment Authority, Abu Dhabi Investment Company, International Petroleum Investment Company and the Dubai Tourism Department have been recognized as Government institutions for the purposes of sub-paragraph (i).

3. With reference to Article 6, paragraph 1:

   It is understood that "income" means gross income less any expenses deductible for tax purposes thereagainst.

4. With reference to Article 8:

   (a) the term "profits" includes:

   (i) gross receipts and revenues derived directly from the operation of ships or aircraft in international traffic,

   (ii) interest on sums generated directly from the operation of ships or aircraft in international traffic which is incidental to such operation;

   (iii) income from the rent of containers;

   (iv) profits from the charter of ships or aircraft fully equipped, manned and supplied,

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provided that such rent and charter referred to in sub-paragraphs (iii) and (iv) above are incidental to the operation by the enterprise of ships or aircraft in international traffic.

(b) With respect to profits derived by an air transport consortium, the provisions of paragraph (i) shall apply only to such part of the profits of the consortium as corresponds to the participation held in that consortium by an enterprise of either one of the Contracting States

(c) It is also understood that the term "profits" includes income from services relating to engineering, handling operations and the use of information technology software relating to the reservation system of such an enterprise, given to another enterprise and that are supplementary or incidental to the operation of aircraft in international traffic by the first-mentioned enterprise.

5. With reference to Article 10:

It is understoood that in the case of dividends paid by a company which is a resident of Malta to a resident of the U.A.E. the provisions of paragraph 1 shall not apply if the resident of the U.A.E. claims a credit or refund of the tax paid in Malta by the company on the profits out of which the dividend has been paid.

6. With reference to Articles 10, 11 and 12**:**

For the purposes of paragraph 5 of Article 10, paragraph 3 of Article 11 and paragraph 3 of Article 12, a representative office (or otherwise) in Malta of such U.A.E. Public Institutions as is specified and agreed in letters exchanged between the competent authorities of the Contracting States shall not be regarded as a permanent establishment in Malta provided that the said office (or otherwise) is engaged solely in an activity of a preparatory or auxiliary character or in other activities as may be agreed upon from time to time by the competent authorities of the Contracting States for the said public institution.

7. With reference to Article 12:

It is understood that the term "royalties" does not include payments in respect of the operation of mines or quarries or the exploitation of natural resources.

8. With reference to Article 13:

(a) It is understood that "gains" means gains chargeable to tax under the laws of the Contracting States;

(b) It is understood that in the case of gains referred to in paragraph 3 of Article 13, gains from the alienation of movable property forming part of the business

property of a permanent establishment, which a public institution of a Contracting State has in the other Contracting State, shall be taxable only in that State.

For the purposes of this paragraph, public institution shall mean Abu Dhabi Investment Authority and any other institution as is specified and agreed in letters exchanged between the competent authorities of the Contracting States.

9. With reference to Article 15:

Notwithstanding the provisions of Article 15, remuneration derived in respect of an employment exercised in a Contracting State by a person forming part of the ground staff of an enterprise of the other Contracting State that is engaged in international traffic shall be taxable only in the last-mentioned State provided that the person employed:

(i) is a national of the last-mentioned State; and
(ii) is present in the first-mentioned State solely for the purpose of exercising such employment for a period not exceeding 4 years; and
(iii) was a resident of the last-mentioned State or was performing duties for the said enterprise in a third State immediately before being present in the first-mentioned State for the purpose of exercising such employment.

10. With reference to Article 28:

It is understood that notwithstanding the provisions of Article 28 of this Convention the provisions of Articles 8 and of paragraph 4 of Article 13 of this Convention shall have effect for taxes levied on profits derived from the operation of ships or aircraft in international traffic as from January 1st, 1993.

11. It was agreed further that under the existing law in force in Malta, a person resident in the United Arab Emirates may claim a two-thirds or full refund, as the case may be, of the tax paid by the company in those circumstances and under those conditions referred to in article 48 (4) (a) of the Income Tax Management Act.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by the respective Governments, have signed this protocol.

DONE IN Abu Dhabi on Monday 13th March 2006 in duplicate in the English and Arabic languages, both texts being equally authentic.

For the Government of
Malta

Dr Michael Frendo
Minister of Foreign Affairs

For the Government the
United Arab Emirates

Dr Mohammed Khifan Bin Khirbash
Minister of State for Finance & Industry

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