

4. The provisions of paragraphs 2 and 3 shall not apply in the case of fraud, wilful default or when a Contracting State applies anti-abuse rules.”

ARTICLE 5

1. Paragraph 2 of Article X (Dividends) of the Convention shall be deleted and replaced by the following paragraph:

“2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:

- (a) 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 10 per cent of the capital of the company paying the dividends;
- (b) 15 per cent of the gross amount of the dividends in all other cases.

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

2. Paragraph 6 of Article X (Dividends) of the Convention shall be deleted and replaced by the following paragraph:

“6. Notwithstanding any other provision of this Convention, where a company which is a resident of a Contracting State has a permanent establishment in the other Contracting State, any profits attributable to the permanent establishment that are repatriated may be taxed in accordance with the laws of the other Contracting State, but the rate of tax imposed on such repatriated profits shall not exceed 5 per cent.”

3. Article X (Dividends) of the Convention shall be amended by adding the following paragraphs:

“7. Nothing in this Convention shall be construed as preventing a Contracting State from imposing on the income from the alienation of immovable property situated in that State by a company that is a resident of the other Contracting State carrying on a trade in immovable property, a tax in addition to the tax that would be chargeable on the income of a company that is a resident of the first-mentioned State, but any additional tax so imposed shall not exceed 5 per cent of the amount of such income. For the purpose of this provision, the term “income” means the income from the alienation of such immovable property situated in a Contracting State as may be taxed by that State under the provisions of paragraph 1 of Article XIII, after deducting therefrom all taxes, other than the additional tax referred to herein, imposed on such income in that State.