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 tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement.

3. A Contracting State shall not change the profits of an enterprise in the circumstances referred to in paragraph 1 after the expiry of the time limits provided in its national laws and, in any case, after five years from the end of the year in which the profits which would be subject to such change would have accrued to an enterprise of that State.

4. The provisions of paragraphs 2 and 3 shall not apply in the case of fraud, wilfull default or neglect.

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 Canada to a resident of Malta who is the beneficial owner of the dividends the tax so charged shall not exceed 15 per cent of the gross amount of the dividends;

(b) where the dividends are paid by a company which is a resident of Malta to a resident of Canada who is the beneficial owner thereof:

(i) Malta tax on the gross amount of the dividends shall not exceed that chargeable on the profits out of which the dividends are paid;

(ii) where such dividends are paid out of profits of a company in receipt of tax benefits under the provisions of the Aids to Industries Ordinance, 1959, the rate of Malta tax on the dividends shall be that applicable under the Fifth Schedule of the said Ordinance.

The provisions of this paragraph shall not affect the taxation of the company on the profits out of which the dividends are paid.

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