

**THE LEGAL SYSTEM
OF THE REPUBLIC OF CYPRUS**

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CHAPTER TWO

THE LEGAL SYSTEM OF THE REPUBLIC OF CYPRUS

SECTION ONE

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CHAPTER TWO

THE LEGAL SYSTEM OF THE REPUBLIC OF CYPRUS

SECTION ONE

IN GENERAL

§ 1.1. Historical Background.

Cyprus, the third largest island in the Mediterranean, after Sicily and Sardinia, of an extent of 3,584 square miles, is situated at the north-eastern angle of its eastern basin and has been the bridge between east and west and the crossroad of civilizations. Recent excavations have proved that the Cypriot civilization goes back to the sixth millenium B.C.; but even before that, the establishment of its first inhabitants called the Eteocyprians occurred.

Owing to its privileged geographical position, the riches of its soil and subsoil, the variety of its products and the mildness of its climate, Cyprus has been coveted by the great powers of the day. As observed by a German archaeologist, "He who would become and remain a great Power in the East must hold Cyprus in his hands." For this reason, one conqueror succeeded the other (Assyrians, Egyptians, Persians, Romans, Franks, Venetians, Turks and British).

The first colonization of Cyprus was made by the Achaeans around the middle of the second millenium. They brought with them the Achaean civilization, which earlier was flourishing in Crete.

In spite of its conquests, Cyprus, which has been always predominantly inhabited by Greeks,¹ has never lost its own character. As rightly observed, "There is always perceptible an undercurrent of influence which, for good or bad, remains Cypriot."

Throughout the ages and in spite of the conquests, the Cyprus legal system has preserved its own features. During the Byzantine period, the law in force in Cyprus was the Byzantine law as contained in the various Byzantine collections of law. Parallel, however, to that, the law of the people, as developed by them, continued to apply as customary law.

When the Frankish period started, the Franks not only introduced to Cyprus the feudal system, but also tried to introduce the feudal law. The latter, however, did not prevail, as the people continued to follow and apply the popular law developed by them. The feudal law, as developed from the various feudal customs, is contained in the various collections of that law which bear the name of Assizes. The first Assizes originally were made for the Kingdom of Jerusalem and contained two parts. The one related to public law and the other dealt with transactions between individuals.

On these Assizes, the Assizes of the Kingdoms of Jerusalem and Cyprus were written in the then-spoken Cypriot language; and although they purported to be a codification of the feudal law, nevertheless the influence of the Byzantine law in the then-prevailing popular law is apparent.² The technique followed was the usual one adopted for the compilations of collections of laws at that period. Instead of containing a general provision setting out the law to be applied, as it has been done in all modern codes

starting from the French Civil Code, the circumstances and the facts of each particular case are stated, and then the law applied to such facts and circumstances is given on the casuistic method. During the same period, another written legal document dealing mainly with family relations and the procedure to be followed by the family courts is the Greek law of Cyprus equally written in the then-spoken Cypriot language.³

The Frankish period in Cyprus lasted for about 300 years, and was succeeded by the Ottoman occupation from 1571 to 1878. The Ottoman conqueror brought with him the Ottoman law in the form of Sheri law (Ottoman sacred law). In spite of that, however, certain radical changes in the Cyprus legal system were made in the form of privileges which the Ottoman conqueror granted. By those privileges, the Greek population was allowed to have their family relations governed by their own law and to have their family cases tried by their own tribunals. During the 19th century, certain parts of the Ottoman law were codified, such as the Ottoman Civil Codes (the megelle, the Ottoman Penal Code and the Ottoman Commercial Code—the two latter based on the then existing French codified legislation). Likewise, the Ottoman land tenure was embodied in the Ottoman Land Code.

In 1878, the Ottoman occupation came to an end, and Cyprus was ceded to Great Britain to be administered by her in accordance with the provisions of the relevant Conventions—The Convention of Defensive Alliance between Great Britain and Turkey of the 4th June 1878 and its Annexes of 4th June and 1st July 1878 and the Additional Article of the 14th August 1878.

The legal system of Cyprus after its occupation by Great Britain consisted of the Ottoman law in force on the date of the occupation, i.e. 13th July 1878, of English law consisting of the common law and the rules of equity and the Acts of General Application of the British Parliament, and the Cyprus Statute Laws as enacted by its legislature. Ottoman law was applicable in all cases in which the defendants or the accused were Ottoman subjects and in all cases in which the subject matter was immovable property situated in Cyprus. In all other cases where the defendants or the accused were not Ottoman subjects, English Law was applicable (the Cyprus Court of Justice Order in Council 1882 clauses 23-25). The litigants, however, could agree to have their case governed entirely either by Ottoman law or by English law.

After the declaration of the First World War, Cyprus was annexed by Great Britain in 1914, and in 1925 it became a Crown Colony. The distinction between Ottoman and non-Ottoman subjects was abolished, however, and the legal system of Cyprus consisted of the Statute Laws of Cyprus, certain Ottoman laws which continued to be in force having not been repealed by Cyprus legislation, the common law and the rules of equity as in force in England on the 5th day of November 1914, save as amended by any Statute Law of Cyprus, and the Acts of the British Parliament of General Application. In matrimonial cases, however, the law of the Greek-Orthodox Church was applicable where the parties to the marriage belonged to that church; in cases where the parties to the marriage were of Moslem faith, the Moslem sacred law was applicable (the Courts of Justice Law 1935 section 50 and the Courts of Justice Law (Cap. 8), section 33). The Moslem sacred law was codified by the Turkish Family Law (Cap. 338). During the British rule, certain branches of the common law were codified by the Cyprus Statute Laws. Thus, the Contract Law (Cap. 149), which was based on the Indian Contract Law 1872, the Civil Wrongs Law (Cap. 148) and Interest Law (Cap. 150) while the Ottoman Land Code, was replaced by the Immovable Property (Tenure, Registration and

Valuation) Law (Cap. 224) and Immovable Property (Vakf Idjaretein and Arazi Mevkoufe Takhsisat Conversion) Law (Cap. 225) and the Ottoman Penal Code was replaced by the Criminal Code (Cap. 154).

The Republic of Cyprus was established as an independent sovereign republic with a presidential regime on 16th August 1960, when its Constitution came into force and the British sovereignty over Cyprus as a Crown Colony ceased. Its territory comprises the entirety of the Island of Cyprus, except the Sovereign Base Areas at Episkopi and Dhekelia over which the British sovereignty was retained, and it is one and indivisible.⁴

§ 1.2. The Constitutional System.

§ 1.2(A). The Constitution.

The Constitution together with two Annexes containing the Treaty Of Guarantee, between United Kingdom, Greece and Turkey and the Republic of Cyprus and the Treaty of Alliance between Greece and Turkey and the Republic of Cyprus is a written rigid Constitution which did not emanate from the exercise of the free will of the people, but was imposed on them by the Zurich and London Agreements between the United Kingdom, Greece and Turkey and the leaders of the two Communities. Through the Constitution, the spirit of dyarchy prevails, and the Constitution itself is full of checks and balances between the two communities.

It has many peculiarities. It contains provision about the people as a whole, one of the constituent elements of the state, while by other provisions such as the election of the President and the Vice President of the Republic by each Community separately, the election of the President and the Vice-President of the House of Representatives separately by the Greek and Turkish members of the House of Representatives respectively, the deputizing for the President of the Republic in case of his absence or temporary incapacity not by the Vice-President of the Republic but by the President of the House of Representatives, similarly, the deputizing for the Vice-President of the Republic by the Vice-President of the House of Representatives, and the like, the separatist tendency which permeates the whole constitutional provisions becomes apparent. As it was observed, it stands alone in the Constitutions of the world by being unique in its tortuous complexity in the multiplicity of the safeguards that it provides for the principal minority.⁵ Certain articles of the Constitution being described as fundamental articles set out in Annex III and incorporated from the Zurich Agreement cannot be amended in any way (Article 182), while the non-fundamental articles may be amended by law passed by majority containing at least two-thirds of the Greek members and at least two-thirds of the Turkish members of the House of Representatives. By the Constitution, on the other hand, a rule of the judiciary is created as certain matters purely of a political nature in the final analysis are not determined by the political organs concerned but by the judiciary, which acts as the arbiter between the conflicting opinions of the political organs.

§ 1.2(B). The Two Communities.

The whole working of the Constitution is based on the existence of two Communities, the Greek and the Turkish.

The Greek Community comprises all citizens of the Republic who are of Greek origin and whose mother tongue is Greek or who share the Greek cultural traditions or who are

members of the Greek-Orthodox Church; and the Turkish Community comprises all citizens of the Republic who are of Turkish origin and whose mother tongue is Turkish or who share the Turkish cultural traditions or who are Moslems. Citizens of the Republic who are not members of either communities may, within three months of the date of the coming into operation of the Constitution, or within three months of becoming citizens of the Republic, opt to belong to either the Greek or the Turkish Community as individuals; but, if they belong to a religious group, they shall so opt as a religious group, and upon such option they shall be deemed to be members of such Community. A "religious group" means a group of persons ordinarily resident in Cyprus professing the same religion and either belonging to the same rite or being subject to the same jurisdiction thereof, the number of whom, on the date of the coming into operation of the Constitution, exceeded one thousand, out of which at least five hundred became citizens of the Republic.

From the above provisions, it becomes obvious that no other community is recognized as existing for the purposes of the Constitution and that no citizen of the Republic may exercise his constitutional rights unless he is a member of either Community.

§ 1.2(C). State Organs.

§ 1.2(C) (1). The President and Vice-President.

The President of the Republic is to be a Greek and is elected by the Greek Community. The Vice-President of the Republic is to be a Turk and is elected by the Turkish Community. The terms of office are for a period of five years.

§ 1.2(C) (2). The Council of Ministers.

The Council of Ministers consists of ten ministers, seven Greek and three Turk, appointed by the President and the Vice-President of the Republic. They are to hold office until their appointment is terminated by the President and Vice-President.

§ 1.2(C) (3). The Independent Officers.

The independent officers—the Attorney-General of the Republic, the Auditor-General and the Governor of the Issuing Bank, the heads of the army and the police and their deputies—are appointed by the President and the Vice-President of the Republic. If the one officer belongs to one Community, the other officer should belong to the other Community.

§ 1.2(C) (4). The House of Representatives.

The House of Representatives consists of fifty members, out of whom 35 are elected by the Greek Community and 15 are elected by the Turkish Community for a period of five years. The election is carried out under the Election of Members of the House of Representatives Laws 1979 to 1981 on the system of proportional representation. The President of the House of Representatives is a Greek elected by the Greek members and the Vice-President is a Turk elected by the Turkish members. The President of the House of Representatives deputizes for the President of the Republic, and the Vice-President of the House deputizes for the Vice-President of the Republic in case of their absence or temporary incapacity. In case of the absence or temporary incapacity of the President or

the Vice-President of the House of Representatives, the senior member of the respective Community acts for him respectively.

§ 1.2(C) (5). Two Communal Chambers.

There exists two Communal Chambers, the Greek Communal Chamber and the Turkish Communal Chamber, each one elected by its respective community. Owing, however, to the circumstances created in 1963, mainly as a result of intercommunal troubles, the exercise of the competence and generally the function of the Greek Communal Chamber became impossible and by the competence of the Greek Communal Chamber (Transfer of Exercise) and Ministry of Education Law, 1965, its competence was transferred to various other organs of the Republic and the Ministry of Education was created to exercise its competence in educational matters.

§ 1.2(C) (6). Supreme Court.

A Supreme Constitutional Court was established composed of a neutral President and a Greek and Turkish judge and the High Court was established composed of a neutral President, two Greek judges and one Turkish judge, all of them appointed by the President and the Vice-President of the Republic. They hold office until they reach the age of sixty-eight. The functioning of the Supreme Constitutional Court and of the High Court as provided by the Constitution became impossible owing to the aforementioned events and especially the ensuing total withdrawal of the Turkish side from the administration of the Republic.

It was found necessary to amalgamate the two Courts into one by the Administration of Justice (Miscellaneous Provisions) Law 1964. By that law, a new court, the Supreme Court, was established to exercise the jurisdiction conferred on the Supreme Constitutional Court and on the High Court. The Supreme Court absorbed the then existing judges of the two former courts and the senior member became the first President of the Supreme Court. The Supreme Court should consist of a President and such number of judges not exceeding seven (later an increase to ten by Law 51 of 1981) as may be appointed by a President of the Republic. That law was found by the Supreme Court not to be unconstitutional under the law of necessity in the leading case of Attorney-General of the Republic v. Mustafa Imbrahim and others (1964) 3 C.L.R. p. 195.

§ 1.2(C) (7). The Public Service Commission.

A Public Service Commission was also established consisting of seven Greek and three Turkish members, all of them appointed by the President and the Vice-President of the Republic, to make the appointment, promotions, transfers and retirements of members of the Public Service and to exercise disciplinary control over them. Owing to the aforesaid event the Public Service Commission originally established by the Constitution could not function and it was found necessary to create parallel to that, by the Public Service Law 1967, a new Public Service Commission consisting of a President and four other members appointed by the President of the Republic to perform similar functions as those performed by the original Public Service Commission.

§ 1.2(D). The Constitution Adopts the Doctrine of Separation of Powers.

§ 1.2(D) (1). Executive Power.

The executive power is exercised by the President and the Vice-President of the Republic in respect of certain matters and the residue by the Council of Ministers which is the highest executive organ and the Ministers.

Administrative power is also exercised by the Communal Chambers with respect to communal matters such as religious, educational and cultural matters, personal status and co-operative societies of their respective community.

§ 1.2(D) (2). Legislative Power.

Legislative power is exercised by the House of Representatives and by the Communal Chamber with respect to only communal matters of their own individual community.

§ 1.2(D) (3). Judicial Power.

The judicial power is exercised by the Supreme Court with respect to constitutional matters provided in the Constitution such as the constitutionality of laws, conflict of competence of power between organs of the Republic, and election petitions. The Supreme Court may also adjudicate on a recourse made to it on a complaint that an act or decision of an organ or authority or person, exercising executive or administrative authority is against the law or in excess or abuse of power. The Court may either annul or confirm such act or decision (Article 146).

The High Court and the Courts subordinate to it exercise all the judicial power of the Republic except that falling within the jurisdiction of the Supreme Court. The High Court is also the highest appellate court in the Republic and has jurisdiction to determine all appeals against any decision of any court in the Republic other than the Supreme Court. Furthermore the High Court has original jurisdiction in respect of the prerogative orders habeas corpus, certiorari, mandamus, and quo warranto.

The jurisdiction conferred on the Supreme Court by the aforementioned Administration of Justice (Miscellaneous Provisions) Law 1964 is exercised as in that law provided. In particular, the appellate jurisdiction is exercised by at least three judges, and the revisional jurisdiction with regards to recourses under Article 146 may be exercised by one judge whose decision may be subject to appeal.

§ 1.2(E). Human Rights.

Part II (containing Articles 6-35) of the Constitution provides and guarantees for the fundamental rights and liberties of the individual.

The rights and liberties so guaranteed include not only the fundamental civil and political right of the old catalogue, but include also economic and social rights and provisions imposing duties and obligations on the individuals (such as contribution to public burdens). The rights so provided are guaranteed for every individual and not only for citizens of the Republic. Any person whose fundamental right is infringed upon may seek remedy for such infringement through the courts. Article 35 of the Constitution specifically provides that the legislative, executive and judicial authorities of the Republic shall be bound to secure, within the limits of their respective competence, the efficient application of the provisions of Part II.

The Human Rights in the Republic are also guaranteed by the European Convention of

Human Rights and its Protocols, which having been approved by Laws 31 of 1962 and 118 of 1968 have superior force to any municipal law respectively. Also, the International Covenants Protecting Human Rights having been approved by Laws 31 of 1962 and 118 of 1968, have superior force to any municipal law respectively. Also, the International Covenants Protecting Human Rights having been approved by the International Covenants (Economic, Social and Cultural Rights and Civil and Political Rights) (Ratification) Law 1969 apply in the Republic and have superior force to any municipal law.

§ 1.2(F). Treaty-Making Power.

The Treaty making power of the Republic vests in the Council of Ministers subject to the conditions laid down in Article 169. All International Treaties and Agreements relating to commercial matters, economic co-operation (including payments and credit) and modus vivendi are concluded under a decision of the Council of Ministers and all other International Treaties and Agreements are negotiated and signed under a decision of the Council of Ministers and are concluded and become operative when approved by law.

International Treaties and Agreements concluded as above are published in the official gazette of the Republic and on the publication have superior force to any municipal law on condition that they are applied by the other party thereto.

§ 1.2(G). Saving of Existing Law.

The Constitution by its Article 188 saves all existing laws on the date of independence subject of their modification and adaptation to the constitutional provisions.

Furthermore, by its Article 111, it provides that family matters as described therein (such as betrothal, marriage, divorce, judicial separation and the like) of members of the Greek Orthodox Church or of a religious group shall be governed by the law of their respective Church.

§ 1.2(H). Territorial Division.

The territory of the Republic is divided, for purposes of central government, into six districts each of which is under the charge of a District Officer.

In the territory of the Republic, its territorial waters are included, which under the Territorial Waters Law 1964, comprise the zone of the sea within twelve miles from the coast measured from its low water mark.

§ 1.2(I). The Turkish Invasion.

On the 20th of July, 1974, Turkey, one of the guarantor powers who guaranteed the independence and territorial integrity of the Republic, availing itself of the treacherous coup d'etat of the 15th of July 1974, invaded by sea, land and air the territory of the Republic and gradually occupied the northern part of Cyprus, expelling therefrom its Greek inhabitants who took refuge in the south and became refugees in their own country. Many excuses were put forward by Turkey. At the time, the most plausible of which was that the unprovoked armed intervention was made in exercise of its powers under Article IV of the Treaty of Guarantee. That article provides that, in the event of any breach of the

provisions of the Treaty, Greece, the United Kingdom and Turkey undertake to consult together, with a view to making representations or taking the necessary steps to ensure observance of those provisions.

Insofar as common or concerted action may prove impossible, each of the three guaranteeing Powers reserves the right to take action with the sole aim of re-establishing the state of affairs established by the Treaty.

It is arguable whether the coup d'etat constitutes a breach of that treaty. However, even if it does, none of the guarantor Powers has the right under the true constructions of the Treaty and the principles of International Law, to become involved in armed intervention.

In the present case, there is only the right to consult between themselves with a view of making representations or taking the necessary steps to ensure observance of the provisions of the Treaty. As pointed out by Mr. Callaghan, the then-British Foreign Minister, at the meeting of the 13th August 1974 at Geneva Conference, such consultation did not take place before the invasion. Greece was invited and accepted to attend such consultation in London on the 23rd of July 1974 while the invasion started on the 20th of July 1974.

But even if the prerequisite of the application of Article 4 existed, the purpose of such armed intervention, that is to say, the re-establishment of the constitutional order, such re-establishment has already been made on the 9th of December, 1974 when the then-elected President of the Republic Archbishop Makarios returned to Cyprus and assumed duties. Turkey, however, in spite of the repeated resolution of the General Assembly and the Security Council of the United Nations, starting from resolution of the Security Council 353 of the 20th of July, 1974 to 541 of the 15th of November, 1983 and resolution 3212 of the 1st of November, 1974 of the General Assembly, continues to be in unlawful occupation of the northern part of Cyprus until today, April 1, 1984. During the unlawful occupation, Turkey committed many contraventions of the European Convention of Human Rights; and the Republic of Cyprus, by three applications to the European Commission of Human Rights, complained about such contraventions. The European Commission by its reports on such applications found the complaints of the Republic of Cyprus as sustained (Application Nos. 6780/74, 6950/75 and 8007/77).

§ 1.2(J). The Turkish Republic of Northern Cyprus.

On the 15th of November, 1983, the Turkish authorities on the north proceeded with the declaration of an independent state under the name "Turkish Republic of Northern Cyprus."

Such a state has not the constituent element of statehood under the constitutional law. There are no people, in the legal sense, as the agglomeration of Turkish Cypriots from various parts of the island on the northern side of Cyprus. Most of them being there against their will cannot be considered as having the attribute of people required for a state. Furthermore, the territory which is supposed to be the territory of the new state is the territory which is unlawfully occupied by Turkish forces, and which is still the territory of the Republic (Cf. Article 185 of the Constitution; Treaty of Guarantee Articles 1 and 2). The 3rd and 4th constituent elements of statehood, that is to say the exercise of political power in its own right, are also missing.

Any power exercise in the north occupied by the Turkish forces is exercised under their shadow and control.

The so-called Turkish Republic of Cyprus of the north is also not recognized in international law. The Security Council by its decision 541 of 15th of November, 1983 deplores the declaration by the Turkish Cypriot authorities of the purported secession of part of the Republic of Cyprus, and considers such declaration as legally invalid. None of the States except Turkey has recognized the Turkish Republic of Northern Cyprus.

§ 1.3. The Law Applicable in the Republic.

The law applicable in the Republic is—

- (1) the Constitution, which is the supreme law and has superior force to any other law (Article 197(1));
- (2) the laws made under the Constitution;
- (3) the laws saved under Article 188 of the Constitution subject to the conditions provided therein, save insofar as other provision has been or shall be made by a law made under the Constitution;
- (4) the common law and the doctrines of equity save insofar as other provision has been or shall be made by any law made or becoming applicable under the Constitution;
- (5) the Laws and Principles of Vakf (Ahkamul Evkaf) referred to in paragraph 2 of Article 110 of the Constitution;
- (6) the Acts of Parliament of the United Kingdom of Great Britain and Northern Ireland which were applicable to Cyprus immediately before Independence Day, save insofar as other provision has been or shall be made by any law made or becoming applicable under the Constitution and insofar as they are not inconsistent with, or contrary to, the Constitution;
- (7) in any admiralty cases the law applied by the High Court in England on Independence Day, i.e. 16th of August, 1960;
- (8) in matrimonial causes, other than those of members of the Greek-Orthodox Church or of any religious group or Moslems, the law applied by the Supreme Court of Cyprus on the day preceding Independence Day, as may be modified by any law made under the Constitution;
- (9) with regard to matrimonial causes of persons belonging to the Greek-Orthodox Church or to a religious group the law of that Church or religious group and of persons belonging to The Turkish Community, the Turkish Family (Marriage and Divorce) Law (Cap. 339) as may be amended by law of the Turkish Communal Chamber. (The Courts of Justice Laws 1960 to 1984 section 29); and
- (10) International Treaties and Agreements which having been approved by law and published in the official gazette of the Republic have superior force to any municipal law, such as Law 40 of 1966 approving the Geneva Conventions, Law 62 of 76 approving the Vienna Convention on the law of Treaties (For a list of such laws see Index to the Laws of Cyprus Vol. VII under the heading International Relations, p. 495 seq.)

§ 1.4. Nationality.

All citizens of the United Kingdom and Colonies who were born in Cyprus after 5th November, 1914 or who became such citizens, by virtue of the Cyprus (Annexation)

Orders-in-Council or who are descended in the male line from any such person and who were ordinarily resident in Cyprus during the five years immediately preceding 16th August, 1960, became citizens of the Republic. By the Citizenship of the Republic Laws 1967 to 1984 in force since 1st December, 1968, persons born in the Republic after 16th August, 1960 become citizens of the Republic by birth if their father or, in case he is stateless, their mother is a citizen of the Republic; and persons born outside the Republic become citizens of the Republic under the same conditions if their birth is registered in the prescribed manner with a consular agent of the Republic at the place of birth. Citizenship of the Republic may also be acquired by registration or by naturalization, and may be renounced in the prescribed manner. A naturalized Cypriot citizen may be deprived of his Cypriot citizenship by a decision of the Council of Ministers in certain specified events, if it is the public interest to do so.

§ 1.5. Administration of Justice.

§ 1.5(A). Subordinate Courts.

For each district, a District Court was created consisting of one or more Presidents and such other District Judges as the Supreme Court may direct. A District Court, consisting of a President and one District Judge, has unlimited jurisdiction to try a civil case, while the civil jurisdiction of the President or a District Judge is limited by the amount of the claim.

A President of a District Court and a District Judge also exercise criminal jurisdiction and have power to try summarily criminal cases as provided in the aforesaid law.

Apart from the District Court, there exists also for each District a District Court when sitting to try juvenile offenders (i.e. children and young person) constitutes a Juvenile Court, which operates under the provisions of Juvenile Offenders Law (Cap. 157), as subsequently amended.

Also, in each District operates an Assize Court composed of a President of a District Court, who presides, and two District Judges as may be nominated by the Supreme Court. In cases of murder, the Court is composed of three District Judges as the Supreme Court may direct. Usually, an Assize Court sits in every District every three months on a date appointed by the Supreme Court and has jurisdiction to try all cases committed to it.

§ 1.5(B). Procedures.

The procedures followed by civil Courts are laid down in the Rules of Court⁶ issued by the Supreme Court (cf. Constitution Article 163 and 164), in the Civil Procedure Law (Cap. 6), and, in criminal cases, in the Criminal Procedure Law (Cap. 155), as subsequently amended.

§ 1.5(C). Law of Evidence.

The law of evidence applicable by each court is laid down in the Evidence Law (Cap. 9) which introduces the law and rules of evidence applicable in England subject to the amended adaptation made in that law or in any other law.

§ 1.5(D). Advocates.

The advocates entitled to appear before the court are those for which provision is made in the Advocate Law (Cap. 2) as subsequently amended.

§ 1.5(E). Bankruptcy.

Bankruptcies are governed by the Bankruptcy Law (Cap. 5) which is based on the English Bankruptcy Act 1914.

§ 1.5(F). Arbitrations.

For arbitrations, provision is made in the Rules of Court and in the Arbitration Law (Cap. 4) also based on the English Arbitration Act 1950.

§ 1.6. Associations.

There exist the following forms of association under the Cyprus legislation;

- (1) clubs under the Clubs (Registration) Law (Cap. 112) as subsequently amended;
- (2) companies under the Companies Law (Cap. 113) based on the English Companies Act 1948;
- (3) co-operative societies under the Co-operative Societies Law (Cap. 114) as subsequently amended;
- (4) irrigation associations under the Irrigation (Private Water) (Association) Law (Cap. 115) as subsequently amended;
- (5) partnerships under the Partnership and Business Names Law (Cap. 116) as subsequently amended based on the English Partnership Act 1890;
- (6) trade unions under the Trade Unions Laws 1965 and 1970; and
- (7) societies under the Societies and Institutions Law 1972 mainly based on the relevant provisions of the Greek Civil Code.

§ 1.7. Banking.**§ 1.7. Banking.**

There is no general law providing and regulating the banking in Cyprus, except for certain sporadic laws making provision for the Agricultural Bank and its various forms and the Central Bank of Cyprus Law 1963. A bill for banking was prepared and submitted to the House of Representatives, but it has not yet been enacted into the Law. At the beginning of the second World War, the Banking Business (Temporary Restrictions) Law (Cap. 124) was enacted making certain temporary provisions restricting banking business in Cyprus which continues to be in force.

§ 1.8. Criminal Law and Procedure.**§ 1.8(A). Criminal Code.**

The Criminal Code (Cap. 154) mentioned above was subjected to continuous amendments based not only on English law but also on the continental law (Greek, French, Italian and German). Its provisions relating to larceny and false pretences have

not yet been amended but a bill mainly based on the English Theft Act 1968 was prepared amending and adapting the provisions of the Criminal Code to the new trends prevailing in England.

§ 1.8(B). Contraventions of Various Laws.

Contraventions of various laws are rendered punishable thereunder such as the Betting Houses, Gaming Houses and Gambling Prevention Law (Cap. 151) as subsequently amended, the Prevention of Corruption Law (Cap. 161), the Offensive Weapons (Prohibition) Law (Cap. 159) and the Explosive Substances Law (Cap. 54) as subsequently amended.

§ 1.8(C). Criminal Procedure.

Criminal procedure is governed by the Criminal Procedure Law (Cap. 155) as subsequently amended mainly based on English law adapted to local conditions.

§ 1.8(D). Military Criminal Code.

The Military Criminal Code and Procedure Law 1964 provides for military offences and their punishment and for the procedure to be followed at a trial of such offences.

§ 1.9. Estates.

Matters relating to estates of diseased persons are regulated by the following legislation:

- (1) The Administration of Estates Law (Cap. 189);
- (2) The Administration of Estates by Consular Law (Cap. 190);
- (3) The Official Trustees Law (Cap. 191);
- (4) The Probate (Re-sealing) Law (Cap. 192);
- (5) The Trustee Law (Cap. 193);
- (6) The Trustee Investment in Cyprus Government Securities Law (Cap. 194); and
- (7) The Wills and Succession Law (Cap. 195) as subsequently amended. The provisions of this law relating to the form of the will were taken from English law, while the provisions relating to succession were based on the canon law and on the Italian Civil Code.

§ 1.10. Finance and Currency.

Reference may be made to the following legislation with respect to finance and currency:

- (1) the Coinage (Protection) Law (Cap. 196);
- (2) the Currency Law (Cap. 197) as subsequently amended;
- (3) the Cyprus Treasury Bills Law (Cap. 198);
- (4) the Exchange Control Law (Cap. 199) as subsequently amended;
- (5) the General Loan and Stock Law (Cap. 200);
- (6) the Economic Year (Day of Commencement) Law 1960; and
- (7) the Power of the Republic to grant Guarantees for loans or credits to Third Persons (Removal of Doubt) Law of 1974.

§ 1.11. Immovable Property.

The following legislation dealing with matters relating to or connected with Immovable Property may be referred to:

- (1) the Corporate Bodies (Immovable Property Registration) Law (Cap. 218);
- (2) the Ecclesiastical Properties Law (Cap. 220);
- (3) the Government Lands Law (Cap. 221) as subsequently amended;
- (4) the Housing Law (Cap. 222);
- (5) the Immovable Property (Tenure, Registration and Valuation) Law (Cap. 224) as subsequently amended, which is a codification of all existing provisions in the matter;
- (6) the Immovable Property (Vakf Idjaretein and Arazi Mevkoufe Takhisat Conversion) Law (Cap. 225);
- (7) the Compulsory Acquisition Law of 1962 made under Article 23 and especially its paragraphs 4 and 5 of the Constitution;
- (8) the Immovable Property (Transfer and Mortgage) Law 1965;
- (9) the Recovery of Possession of Small Holdings Law (Cap. 231);
- (10) the Sale of Land (Specific Performance) Law (Cap. 232) as subsequently amended;
- (11) the Streets and Buildings Regulation Law (Cap. 96) as subsequently amended; and
- (12) the Town and Country Planning Law 1972.

§ 1.12. International Relations.**§ 1.12(A). International Memberships.**

The Republic of Cyprus on 21st September, 1960 became a member of the United Nations, since February, 1961 is a member of the British Commonwealth and on the 24th of May, 1961 became a member of the Council of Europe. Also, by the Agreement of Association between the Republic and the European Economic Community of the 17th December, 1972 (published in the official gazette of the 22nd May, 1973), the Republic was associated with the European Economic Community subject to the terms and conditions laid down in that Agreement.

§ 1.12(B). Legislation With Regard to International Relations.

With regard to the International Relations, reference may be made to the following legislation:

- (1) the Consular Conventions Law (Cap. 236);
- (2) the Diplomatic Privileges (Extension) Law (Cap. 237);
- (3) the Diplomatic Privileges (European Commission of Human Rights) Law (Cap. 238);
- (4) the 1961 Vienna Convention on Diplomatic Relations (Ratification) Law 1968;
- (5) the Diplomatic Rights, Immunities and Privileges Laws 1965 and 1977;
- (6) the Geneva Conventions (Ratification) Law, 1966;

§ 1.15. Mercantile Law.

Apart from the contract law mentioned above, the following Laws exist:

- (1) the Bills of Exchange Law (Cap. 262) based on the Bills of Exchange Act 1882;
- (2) the Carriage of Goods by Sea Law (Cap. 263);
- (3) the Copyright Law 1976;
- (4) the Merchandise Marks Law (Cap. 265);
- (5) the Patent Law (Cap. 266);
- (6) the Sale of Goods Law (Cap. 267) based on the relevant provisions of the Indian Contract Law and English Law;
- (7) the Trade Marks Law (Cap. 268) as subsequently amended; and
- (8) the United Kingdom Designs (Protection) Law (Cap. 269).

§ 1.16. Mining Legislation.

The following enactments deal with mines and quarries:

- (1) the Mines and Quarries (Regulation) Law (Cap. 270) as subsequently amended;
- (2) the Petroleum Law (Cap. 272) as subsequently amended;
- (3) the Petroleum (Pipelines) Law (Cap. 273); and
- (4) the Petroleum (Protection) Law 1974.

§ 1.17. Personal Relations.

The following laws regulate personal relations:

- (1) the Adoption Law (Cap. 274);
- (2) the Births and Deaths Registration Law (Cap. 275) as subsequently amended;
- (3) the Foreign Marriage Law (Cap. 276);
- (4) the Guardianship of Infants and Prodigals Law (Cap. 277);
- (5) the Illegitimate Children Law (Cap. 278);
- (6) the Illegitimate Children (Legitimation) (Temporary Provisions) Law 1977; and
- (7) the Marriage Law (Cap. 242) as subsequently amended.

§ 1.18. Ports and Shipping.

The provisions relating to ports and shipping are contained mainly in the following enactments:

- (1) the Cyprus Ports Authority Law 1973 as subsequently amended read in conjunction with the Boat Regulation Law (Cap. 288), the Communication with Vessels Law (Cap. 289) and the Foreign Deserters Law (Cap. 290);
- (2) the Cyprus Ports Organization Laws 1973 to 1979 read in conjunction with the Landing and Shipping Charges Law (Cap. 291);
- (3) the Merchant Shipping (Registration of Ship, Sales and Mortgages) Laws 1963 to 1974 read in conjunction with the Merchant Shipping (Safety Regulations and Seamen) Law (Cap. 292);
- (4) the Merchant Shipping (Masters and Seamen) Laws 1963 to 1976;
- (5) the Merchant Shipping (Taxing Provisions) Laws 1963 to 1973;

- (7) the Additional Protocol (Protocol 1) to the Geneva Convention (Ratification) Law, 1979; and
- (8) the Vienna Convention on the Law of Treaties (Ratification) Law, 1976.

§ 1.13. Labour.

With regard to labour reference may be made to the labour provisions contained in various International Conventions especially those of the I.L.O. applicable to the Republic and also to the following Laws;

- (1) the Accidents and Occupational Diseases (Notification) Law (Cap. 176);
- (2) the Bakeries (Night Work) Law (Cap. 177);
- (3) the Children and Young Persons (Employment) Law (Cap. 178);
- (4) the Domestic Servants Employment of Children and Young Persons) Law (Cap. 179) as subsequently amended;
- (5) the Employment of Women (During the Night) Law (Cap. 180);
- (6) the Employment of Women (in Mines) Law (Cap. 181);
- (7) the Hours of Employment Law (Cap. 182) as subsequently amended;
- (8) the Minimum Wage Law (Cap. 183);
- (9) the Port Workers (Regulation of Employment) Law (Cap. 184) as subsequently amended;
- (10) the Shop Assistants Law (Cap. 185) as subsequently amended;
- (11) the Summer Afternoon Recess Law (Cap. 186) as subsequently amended;
- (12) the Trade Disputes (Conciliation, Arbitration and Inquiry) Law (Cap. 187); and
- (13) the Social Insurance Laws 1980 to 1984.

§ 1.14. Local Administration.

The following units of local administration exist in the Republic:

§ 1.14(A). Municipalities.

The municipalities are established in the six main towns of the Republic and in certain rural areas and operating under the Municipal Corporations Law (Cap. 240) as re-enacted by the Municipalities Law 1964. Each municipality is administered by the municipal council headed by the mayor or elected by the townsmen.

§ 1.14(B). Improvement Areas.

The improvement areas are established and operated under the Villages (Administration and Improvement) Law (Cap. 243) as subsequently amended. They are administered by an improvement board consisting of ex-officio members and elected members who are elected by the electors of the improvement area.

§ 1.14(C). Villages.

Villages are operated under the Villages Authorities Law (Cap. 244) as subsequently amended administered by the village commission elected by the electors of the village.

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- (6) the Merchant Shipping (Wireless Telegraphy) Law (Cap. 293) read in conjunction with the Cyprus Ports Authority Law 1973;
- (7) the Quarantine and Customs Law (Cap. 295) read in conjunction with the Cyprus Ports Authority Law 1973;
- (8) the Shipwrecked Passengers Law (Cap. 297) read in conjunction with the Cyprus Ports Authority Law 1973;
- (9) the Wrecks Law (Cap. 298) read in conjunction with the Cyprus Ports Authority Law 1973;
- (10) the Cyprus Ships (Prohibition Transportation) Laws 1966 to 1971;
- (11) the Finishing Vessels (Registration, Sale, Transfer and Mortgage) Law 1971; and
- (12) the Marinas Regulation Laws 1977 to 1979.

Reference also may be made to the International Conventions ratified by the Convention on the Continental Shelf (Ratification) Law 1974 and the Safety of Human Life at Sea Convention (Ratification) Laws 1965 to 1982.

§ 1.19. Postal and Communications.

The following laws deal with Postal and Communications:

- (1) the Aerial Navigation Law (Cap. 299);
- (2) the Aerodromes Law (Cap. 300) as subsequently amended;
- (3) the Cyprus Broadcasting Corporation Law (Cap. 300A) as subsequently amended;
- (4) the Foreign Warship (Wireless Telegraphy) Law (Cap. 301)'
- (5) the Cyprus Telecommunications Service Law (Cap. 302) as subsequently amended;
- (6) the Post Office Law (Cap. 303) as subsequently amended;
- (7) the Submarine Telegraph Law (Cap. 304);
- (8) the Telegraphs Law (Cap. 305) as subsequently amended; and
- (9) the Wireless Telegraph Law (Cap. 307).

§ 1.20. Public Service.

The following laws deal with Public Service:

- (1) the Foreign Service of the Republic Laws 1960 to 1980;
- (2) the Pensions Law (Cap. 311) as subsequently amended and the Public Service Laws 1967 to 1983; and
- (3) the Public Educational Service Laws 1969 to 1979.

§ 1.21. Revenue.

The following legislation deals with revenue matters:

- (1) the Customs and Excise Laws 1967 to 1977;
- (2) the Customs and Excise Duties Laws 1978 to 1984; The Customs and Excise Duties are revised according to various circumstances at very close intervals;
- (3) the Document (Special Duty) Laws 1961 to 1977;
- (4) the Estate Duty Law 1962;
- (5) the Fees and Charges (Manner of Payment) Law (Cap. 320);
- (6) the Immovable Property Tax Laws 1980 to 1984);

- (7) the Immovable Property (Temporary Provision) Law 1970;
- (8) the Immovable Property Towns Tax Law 1962;
- (9) the Income Tax Laws 1961 to 1983;
- (10) the Assessment and Collection of Taxes Laws 1978 to 1979;
- (11) the Playing Cards Excise Law (Cap. 325);
- (12) the Public Revenue Protection Law (Cap. 326);
- (13) the Revenue Survey Law (Cap. 327);
- (14) the Stamp Laws 1963 to 1984;
- (15) the Tax Collection Law 1962; and
- (16) the Wheat and Flour (Import Duties of Customs Variation) Law (Cap. 330).

§ 1.22. Tort.

The subject of tort is dealt with in the Republic by the Civil Wrongs Law (Cap. 148) supplemented where no provision is made by the Common Law.

§ 1.23. Transport and Road Traffic.

The following laws deal with the subject of transport and road traffic:

- (1) the Bulb Horns and Whistles Prohibition Law (Cap. 331);
- (2) the Motor Vehicles and Road Traffic Laws 1972 to 1983;
- (3) the Motor Vehicles (Third Party Insurance) Law (Cap. 333) as subsequently amended;
- (4) the Rule of the Road Law (Cap. 334);
- (5) the Vehicles and Traffic Regulation Law (Cap. 335); and
- (6) the Vehicles Lights Law (Cap. 336).

§ 1.24. Welfare.

The following laws deal with the subject of welfare:

- (1) the Children Law (Cap. 352) as subsequently amended; and
- (2) the Social Insurance Laws 1980 to 1984.

§ 1.25. Future Legislation.

Legislation is in preparation dealing with various subjects such as the Press, Stock and Exchange, Cyprus News Agency and Town and Country Planning.

§ 1.26. Conclusion.

From all the above, it becomes apparent that although the Republic of Cyprus legal system comprises various statutes not based solely on English law but also on various other continental legislation and though continental law is still to be resorted to exclusively in matters of administrative law, nevertheless the common law cardinal rules of legal construction continue to prevail and the Republic of Cyprus may still be considered as a common law country.

FOOTNOTES

1. According to the more recent statistical calculations in 1983 the inhabitants of Cyprus were 654,809 out of whom 81.24% were Greeks and 18.76% Turks.
2. Cf. **Beugnot**: Assizes de Jerusalem in *Recueil des ouvrages de jurisprudence composés pendant le 13^{me} siècle dans les royaumes de Jerusalem et de Chypre* in *Recueil des historiens des croisades Lois I* (1841) 2 (1843).
3. *Op. cit* pp. 501-585.
Op. cit pp. 13-15.
4. The Cyprus Act sections 1 and 2; the Treaty of Establishment (Article 1).
5. **S.A. Smith**: *The New Commonwealth and its Constitution*, London, 1954, p. 296.
6. *Subsidiary Legislation of Cyprus, Vol. II, The Rules of Court* (which continue to be in force) Nicosia, 1955.

**OFFSHORE OPERATIONS; SHIPPING
OPERATIONS AND SHIPPING
COMPANIES; FOREIGN INVESTMENTS;
AND TRANSIT TRADE**

CHAPTER TWO

THE LEGAL SYSTEM OF THE REPUBLIC OF CYPRUS

SECTION TWO

**OFFSHORE OPERATIONS; SHIPPING OPERATIONS AND
SHIPPING COMPANIES; FOREIGN INVESTMENTS;
AND TRANSIT TRADE**

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CHAPTER TWO

THE LEGAL SYSTEM OF THE REPUBLIC OF CYPRUS

SECTION TWO

OFFSHORE OPERATIONS; SHIPPING OPERATIONS AND
SHIPPING COMPANIES; FOREIGN INVESTMENTS;
AND TRANSIT TRADE

§ 1.1. Offshore Operations.

§ 1.1(A). Meaning and Modes of Operation.

By Offshore Operations, we mean any operation in Cyprus by an alien for the management and control of a business carried out outside Cyprus by persons who are not citizens of the Republic, the object of which lies outside Cyprus and which derives its income from sources outside Cyprus (c.p. the Income Tax Laws 1961 to 1984, Section 28A; *Chrysis Demetriades*, *Cyprus in International Tax Planning*, London (1980), p. 119 seq.).

There are many reasons for choosing Cyprus as a centre for such operations, but I am not embarking on their examination as they do not fall within the purview of this note which is strictly legal. For details of such reasons, cf. *Demetriades* op. cit. p. iii to vii; *Coopers and Lybrand, Ioannou, Zambellas and Co.*, Cyprus; *The way for businessmen and investors*, 1981, p. 9 seq.; *idem* Memorandum on the Suitability of Cyprus as a Location for the Establishment Employment Companies, 1984; *idem* Report on the suitability of Cyprus as a Location for Regional Headquarters, Nicosia, 1984; Cyprus, an Offshore Financial Centre by Central Bank of Cyprus, Nicosia, 1982, p.p. 13 to 21; *Pol. Sarris*, Cyprus, Legal Status of Offshore Companies, Nicosia, September, 1983; for taxation concessions and other incentives, cf. *Chrysostomides* the legal aspects of foreign investments in Cyprus, Athens, 1977, p. 13 seq.

From a strict legal point of view, offshore operations may be carried out either by an individual or by a body of persons corporate or unincorporated. The method, however, of operation by an individual is neither favoured nor always feasible in practice. Though the individual has to fulfil all the obligations imposed on a body of persons, such as the obligation for permits under the Aliens and Immigration Regulations, 1972, and under the Exchange Control Law (Cap. 199, as subsequently amended), yet it may not enjoy all its benefits, especially that relating to Income Tax. In practice, on the other hand, it may become impossible to secure a business permit for an individual under Regulation 12 of the aforesaid regulations.

The method of carrying out offshore operations by joint adventure cannot be resorted to. A joint adventure is an agreement between two or more persons jointly with a view to carry out a specific business for a specified time for a profit or loss. A joint adventure as a rule does not constitute a partnership (cf. *Halsbury's*, *The Laws of England*, Vol. 35, p. 8 seq. London 1981, *The Partnership and Business Names Law*, (Cap. 116, as subsequently amended) Section 6 (b)).

The same considerations as those applicable to an individual apply to a joint adventure

except in the case where such adventure constitutes a partnership. This is all the more so as a joint adventure ordinarily relates to a single transaction usually of a temporary nature. Apart, however, from the legal concept, a joint adventure colloquially means the participation in a branch of business and economic activity.

It therefore follows that the only method for carrying out offshore operations is by a body of persons either corporate, such as a company, or unincorporated, such as a partnership.

§ 1.1(B). Offshore Companies.

The legal concept of a company, its formation and incorporation and the manner of its functioning, are provided by the Companies Law (Cap. 113, as subsequently amended) which is entirely based on the Companies Act, 1948.

That law differentiates between local companies registered and incorporated in Cyprus and overseas companies incorporated outside in Cyprus as defined in section 346. The latter, by registering an office in Cyprus under section 347, are carrying on business in Cyprus although not a Cyprus Company.

Any person may become a member of a local company, but under the Exchange Control Law (Cap. 199 as subsequently amended) any person who is not resident in Cyprus for becoming a member of a local company requires a permit from the Central Bank of Cyprus (section 10 of that law read in conjunction with section 34 of the Central Bank of Cyprus Laws 1963 and 1979).

The distinction between onshore companies and offshore companies is not a legal one, as those terms are not defined either by the common law or by any legislation. In practice, however, the term onshore companies is taken to refer either to local companies registered and incorporated in Cyprus or to overseas companies having a branch and doing business in Cyprus under section 347 of the Companies Law.

An offshore company, on the other hand, is a local company incorporated in Cyprus which is not doing any business in Cyprus except the control and management of a business carried on outside Cyprus and the shareholders of which are not residents in Cyprus within the meaning of the aforesaid Exchange Control Laws.

The notion of an offshore company, although not expressly mentioned as such, has appeared in the Cyprus legislation since 1975, when, by the Income Tax (Amendment) Law 1975, for the first time companies whose shareholders were exclusively aliens and which derived their profits exclusively from activities carried out outside Cyprus were exempted from Cyprus tax. (Section 3(c) ($\kappa\gamma$)). That provision, however, was amended in 1977 by a new section added to the income tax legislation, section 28A (1), which subsequently has been amended and today stands as follows:

“28A.(1). In the case of a company, incorporated in the Republic as well as in the case of a company registered under section 347 of the Companies Law and having the management and control of its business in the Republic the shares of which belong directly or indirectly exclusively to aliens, and which derive income from sources outside the Republic:

- (a) from the carrying on of any business the object of which lies outside the Republic; or
- (b) from the investment of capital in bonds, shares, debentures or loans of any nature; or
- (c) from any royalties; or
- (d) from immovable property,

tax is imposed on the chargeable income, after deducting any tax which is payable outside the Republic, at rates of tax equal to one-tenth of the rates set out in paragraph 2 of the Second Schedule, and the provisions of sections 42 and 43 do not apply.”

It is also provided by section 5(2) (a) of the Income Tax Laws that for the purposes of section 5:

“(a) the whole of the income derived by any person from gains or profits in any trade or business shall be deemed to be derived from the Republic if the control and management of such trade or business are exercised in the Republic:

“Provided that in the case of a company incorporated in the Republic, the shares of which directly or indirectly belong exclusively to aliens the whole of the income is deemed to be accruing in or derived from the Republic irrespective of the place where the control and management of its business is exercised; . . .”.

For the purpose of taxing concessions under the aforesaid section 28(A) (1) of the income tax laws, a company incorporated in Cyprus and an overseas company having a registered office in Cyprus under section 347 of the Companies Law, the control and management of which is made in Cyprus, are put on the same footing. However, this does not change the legal position and the legal nature of each such company.

The distinction between a company incorporated in Cyprus and an overseas company carrying on business under section 347 of the Companies Law does not lie in the difference of the place wherefrom the control and management of its company is made, since in both cases the control and management of the company is made in Cyprus—in the case of a local company under the provisions of the Companies Law and in the case of an overseas company under the provisions of the aforesaid section 28(A)—but in the extent on business carried on in Cyprus by each company respectively.

A company incorporated in Cyprus cannot carry out any other business in Cyprus except the control and management of the overseas business, whilst an overseas company carrying on business in Cyprus under section 347 may carry on any business of the overseas company in Cyprus. But the taxing concessions in section 28(A) apply only to that part of the business which is carried on outside Cyprus and fulfills the conditions of that section.

So it is only a company incorporated in Cyprus which is considered to be an offshore company.

The Central Bank in granting a permit under section 10 of the Exchange Control Law to a non-resident to acquire shares in an offshore company imposes various conditions, most of which are statutory, but the basic of which is that the offshore company is not to carry on in Cyprus a business other than the control and management of the overseas business (cp. **Demetriades**: op. cit. p. 125). Such condition appears to be within the purview of the principles laid down by the Supreme Court in the case of **Karayiannis & Another v. Republic** (1980) C.L.R. p. 108.

From the aforesaid section 28A it follows that:

- (a) a tax is paid at a reduced rate on all the income of the offshore company or of a branch of a foreign company doing business in the circumstances provided by that section derived in the instances described in that section;
- (b) that tax is paid after deducting from the income any tax which is payable outside Cyprus and no provision of any agreement relating to reciprocal exemption or credit for the avoidance of double taxation becomes therefore applicable; and
- (c) with regard to income derived from the investment of Capital in bonds, shares, debentures or loans of any nature, no further tax is payable except the tax at a reduced rate provided by section 28A. If, therefore, the offshore company pays

interest or royalties to another company outside Cyprus, no tax is payable by the recipient company.

Also, in case of a dividend which is payable out of profits taxed at the above reduced rates, no further tax is payable in addition to the amount of tax deducted by the company from such dividends and no refund can be made.

The employees of an offshore company, if they are aliens, have to comply with the Aliens and Immigration Regulations of 1972, especially regulation 11, and must obtain an employment permit thereunder. Such a permit, as a rule, is granted if the employment of the alien is in a key and confidential post; if it is necessary for the company to have such employee; and if there is no personal security reason to the contrary.

The emoluments of such employees are liable to tax at rates of tax equal to one-half of the normal rate set out in paragraph 1 of the Second Schedule (Income Tax Laws, section 28 B. (1).

Section 28B of the Income Tax Laws reads as follows:

“28B. (1) The emoluments of an alien individual from the rendering of salaried services in the Republic to a partnership or a company the profits of which are exempt from tax under the provisions of paragraph (w) of section 8 or to a company the profits of which are liable to tax at reduced rates under section 28A, are liable to tax at rates of tax equal to one-half of the rates set out in paragraph 1 of the Second Schedule.

“(2) The emoluments of an alien individual from the rendering of salaried services outside the Republic as well as the pension of any person for services so rendered, which are received in the Republic, are liable to tax at rates of tax equal to one-tenth of the rates set out in paragraph 1 of the Second Schedule.”

It is clear that the emoluments of an alien employee for services rendered in Cyprus to an offshore company or offshore partnership, in the circumstances provided in the section 28B (1), are liable to Cyprus income tax at the rate of one-half of the ordinary rates whilst the emoluments of an alien employee for services rendered outside the Republic which are received in the Republic are liable to a Cyprus tax equal to one-tenth of the ordinary rate. Such employee is not liable to pay any contributions to the Social Insurance Fund under the provisions of the Social Insurance Law 1980. Neither the employee nor the employer is deemed to be carrying on business in Cyprus (see Part II of Schedule and also the decision of **Stavrinakis** communicated by letter dated 1st January 1984 as a Minister of Labour on hierarchical recourse of Middle East Petroleum & Economic Publication (Cyprus)).

An offshore company is not liable to any Capital Gains Tax under the Capital Gains Law 1980 (section 5 (3) (c), nor to any special contribution under the Special Contribution (Temporary Provisions) Law 1976 (section 6 (d).

Furthermore, the definition of property which is liable to duty in the Estate Duty Laws 1962 to 1976 excludes the shares of a shipping company and of any other offshore company, owned by persons who are not domiciled in Cyprus, from the payment of such tax. (Section 2).

§ 1.1(C). Offshore Partnership.

Partnership is a legal concept defined by section 5 of the Partnership (General and Limited) and Business Name Law (Cap. 116 as subsequently amended) as the relation which subsists between persons carrying on business in common with a view of profit.

Kurt Kingsfield and the Republic of Cyprus, through the Minister of Finance and the Commissioner of Income Tax (1965) 3 C.L.R. p. 45 at p. 58.

The aforesaid law is based on the Partnerships Act 1890 and a partnership thereunder is not a corporate body. The partnership, whether general or limited, has to be registered in the manner provided in that law. (Section 50).

An offshore partnership is a partnership, the partners of which are all aliens, carrying on business, the object of which is outside the Republic (cp. section 8(y) of the Income Tax Laws) as in the case of an offshore company. For this purpose, Cypriots established abroad and permanently residing abroad, without being at the same time residents of Cyprus, are considered as aliens. Before registering any such partnership, the permit of the Central Bank under section 10 of the Exchange Control Law is required. The Central Bank in granting such permit imposes similar conditions to those imposed in the case of an offshore company, the basic one of which is that the partnership shall not carry any other business in Cyprus than the control and management of the business carried on outside the Republic.

The partners in an offshore partnership are exempted from the payment of any income tax (para. (y) cited above), but in any other respects as aliens they are subject to the provisions of the Aliens and Immigration Regulations 1972. It is also exempted from any income tax if it is a company registered under section 347 of the Companies Law not having the management and control of its business in the Republic, the shares of which belong directly or indirectly exclusively to aliens which is a partner in any such partnership (para. (y) as above).

The mode of carrying on an offshore operation through an offshore partnership is not particularly favoured and an offshore company is preferred in this respect. This may be due to the fact that under Cyprus law a partnership is not a corporate body and also to the unlimited liability of the general partner. Furthermore, from the taxing point of view, a general partner, in spite of the existing exemption of an offshore partner, may be exposed to more risk of taxation than a shareholder in a company.

It is for these reasons that the number of offshore companies has increased in comparison with that of offshore partnerships. The number of offshore companies until the end of 1983 was 2,126, whilst that of an offshore partnership was only 15.

Such numbers compared with those at the end of 1979 (614 offshore companies and 11 offshore partnerships) prove beyond any doubt the preference of an offshore company to that of offshore partnerships.

§ 1.2. Shipping Operations and Shipping Companies.

By the expression "shipping companies" in this part is meant a company registered in Cyprus to own a Cyprus ship or to carry on ship operations in accordance with shipping legislation in force for the time being. The number of shipping companies registered in Cyprus in 1983 was 300 out of which 28 were offshores.

The mentioned Shipping Acts 1894 to 1954 were in force in Cyprus on the establishment of the Republic (sections 91, 264, 365, 366 and 712 of the Merchant Shipping Act 1894) and were, therefore, under Article 188 of the Constitution saved as a law in force in the Republic. It was found necessary, however, to enact special legislation dealing with certain matters covered by those acts. So the following legislation was enacted and is now in force in Cyprus:

- (a) the Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws 1963 to 1982, based on part I of the aforesaid acts with certain deviations necessary under the local conditions;
- (b) the Merchant Shipping (Masters and Seamen) Laws 1963 to 1976 which was mainly based on the Merchant Shipping Act 1894 and on the regulations 31, 32, 40 and 45 of the Merchant Shipping Act 1906; and
- (c) the Merchant Shipping (Taxing Provisions) Laws 1963 to 1982.

For the purpose of encouraging merchant shipping in Cyprus, certain concessions were made by the last of these laws. Thus, notwithstanding anything in the income tax laws that no tax shall be charged, levied, or collected on:

- (1) the income derived by the owner of a Cyprus ship from the operation of such ship by the use thereof in any navigating operation between Cyprus and ports abroad or between ports abroad (other than a fishing operation), provided that where a Cyprus ship mainly used in navigating operations in Cyprus only is also used in navigating operations outside Cyprus (other than fishing operations) accounts of such navigating operations outside Cyprus, showing the profit made from, or the loss sustained in, each one of them shall be kept and submitted to the Commissioner of Income Tax of the Republic promptly upon the conclusion of each such operation; and
- (2) the dividend paid to the shareholders or the members of a corporation owning a Cyprus ship out of profits made from the operation of such ship as in paragraph (1) above provided, or upon the dividend paid to the shareholders or the members of a corporation out of its share in profits similarly made by a Cyprus ship. (Section 3).

This concession was made for a period of ten years starting from the date of the coming into operation of the law (i.e., June 25, 1963); but, by two decisions of the Council of Ministers, the period was extended. By the last decision of the Council of Ministers (22.899 of March 17, 1983, cf. the official gazette of the Republic, supplement No. 4 p. 24), this period was extended to June 24, 1993.

By those laws, an annual tonnage tax is imposed on a Cyprus ship at the rates and in accordance with the provision set out in the Schedule commencing with the 1st day of January of the year following her registration as a Cyprus ship. (Section 4.)

Whenever any member of the crew employed on a Cyprus ship is not a citizen of the Republic, a monthly fee of one pound is payable in respect of each such person. (Section 6.)

Under section 5 of the first aforesaid laws, a ship shall not be considered a Cyprus ship unless more than one-half of the shares are owned:

- (a) by a Cypriot;
- (b) by a corporation established and operating under and in accordance with the Laws of the Republic and having its registered office in the Republic; or
- (c) if specially authorized by a decision of the Council of Ministers by a corporation incorporated outside the Republic in which the controlling interest is vested in Cypriots.

The total number of ships registered in Cyprus on March 30th, 1984 was 1,320 out of which 1,200 are permanently registered and 120 are temporary registered.

In addition to the concessions referred to in paragraph 3(a) above with regard to persons who are non-residents in the Republic carrying on a shipping business, another concession is made by section 28 of the aforementioned income tax laws. By that section, such person is exempted from the payment of any income tax if the Minister of Finance is satisfied that a similar exemption is granted by the country in which such person is resident to residents of the Republic.

Of course, this provision is independent from any agreement for reciprocal exemption for the avoidance of double taxation.

§ 1.3. Foreign Investments.

§ 1.3(A). Generally.

No investment can be made in the Republic by a resident outside the Republic without a permit by the Central Bank of Cyprus granted under the provision of the Exchange Control Law (Cap. 199). The Central Bank as a rule issues such a permit in cases when the investment tends to promote the economy of Cyprus and particularly to encourage productive activities in general to accelerate restructuring of the Cyprus economy and to further its export orientation. For this purpose, certain safeguards exist and certain incentives are offered.

With regard to investments for the acquisition of immovable property in Cyprus, no such acquisition, other than by inheritance, can be made by an alien except under a permit granted by the Council of Ministers, cf. the Immovable Property (Acquisition by Aliens) Law (Cap. 109) as amended by laws 52 of 1969 and 55 of 1972, section 3. For the purpose of that law, the expression alien means a person who is a non-citizen of the Republic and includes a company controlled by aliens (cp. *Spartacos Estate v. Republic* (1978) 3 C.L.R. p. 365), but it does not include a Cypriot alien or the alien wife of a Cypriot who is not separated from her husband by an order of the court. For further details, cf. *Demetriades op. cit.* pp. 87-95.

§ 1.3(B). Constitutional Safeguards.

The Constitution of Cyprus by Part II guarantees certain fundamental rights and liberties to every person including aliens, and not only to citizens of the Republic as other Constitutions.

Among the fundamental rights guaranteed by the constitution is the right to property guaranteed and protected by Article 23.

Paragraph 1 of that Article runs as follows:

“1. Every person, alone or jointly with others, has the right to acquire, own, possess, enjoy or dispose of any movable or immovable property and has the right to respect for such right; and “The right of the Republic to underground water, minerals and antiquities is reserved.”

What is the right of property is not defined in the Constitution, but it has been decided by the Supreme Constitutional Court in *Evlogimenos v. The Republic* 2 R.S.C.C. p. 142. It is that the right so guaranteed is not a right *in abstracto* but a right defined and regulated by the civil law.

No deprivation, restriction, or limitation of any such right shall be made except as provided in that Article. (Paragraph 2.) Such deprivation, restriction, or limitation

should be made only on the prescribed purposes (such as public safety, public morals, public health, public town country planning or the development and utilization of any property to the promotion of the public benefit or the protection of the right of others) as may be provided by law and only on payment of just compensation. (Paragraph 3.)

Any movable or immovable property or any rights thereon may be compulsorily acquired by the Republic or in other corporation as may be provided by law and only for the purpose of:

- (a) public benefit which is specially provided by a compulsory acquisition law;
- (b) such purpose as clearly established by a decision of the acquiring authority stating clearly the reason in such acquisition; and
- (c) upon the payment in cash and in advance of a just and equitable compensation to be determined in case of disagreement by a civil court. (Paragraph 4.)

It is clear from those provisions that the acquiring authority cannot be any private person but only the state or a public authority on which the right of acquisition was expressly provided by law and the property acquired shall be utilized in the purpose for which it has been acquired. If within three years from the acquisition such purpose is not attained, the property shall be offered by the acquiring authority to the owner at the same price at which it was acquired. (Paragraph 5.)

It follows further that a property cannot be compulsorily acquired for one person in order to be given to other person (a *contrario* from paragraph 6 in case of agricultural reform).

The details and the procedures to be followed are laid down in the Compulsory Acquisition Laws 1962 to 1983.

The Constitution of the Republic of Cyprus does not contain any provision authorising nationalization like the constitutions of some other countries.

The provision of paragraph 3 of Article 25 provides for an exception by law to provide that certain enterprises of the nature of an essential public service or relating to the exploitation of sources of energy or other natural resources shall be carried out exclusively by the Republic or a municipal corporation or by a public corporate body created for the purpose by such law and administered under the control of the Republic, and having a capital which may be derived from public and private funds or from either such source only. It may be safely assumed that it is only in this case and subject to such conditions that a nationalization may take place (cf. *Tornaritis: Expropriation and nationalization of private property under the law of the Republic of Cyprus, Nicosia (1970) p. 20*). But even in the case of the permitted nationalization, if the enterprise has been carried out by any person other than a municipal corporation or a public corporate body, the installations used for such enterprise shall, at the request of such person, be acquired, on payment of a just price, by the Republic or such municipal corporation or such public corporate body, as the case may be.

Furthermore, the International Convention on the Settlement of Disputes between the State and National of another States prepared by the World Bank of Reconstruction and Development dated 18th March 1965, having been ratified by law 64 of 1966 and established in Annex I of the official gazette of the Republic of October 27th, 1966, is a part of the law of the Republic having superior force to any municipal law under Article 169(3) of the Constitution.

§ 1.3(C). Incentive and Taxing Exemptions.

For the purpose of encouraging the inflow of foreign capital in Cyprus either by foreigners or by Cypriots permanently established abroad the following incentives are offered.

§ 1.3(C) (1). Double Taxation Agreements and Unilateral Relief Conventions.

Cyprus has a wide and expanding network of double taxation agreements. Agreements for the avoidance of double taxation (cf. the Income Tax Law, Sections 41 and 42) currently in force are with the United Kingdom, Denmark, Sweden, Ireland, Norway, Greece, the Federal Republic of Germany, Czechoslovakia, Hungary, Italy, France, the Soviet Union, the German Democratic Republic and Romania. Similar agreements with the United States, Canada, Kuwait, Bulgaria and Yugoslavia await ratification or are under negotiation.

Under the above agreements, a credit is allowed in respect of a tax levied by the country in which the taxpayer resides. Thus, if a company controlled, say, in the United Kingdom trades in Cyprus through "a permanent establishment" situated in Cyprus, it will pay a tax on its trading profits both in the United Kingdom and in Cyprus, but a tax credit in respect of the Cyprus tax will be allowed against the United Kingdom tax, so that the company will not pay more than the higher of the two taxes.

Income tax paid in a country, with which no double taxation agreement has been entered into, on income arising there, and which is also liable to Cyprus tax, is allowed as a deduction from the Cyprus tax. (The Income Tax Laws, Section 43.)

§ 1.3(C) (2). Exemption From Income Tax of Interest Received on Foreign Capital.

In order to encourage the inflow of foreign capital, the income of any person derived by way of interest on foreign money capital imported into the Republic and deposited with any bank operating in Cyprus is tax exempt. (The Income Tax Laws, Section 10 (1).)

The Minister of Finance is empowered to exempt from tax, under such conditions and restrictions as he may impose, income derived by way of interest on foreign money capital borrowed and invested by any person in the Republic, if he is satisfied that such investment contributes substantially to the economic development of the Republic. (The Income Tax (Amendment) Law 1984 (hereinafter referred to as Law 33 of 1984 (Section 4).)

§ 1.3(C) (3). Reduced Income Tax Rates for Foreign Investment Income.

The foreign investment income of persons who are not citizens of the Republic of Cyprus and of Cypriots who in the past were living abroad, which is remitted to Cyprus, is tax exempt up to the amount of £2,000 per annum, whereas the tax rate for any amount in excess of £2,000 per annum is only 5%. (The Income Tax Laws, Sections 5 (2) (c) (1) and 28 (c).)

§ 1.3(C) (4). Tax Incentives for the Industrial Free Zone at Larnaca.

§ 1.3(C) (4) (a). In Summary.

The free zone at Larnaca was established and operates under the provisions of the Free Zones Law 1975. In principle, the whole range of tax incentives applies uniformly for business operating both within and out of the Free Industrial Zone at Larnaca. But for enterprises located in the Free Zone, the following additional tax advantages are granted:

§ 1.3(C) (4) (b). Reduced Income Tax Rates on the Emoluments of Foreign Employees.

The emoluments of foreign employees from the rendering of salaried services to partnerships or companies, the installations of which are in the free zone, are liable to income tax at rates equal to one-half of the normal rates. (Section 28B of the Income Tax Laws as amended by Section 6 of Law 33 of 1984.)

§ 1.3(C) (4) (c). Dividends Derived by Foreign Investors From Companies Established in the Free Industrial Zone.

The income from dividends derived by foreign investors from shares in companies established in the Free Industrial Zone at Larnaca, for a period of ten years starting from January 1st, 1983, are taxed either at the rates applicable to the recipient of such dividends or at the rate on which the company paid tax on the profits out of which the dividends had been paid, whichever is the lower. If, for example, a company in any year owing to book losses, as a result of the various allowances and exemptions, pays no tax, any dividend distributed out of the profits of the company is exempted from the tax in the hands of the recipient foreign shareholder. If, on the other hand, the company paid tax on its profits out of which the dividend was distributed and the recipient foreign shareholder is not liable to tax as a result of allowances, he is entitled, as in any other case, to obtain a repayment of the tax paid by the company which is deemed to have been deducted from the dividend. (Section 28D of the Income Tax Laws as set out in Section 7 of Law 33 of 1984.)

§ 1.3(C) (5). Reduced Income Tax Rates for Pensions Received from Abroad.

Pensions which are received from abroad are taxed at one-tenth (1/10) of the ordinary rates. (Law 33 of 1984, Section 28B (2).)

§ 1.3(C) (6). Exemption From the Estate Duty.

Any property in Cyprus belonging to a person who, at the time of his death, was domiciled in Cyprus is exempt from estate duty, if it was acquired from the importation into Cyprus of foreign money capital, provided that the person in question at any time prior to his death was permanently resident outside the Republic. The Estate Duty Laws 1962 to 1976, Section 2, (definition of "estate").

§ 1.3(C) (7). Exemption From the Capital Gains Tax.

Any gain resulting from the disposal of immovable property belonging to a person who is not domiciled or permanently residing in Cyprus, which was acquired from the importation into the Republic of foreign money capital, is exempt from the capital gains

tax (which is imposed on gains resulting from the disposal of immovable property at the rate of 20%), The Capital Gains Tax 1980, Section 2 (definition of "property").

§ 1.3(C) (8). Exemption From Import and Excise Duties for Intending Residents.

Wearing apparel and other personal effects, household goods and furniture, professional tools and appliances, guns which are not prohibited, videos, yachts and any other goods which an intending resident and his dependents may, in the opinion of the Director of the Customs and Excise Department, be reasonably required can be imported into the Republic duty-free. In addition, cars imported by Cypriots who have lived permanently for at least ten years abroad and/or by foreigners who intend to take up permanent residence in Cyprus can be imported free of import and excise duty. Customs Duty (Personal Reliefs) Order 1973, paragraph 7, Schedule 4.

§ 1.3(D). Incentive and Taxing Exemption Applicable Both to Foreign and Local Investments.

§ 1.3(D) (1). Tax Incentives to Encourage the Production of New Products.

In order to promote the objective of diversifying and widening the scope of manufacturing activity, a ten-year full-tax holiday is being offered for manufacturing enterprises producing new products. According to this incentive, profits of manufacturing enterprises, which commenced operations within three years starting from April 6th, 1984, derived from the manufacturing of new products are exempted from income tax during the first ten years of operation. Commencement of operations is deemed to be the commencement of production. The incentive takes the form of a complete tax exemption of dividends declared out of such profits and the imposition of a tax at NIL rate on the profits of the enterprise.

New products are defined as those not being produced before April 6th, 1984 and falling within a category of products specified by the Council of Ministers in the form of regulations which are approved by the House of Representatives, Section 8 of the Income Tax Laws as set out in section 3(e) of Law 33 of 1984.

§ 1.3(D) (2). Tax Incentives to Encourage Investment in Fixed Assets.

Some of these incentives are of a general nature, whereas others are more selective, designed to encourage fixed investment in priority sectors and/or investment in fixed assets of a specific nature. The main ones of these tax incentives are the following:

§ 1.3(D) (2) (a). Investment Allowance.

The purpose of this allowance is to encourage investment in any form of fixed assets, with the exception of buildings which are erected for self-housing purposes; the allowance is granted in addition to the normal annual wear and tear allowance and is differentiated according to the nature of the fixed assets as follows:

INVESTMENT ALLOWANCE

Fixed Asset	Percentage of capital expenditure incurred which is allowed as investment allowance	
	Public Companies	Other Businesses
Plant and Machinery	45%	30%
Industrial Buildings	30%	20%
Other Buildings (excluding buildings erected for self-housing purposes)	15%	10%

Capital expenditure incurred by a manufacturing enterprise on the acquisition of new plant and machinery, including secondhand plant and machinery imported from abroad, during the three-year period beginning from January 1st, 1984 is eligible to an increased investment allowance of 45%. In the case of a public company, an increased investment allowance of 55% is granted for the same period. (Law 33 of 1984, Section 5 (a).)

The investment allowance granted with respect to expenditure incurred on the construction, reconstruction, extension or adaptation of property consisting of hotel and other tourist buildings is differentiated according to the location and type of the investment reflecting the economic policy objectives to achieve a regionally balanced tourist development, to enrich the tourist trade and to attract tourists from middle and higher income groups. In the case of a public company, the investment deductions allowed are increased by fifty per cent. (Law 33 of 1984, Section 9.)

§ 1.3(D) (2) (b). 100% Accelerated Depreciation.

The purpose of this incentive, which is granted in the place of the normal wear-and-tear allowance, is to encourage investment in the manufacturing and agricultural sectors of the economy.

According to this incentive, any capital expenditure incurred during 1983 and 1984 on the acquisition of fixed capital assets composed of new plant and machinery and/or on the construction of industrial buildings in the manufacturing sector, is allowed as a deduction from income in the year in which it is incurred. If there are no profits, these can be carried forward for an indefinite period. In cases where the Commissioner of Income Tax is satisfied that such acquisition or construction started within 1983 or 1984, but it was not found possible to be completed within this period, such expenditure is allowed if it is incurred before the end of 1985. (Law 41 of 1983.)

In addition, any expenditure incurred by an agricultural or livestock business during 1983 and 1984 for the acquisition of new machinery used for agricultural or animal breeding purposes is allowed as a deduction from income in the year in which it is incurred. If the Commissioner of Income Tax is satisfied that such an acquisition

commenced within the above period, but has not been completed, such an expenditure is allowed if it is incurred before the end of 1985. (Law 41 of 1983, Section 2 (c).)

The incentive of the immediate depreciation allowance is granted in addition to the investment allowance; as a result, a total of 145% (in the case of public company 155%) of the capital expenditure on plant and machinery and 120% (in the case of public company 130%) of the capital expenditure on industrial buildings in the manufacturing sector is allowed as a deduction from income in the year in which it is incurred. This, combined with the fact that, according to existing legislation, losses can be carried forward indefinitely and be set off against future income, is under normal circumstances equivalent to a tax holiday for a quite significant number of years.

§ 1.3(D) (2) (c). Incentive to Encourage Self-Financing of Investment.

The purpose of this incentive is to encourage the use of company profits to finance productive investment and to increase the capitalisation rate of companies. According to this incentive, the profits of any company, irrespective of the sector of the economy in which it operates, which are deposited in a special account outside the business after January 1st, 1981 and which are used for the financing of capital expenditure on new machinery, are taxed at the reduced rate of 25% instead of the standard company tax rate which is 42½%. (Second Schedule of the Income Tax Laws, Section 4 (a).)

§ 1.3(D) (2) (d). Tax Incentives to Encourage Investment in the Mining Sector.

In order to encourage the prospecting for and the exploration of the mining reserves of the country (in cases, of course, when such an exploration is regarded as promoting the interests of the Republic and, therefore, the necessary licence is granted), capital allowances are granted in respect of all capital expenditure including expenditure on searching for or on discovering and testing mineral deposits or winning access thereto or on development, and on general administration and management prior to the commencement of production, as well as any expenditure on the acquisition of the site of the source or of rights in or over the deposits. In the first year, the initial allowance is at the rate of 25% on the capital expenditure incurred on the provision of plant and machinery and 10% on any other capital expenditure. The balance of expenditure is depreciated annually, the allowance depending on the output from the source during a year, or at 5%, whichever amount is greater. The Income Tax Laws, First Schedule, Section 4 (1) (i).

The initial and annual allowances stated above are granted to any person who incurs expenditure on searching for or on discovering and testing mineral deposits or winning access thereto. As a more attractive incentive for prospecting for and discovering and testing mineral deposits, it is further provided that in cases of any abortive expenditure on exploration for minerals, an amount equal to 130% of the expenditure so incurred is deducted from the chargeable income.

§ 1.3(D) (2) (e). Duty-Free Importation of Capital Goods.

Under the existing Customs Tariff, practically all plant and machinery can be imported into Cyprus free of any customs duties. A wide variety of consumer durables for the use of the hotel industry are also usually admitted duty-free. In addition, no sales taxes are imposed on any form of capital equipment or buildings.

§ 1.3(D) (2) (f). Protective Tariffs.

It is the policy of the Government to afford protection to local industries which have prospects of developing into viable concerns, but which require a period of protection before they can undertake to meet foreign competition. The criteria for protection are: quantity (whether production is sufficient to satisfy local demand), quality (whether it is of an acceptable standard) and price. The Cyprus Customs Tariff is revised from time to time with a view to affording such protection to local industries.

§ 1.3(D) (3). Tax Incentives to Encourage Mergers.

In order to encourage the increase in the size of existing companies in cases when such an increase is expected to result in an increased operational efficiency, the law gives the Minister of Finance the power to grant an additional investment allowance of 25% on the value of the plant and machinery of merging firms, provided he is satisfied that the interests of the Republic are best served by the merger. The Minister may specify any conditions he may regard appropriate in each case. (The Income Tax Laws, Section 12 (2) (b) Proviso.)

§ 1.3(D) (4). Special Tax Incentives for Public Companies.**§ 1.3(D) (4) (a). Definition of a Public Company.**

For income tax purposes a "public company" is defined as a company which has issued a prospectus in the Republic and in which:

- (1) the number of shareholders holding shares with voting rights is not less than 200;
- (2) with the exception of Government, public utilities and companies in which the Government has a majority participation, no other shareholder holds directly or indirectly, alone or with his wife and relatives of first degree by blood or marriage, shares with voting rights more than 49% of the voting shares. In the event of marriage or inheritance, a transitional period of four years is granted for the relatives to restore the maximum permissible percentage participation if it is exceeded;
- (3) the major shareholders, defined as those persons holding directly or indirectly at least 10% of the voting shares, do not own together more than 70% of the shares with voting rights; and
- (4) the issued and paid up capital is not less than £300,000. A wholly-owned subsidiary, whether directly or indirectly, is also considered as a public company. Furthermore, the companies satisfying the previous definition are given a grace period of five years from January 1st, 1983 to comply with the provisions of the new definition.

§ 1.3(D) (4) (b). Reduced Income Tax Rate.

Public companies established and registered in the Republic after January 1st, 1975, including private companies which are by merger or otherwise converted into public, are taxed with respect to their profits not including interest, dividends, and rents during the first ten years from the date when they start their operations or from the date when they

are converted into public at the reduced rate of 25% instead of the standard company rate of 42½%. (Income Tax Laws, First Schedule, Section 4 (b).)

§ 1.3(D) (4) (c). Tax-Free Dividends.

Dividends derived by an individual and his dependents from shares in public companies are tax exempt up to the aggregate amount of £600 per annum. (Law 33 of 1984, Section 3 (b).)

§ 1.3(D) (4) (d). Tax Allowance for Investment in Shares of New Public Companies.

An amount equal to 30% an individual invests in shares of new public companies is deducted from his taxable income on condition that he will have kept those shares until, at least, the end of the following year. The amount the individual is allowed to deduct cannot be greater than 25% of his gross assessable income before the deduction of the personal allowances and his tax saving cannot be greater than 40 cents in every pound deducted from his taxable income (1£ = 100 cents). (The Income Tax Laws, Section 8 (z) and Law 33 of 1984, Section 3 (d).)

§ 1.3(D) (4) (e). Conversion of a Private Company into a Public Company.

This incentive benefits the shareholders of private companies who convert them into public companies. An individual who was a shareholder of a private company converted into a public company can deduct from his taxable income 30% of the amount invested by him in the public company in the form of shares. If, due to the restriction that the deduction cannot exceed 25% of the assessable income of a person, the full amount is not deducted in the first year of conversion, any balance remaining can be relieved in the following four years, subject always to the 25% restriction. (For all the above cf. Section 2 and 3 of Law 33 of 1984.)

§ 1.4. Transit Trade.

§ 1.4(A). Generally.

Cyprus, owing to its geographical situation and other advantages which are not examined in this paper being strictly a legal one (details of which cf. *Demetriades op. cit.* pp. 113-114), has always been an attractive place for transit trade. For this purpose a free zone and bonded factories and warehouses have been established.

§ 1.4(B). Free Zones.

Free zones are provided and regulated by the Free Zones Law 1975.

Under this law and the regulations met thereunder, that is to say the Free Zones (Customs Regulations) 1981 and Free Zones (Administration and Control) Regulations 1981, the Council of Ministers is empowered to declare by an Order published in the official gazette of the Republic any area described in this Order to be a free zone under the provisions of such law.

A free zone is under the administration and control of the Minister of Commerce and Industry subject to regulations made by the Council of Ministers. Such regulations now in force are the Free Zones (Administration and Control) Regulations 1981.

No person can carry on any trade business or manufacture within a free zone except under a permit granted by the Minister. The Minister in granting such a permit shall take into consideration, among other matters, the extent in which public interest will be served by such trade business or manufacture and how far it may affect similar existing trade business or manufacture in the Republic and may impose such conditions in the permit as he may deem fit in the circumstances. (Section 8.)

On the declaration of an area as a free zone, the Customs legislation relating to imports and exports is not applicable to any goods brought in or taken out except as may be provided by regulations made for this purpose. (Section 11.) The Customs legislation relating to other matters, however, applies except where specifically excluded by any provisions of the laws. (Section 14.)

Such regulations now in force are in Free Zones (Customs Regulations) 1981. Under such regulations, whenever any goods are brought out from any free zone to any other area within the Republic without an import entry and the payment of the appropriate customs duties, an offence is committed and such goods are liable to forfeiture. Furthermore, whenever goods brought in within a free zone are cleared to be carried out within the Republic without or after manufacture, they are liable to customs duties at the rate prevailing at the time of the deposit of the import entry.

Whenever goods are taken out of a free zone to any part of the Republic the customs legislation in force for the time being is applicable subject to the following provisions:

- (a) the goods for the purpose of such legislation will be considered as imported goods;
- (b) the time of such imports for the purposes of the imposition of customs duties will be the time at which the import entry is delivered and for any other purpose it will be the time at which actually the goods are carried into any other part within the Republic; and
- (c) the place at which the import of the goods is considered to be made is that point of the boundary of the free zone through the goods are carried within the Republic. (Section 12 (1).)

Whenever goods are brought in a free zone from any other part of the Republic the following provisions apply:

- (a) for the purposes of the customs legislation relating to exports, the goods will be considered as exported from the Republic;
- (b) the time at which the exports is considered to be made is that at which the goods are actually brought in within a free zone; and
- (c) the place at which such exports take place is the point on the boundary of the free zone through which the goods are brought out from the free zone. (Section 12 (2).)

The Council of Ministers under section 3 of the aforesaid laws has declared by an order dated May 3, 1979, and published in Annex III, Part I of the official gazette of the Republic of June 1, 1979, the area described therein situated at Larnaca as a free zone for the purpose of the aforesaid laws. All the aforesaid provisions apply to such area.

No other area has been so far been declared as a free zone area.

§ 1.4(C). Bonded Factories.

There exist and operate now three bonded factories in the three main towns of Cyprus—Nicosia, Limassol, Larnaca.

For the establishment and operation of such factories, no legislation exists, but the Customs and Excise Duties Laws 1978 to 1984, 4th Schedule, Class o.3 item 84 applies in connection with the exemption from the customs duty of the goods brought in the zones. That item reads as follows:

“Raw materials destined for further manufacture or incorporation in any goods intended for export so long as they are imported by industries which will be approved by a Committee consisting of the Director of Department of Customs and Excise and representatives of the Ministries of Finance and Trade and Industry as operating exclusively for export and as fulfilling such other conditions as the Committee would determine.”

§ 1.4(D). Bonded Warehouses.

There also exist and operate in the Republic under section 71 to 83 of the Customs and Excise Laws 1967 to 1977 bonded warehouses as places of security for the deposit, keeping, and securing of goods chargeable with a customs duty without payment of such duty or for goods for export or for use as stores being goods not eligible for home use or goods permitted by or under the excise Laws to be warehoused without payment of any duty of excise chargeable thereon or of goods permitted by or under such Laws to be warehoused on drawback.

