駐菲律賓台北經濟文化辦事處與駐台灣馬尼拉經濟文化辦事處
避免所得稅雙重課稅及防杜逃稅協定

駐菲律賓台北經濟文化辦事處與駐台灣馬尼拉經濟文化辦事處（以下簡稱締約雙方）咸欲締結避免所得稅雙重課稅及防杜逃稅協定，爰經議定下列條款：

第一條　適用之人

本協定適用於具有締約一方或雙方居住者身分之人。

第二條　適用租稅

一、本協定適用於締約一方就所得課徵之租稅，其課徵方式在所不問。

二、對總所得或分類所得課徵之所有租稅，包括對轉讓動產或不動產之利得所課徵之租稅，及對企業給付薪俸或工資總額所課徵之租稅，應視為對所得課稅。

三、本協定所適用之現行租稅：

（一）在駐台灣馬尼拉經濟文化辦事處所代表之領域：

1、個人所得稅。

2、公司所得稅。

3、遺產及信託所得稅。

4、就源扣繳稅。

5、證券交易稅。

（二）在駐菲律賓台北經濟文化辦事處所代表之領域：

1、個人綜合所得稅。

2、營利事業所得稅。

四、本協定亦適用於協定簽署後新開徵或替代現行各項租稅，而與現行租稅相同或實質類似之任何租稅。締約雙方之主管機關對於其各自稅法之重大修訂，應通知對方。

第三條　一般定義

一、除上下文另有規定外，本協定稱：

（一）1、「駐台灣馬尼拉經濟文化辦事處所代表之領域」係指由相關島嶼和環繞之海域所組成之菲律賓群島，及菲律賓擁有獨立主權或管轄權之陸地、河流及空中領土組成之所有領域所構成之國家領域，包括其領海，海床，下層土，島嶼沙洲和其他海底區域。環繞介於及連接群島各島嶼之海域，不論其幅員及面積如何，構成菲律賓內部海域之一部分。

2、「駐菲律賓台北經濟文化辦事處所代表之領域」，係指台灣、澎湖、金門、馬祖，及其行使獨立主權及管轄權之毗鄰區域。

（二）「締約一方」及「締約他方」，視其上下文係指駐台灣馬尼拉經濟文化辦事處所代表之領域及駐菲律賓台北經濟文化辦事處所代表之領域。

（三）「人」，包括個人、遺產、信託、公司及其他任何人之集合體。

（四）「公司」，係指法人或依稅法規定視同法人之任何實體。

（五）「締約一方之企業」及「締約他方之企業」，分別係指由締約一方之居住者所經營之企業及締約他方之居住者所經營之企業。

（六）「國際運輸」，係指締約一方之企業，以船舶或航空器經營之運輸業務，但該船舶或航空器僅於締約他方境內經營者，不在此限。

（七）「國民」係指：

1、具有締約一方國籍之任何個人。

2、依締約一方現行法律規定，取得其身分之任何法人、合夥組織及社團。

（八）「主管機關」：

1、在駐台灣馬尼拉經濟文化辦事處所代表之領域，係指本協定簽署後該締約一方所指定之官署或官員。

2、在駐菲律賓台北經濟文化辦事處所代表之領域，係指本協定簽署後該締約一方所指定之官署或官員。

締約雙方應互相通知其指定之主管機關。

二、本協定於締約一方適用時，未於本協定界定之任何名詞，除上下文另有規定外，依本協定所稱租稅於協定適用當時之法律規定辦理，該締約一方稅法之規定應優先於該締約一方其他法律之規定。

第四條　居住者

一、本協定所稱「締約一方之居住者」，係指依該方（包括該方及其所屬政府機關或地方機關）法律規定，因住所、居所、管理處所或其他類似性質之標準，負有納稅義務之人，但不包括僅因有源自於該方之所得而負有納稅義務之人。

二、個人依前項規定，如同為締約雙方之居住者，其身分決定如下：

（一）於締約一方有永久住所，視其為該締約一方之居住者。如於締約雙方均有永久住所，視其為與其個人及經濟關係較為密切之一方之居住者（主要利益中心）。

（二）如主要利益中心所在地之一方不能確定，或於締約雙方均無永久住所，視其為有經常居所之一方之居住者。

（三）如於締約雙方均有或均無經常居所，視其為具有國民身分之締約一方之居住者。

（四）如其於均屬或均非締約雙方之國民，締約雙方之主管機關應相互協議解決。

三、個人以外之人如依第一項規定同為締約雙方之居住者，應依下列規定決定之：

（一）於締約一方內設立、創立或發起，視其為該締約一方之居住者。

（二）如設立、創立或發起所在地之一方不能確定，視其為實際管理處所所在地之一方之居住者。

（三）如實際管理處所不能確定，締約雙方之主管機關應相互協議解決。

第五條　常設機構

一、本協定稱「常設機構」，係指企業從事全部或部分營業之固定營業場所。

二、「常設機構」包括：

（一）管理處。
（二）分支機構。
（三）辦事處。
（四）工廠。
（五）工作場所。
（六）農場或種植場。
（七）礦場、油井或氣井、採石場或任何其他天然資源開採或探勘場所。
（八）建築工地、營建、裝配或安裝工程，或與上述有關之監督活動，其存續期間超過六個月者。
（九）締約一方之企業透過其員工或其他僱用人員於締約他方提供服務，包括諮詢服務，但以該活動（為相同或相關計畫案）在該締約他方內於任何十二個月期間內合計超過六個月者為限。
三、前二項之「常設機構」，不包括下列各款：
（一）專為儲存或展示屬於該企業之貨物或商品而使用設備。
（二）專為儲存或展示而儲備屬於該企業之貨物或商品。
（三）專為供其他企業加工而儲備屬於該企業之貨物或商品。
（四）專為該企業採購貨物或商品或蒐集資訊而設置固定營業場所。
（五）專為該企業從事其他具有準備或輔助性質之活動而設置固定營業場所。

（六）專為從事（一）至（五）款各項活動而設置固定營業場所，但以該固定營業場所之整體活動具有準備或輔助性質者為限。

四、於締約一方代表締約他方企業之人（非第五項所稱具有獨立身分之代理人），有下列情形之一者，視該企業於該締約一方有常設機構，不受第一項及第二項規定之限制：

（一）於該締約一方內有權代表該企業簽訂契約並經常行使該項權力。但該人之活動僅限於第三項者，不在此限。

（二）無前款規定之權力，但於該締約一方經常儲備貨物或商品，並經常代表該企業交付貨物或商品。

五、締約一方之企業如僅透過經紀人、一般佣金代理商或其他具有獨立身分之代理人，以其通常之營業方式，於締約他方從事營業者，不得視該企業於締約他方有常設機構。但代理人之活動完全或幾乎完全代表該企業，且該人與該企業間之交易非於常規條件下進行，該代理人非本項所稱之具有獨立身分之代理人。

六、締約一方之居住者公司，控制或受控於締約他方之居住者公司或於締約他方從事營業之公司（不論是否透過常設機構或其他方式），均不得就此事實認定任一公司為另一公司之常設機構。

第六條　不動產所得

一、締約一方之居住者取得締約他方境內之不動產所得（包括農林業所得），締約他方得予課稅。

二、稱「不動產」，應具有該財產所在締約一方法律規定之含義，包括附著於不動產之財產、供農業及林業使用之牲畜及設備、適用一般法律規定之地產之權利、不動產收益權、及對於礦產、資源與其他天然資源之開採、或開採權所主張之變動或固定報酬之權利。船舶、小艇及航空器不視為不動產。

三、直接使用、出租或以其他任何方式使用不動產所取得之所得，應適用第一項規定。

四、由企業之不動產及供執行業務使用之不動產所產生之所得，亦適用第一項及第三項規定。

第七條　營業利潤

一、締約一方之企業，除經由其於締約他方之常設機構從事營業外，其利潤僅由該締約一方課稅。如該企業經由其於締約他方之常設機構從事營業，締約他方得就該企業之利潤課稅，但以歸屬於該常設機構之所得或利潤為限。

二、除第三項規定外，締約一方之企業經由其於締約他方之常設機構從事營業，締約任一方歸屬該常設機構之利潤，應與該常設機構為一獨立之企業，於相同或類似條件下從事相同或類似活動，並以完全獨立之方式與該企業從事交易時，所應獲得之利潤相同。

三、於計算常設機構之利潤時，應准予減除為該常設機構營業目的而發生之費用，包括行政及一般管理費用，不論該費用係於常設機構所在締約一方或其他處所發生。但常設機構對該企業總公司或其他辦事處（非實際費用之償還）給付費用或係以使用專利權或其他權利而支付權利金、手續費或其他類似給付，或以執行特定服務或管理而支付佣金，

或除銀行業外，以提供金錢借貸而支付利息等方式為之，該給付數額不得減除。同樣地，於計算常設機構之利潤時，常設機構對該企業總公司或其他辦事處收取報酬（非實際費用之償還），如係以使用專利權或其他權利而收取權利金、手續費或其他類似給付，或執行特定服務或管理而收取佣金，或除銀行業外，因以提供金錢借貸而收取利息等方式為之，該收取之數額不得計入。

四、締約一方慣例以企業全部利潤之比例分攤各部門利潤為基礎，計算應歸屬常設機構之利潤者，不得依第二項之規定排除該締約一方依據該分攤之慣例，計算應課稅之利潤。但採用之分配方法所獲致之結果應與本條所定之原則相符。

五、常設機構僅為企業採購貨物或商品，不得對該常設機構歸屬利潤。

六、前五項有關常設機構利潤之歸屬，除具有正當且充分理由者外，每年均應採用相同方法計算之。

七、利潤如包括本協定其他條款規定之所得項目，各該條款之規定，應不受本條規定之影響。

第八條　海空運輸

一、以船舶或航空器經營國際運輸業務之利潤，應由該企業為居住者之締約一方課稅。

二、締約一方之企業，以船舶或航空器經營國際運輸業務而源於締約他方境內之利潤，締約他方得予課稅，不受第一項規定之限制，但其課徵之稅額不得超過下列較低者：

（一）源自締約他方總收益之百分之一點五。

（二）由駐台灣馬尼拉經濟文化辦事處代表之領域對第三方居住者在類似情況下所取得相同類別之利潤所課徵之最低稅率。

三、參與聯營、合資企業或國際代理業務之取得利潤，亦適用第一項及第二項規定。

第九條　關係企業

一、兩企業間有下列情事之一，於其商業或財務關係上所訂定條件，異於雙方為獨立企業所為，任何應歸屬其中一企業之利潤因該等條件而未歸屬於該企業者，得計入該企業之利潤，並予以課稅：

（一）締約一方之企業直接或間接參與締約他方企業之管理、控制或資本。

（二）相同之人直接或間接參與締約一方之企業及締約他方企業之管理、控制或資本。

二、締約一方之主管機關將業經締約他方課稅之締約他方企業之利潤，列計為該締約一方企業之利潤而予以課稅，如該兩企業間所訂定之條件與互為獨立企業所訂定者相同，且該項列計之利潤應歸屬於該締約一方企業之利潤時，該締約他方之主管機關對該項利潤之課稅，應作適當之調整。在決定此項調整時，應考量本協定之其他規定，如有必要，締約雙方之主管機關應相互磋商。

第十條　股利

一、締約一方之居住者公司給付予締約他方居住者之股利，締約他方得予課稅。

二、給付股利之公司如係締約一方之居住者，該締約一方亦得依其法律規定，對該項股利課稅，但股利受益所有人如係締約他方之居住者，其課徵之稅額不得超過下列數額：

（一）受益所有人如係公司組織（非合夥組織），且直接持有給付股利公司至少百分之十資本者，不得超過股利總額之百分之十。

（二）其他情況下，不得超過股利總額之百分之十五。

本項規定不影響對該公司給付股利前之利潤所課徵之租稅。

三、締約雙方主管機關應共同協議決定前項有關稅率限制之適用方式。

四、本條所稱「股利」，係指自股份或其他非屬債權而得參與利潤分配之其他權利取得之所得，及依分配股利之公司為居住者之締約一方法律規定，與股利所得課徵相同租稅而自公司其他權利取得之所得。

五、股利受益所有人如係締約一方之居住者，經由其於締約他方內之常設機構從事營業或固定處所執行業務，而給付股利之公司為締約他方之居住者，其股份持有與該常設機構或固定處所有實際關聯時，不適用第一項及第二項規定，而視情況適用第七條或第十四條規定。

六、締約一方之居住者公司自締約他方取得利潤或所得，其所給付之股利或其未分配盈餘，即使全部或部分源自締約他方之利潤或所得，締約他方不得對該給付之股利或未分配盈餘課稅。但該股利係給付予締約他方之居住者，或該股份之持有與締約他方境內之常設機構或固定處所有實際關聯者，不在此限。

七、本條規定不排除任何締約一方除課徵公司所得稅外，對分公司匯回總公司之利潤課稅，惟課徵之稅額不得超過匯回總額之百分之十。

第十一條　利息

一、源自締約一方而給付予締約他方居住者之利息，締約他方得予課稅。

二、利息來源地之締約一方亦得依其法律規定，對該項利息課稅，但利息受益所有人如係締約他方之居住者，其課徵之稅額不得超過下列數額：

（一）由金融機構（包括保險公司）取得者，不得超過利息總額之百分之十。

（二）其他情況下，不得超過利息總額之百分之十五。

三、締約雙方主管機關應共同協議決定前項有關稅率限制之適用方式。

四、源自締約一方而給付予締約他方政府之利息，該締約一方應予免稅，不受第一項及第二項規定之限制。

五、本條所稱「利息」，係指由各種債權所孳生之所得，不論有無抵押擔保及是否有權參與債務人利潤之分配，尤指政府債券之所得、及債券或信用債券之所得，包括附屬於上述各類債券之溢價收入或獎金在內。但因延遲給付之罰鍰，不視為本條所稱之利息。

六、利息受益所有人如係締約一方之居住者，經由其於利息來源地之締約他方境內之常設機構從事營業或固定處所執行業務，且與利息有關之債權與該常設機構或固定處所有實際關聯時，不適用第一項與第二項規定，而視情況適用第七條或第十四條規定。

七、由締約一方、所屬機關、地方機關或該締約一方之居住者所給付之利息，視為源自該締約一方。利息給付人如於締約一方有常設機構或固定處所，而給付利息債務之發生與該常設機構或固定處所有關聯，且該項利息由該常設機構或固定處所負擔者，不論該利息給付人是否為締約一方之居住者，此項利息視為源自該常設機構或固定處所所在地之締約一方。

八、利息給付人與受益所有人間，或上述二者與其他人間有特殊關係，如債務之利息數額，超過利息給付人與受益所有人在無上述特殊關係下所同意之數額，本條規定應僅適用於後者之數額。在此情形下，締約任一方得考量本協定其他規定，依其法律對此項超額給付課稅。

第十二條 權利金

一、源自締約一方而給付締約他方居住者之權利金，締約他方得予課稅。

二、權利金來源地之締約一方亦得依其法律規定，對該項權利金課稅，但權利金受益所有人如係締約他方之居住者，其課徵之稅額不得超過下列數額：

（一）因使用或有權使用文學作品、藝術作品或科學作品，包括電影或供廣播或電視播映用之影片或錄音帶之任何著作權者，不得超過權利金總額之百分之十。

（二）其他情況下，不得超過權利金總額之百分之十五。

三、締約雙方主管機關應共同協議決定前項有關稅率限制之適用方式。

四、本條所稱「權利金」，係指因使用或有權使用文學作品、藝術作品或科學作品，包括電影之任何著作權，任何專利權、商標權、設計或模型、計畫、秘密處方或方法，或因使用或有權使用工業、商業或科學設備，或有關工業、商業或科學經驗之資訊，所取得之任何方式之給付。

五、權利金受益所有人如係締約一方之居住者，經由其於權利來源地之締約他方境內之常設機構從事營業或固定處所執行業務，且與權利金有關之權利或財產與該常設機構或固定**處所有實際關聯時，不適用第一項與第二項規定，而視情況適用第七條或第十四條規定。**

六、由締約一方之居住者所給付之權利金，視為源自該領域。但權利金給付人如於締約一方境內有常設機構或固定處所，而給付權利金義務之發生與該常設機構或固定處所有關聯，且該項權利金由該常設機構或固定處所負擔者，不論該權利金給付人是否為締約一方之居住者，此項權利金視為源自該常設機構或固定處所所在地之締約一方。

七、權利金給付人與受益所有人間，或上述二者與其他人間有特殊關係，因使用、權利或資訊而給付之權利金數額，超過給付人與受益所有人在無上述特殊關係下所同意之數額，本條規定應僅適用於後者之數額。在此情形下，締約任一方得考量本協定其他規定，依其法律對此項超額給付課稅。

第十三條　財產交易所得

一、締約一方之居住者，轉讓締約他方境內合於第六條所稱之不動產而取得之利得，締約他方得予課稅。

二、締約一方之企業，轉讓其於締約他方內常設機構營業資產中之動產而取得之利得，或締約一方之居住者轉讓其於締約他方執行業務之固定處所之動產而取得之利得，包括轉讓該常設機構（單獨或連同整個企業）或固定處所而取得之利得，締約他方得予課稅。

三、轉讓經營國際運輸業務之船舶或航空器，或附屬於該等船舶或航空器營運之動產而取得之利得，僅由該企業為居住者之締約一方課稅。

四、轉讓締約一方之公司股份而取得之利得，該締約一方得予課稅，但以該公司之財產主要由位於該締約一方境內之不動產組成者為限。轉讓締約一方之合夥組織或信託之權益而取得之利得，該締約一方得予課稅，但以該合夥組織或信託之財產主要由位於該締約一方境內之不動產組成者為限。

五、轉讓前四項規定以外之任何財產而取得之利得，僅由該轉讓人為居住者之締約一方課稅。

第十四條　執行業務

一、締約一方之居住者，因執行業務或其他具有獨立性質活動而取得之所得，僅由該締約一方課稅。但下列情況，締約他方亦得對該所得課稅：

（一）該居住者為執行其活動，於締約他方境內有固定處所，但以歸屬於該固定處所之所得為限。

（二）該居住者於任何十二個月期間內，於締約他方居留合計超過一百八十三天者，但以源於締約他方境內從事活動之所得為限。

二、「執行業務」包括具有獨立性質之科學、文學、藝術、教育或教學等活動，及醫師、律師、工程師、建築師、牙醫師及會計師等獨立性質之活動。

第十五條　個人受僱勞務

一、除第十六條、第十八條及第十九條規定外，締約一方之居住者因受僱而取得之薪俸、工資及其他類似報酬，除該項勞務係於締約他方提供者外，僅由該締約一方課稅。該項勞務如係於締約他方提供，締約他方得對該項勞務取得之報酬課稅。

二、締約一方之居住者受僱於締約他方內提供勞務而取得之報酬，符合下列規定者，應僅由該締約一方課稅，不受前項規定之限制：

（一）該所得人於任何十二個月期間內，於締約他方境內居留合計不超過一百八十三天；且

（二）該項報酬非由締約他方居住者之僱主給付或代表僱主給付；且

（三）該項報酬非由僱主於締約他方境內之常設機構或固定處所負擔。

三、因受僱於締約一方之企業經營國際運輸業務之船舶或航空器上提供勞務而取得之報酬，僅由該締約一方課稅，不受前二項規定之限制。

第十六條　董事報酬

一、締約一方之居住者因擔任締約他方之居住者公司董事會之董事而取得之董事報酬及其他類似給付，締約他方得予課稅。

二、適用前項規定之董事，因執行日常具管理或技術性之職務，而自公司取得之報酬，依第十五條規定課稅。

第十七條　演藝人員與運動員

一、除第十四條及第十五條規定外，締約一方之居住者為劇院、電影、廣播或電視藝人或音樂家等表演人，或運動員，於締約他方境內從事個人活動而取得之所得，締約他方得予課稅。

二、除第七條、第十四條及第十五條規定外，表演人或運動員以該身分從事個人活動之所得，如不歸屬該表演人或運動員本人而歸屬其他人者，該活動舉行地之締約一方得對該項所得課稅。

三、依締約雙方政府機關之文化協定或安排，從事第一項活動所取得之所得，如其訪問締約一方，全部或實質上係由締約一方或雙方、地方政府機關或公共機關之經費資助者，該活動舉行地之締約一方對該項所得應予免稅，不受前二項規定之限制。

第十八條　養老金

除第十九條第二項規定外，因過去僱傭關係，給付予締約一方居住者之任何養老金及其他類似報酬，僅由該締約一方課稅。

第十九條　政府勞務

一、

（一）締約一方、政府所屬機關或地方機關給付予為其提供勞務個人之報酬（養老金除外），僅由該締約一方課稅。

（二）但該勞務係由締約他方之居住者個人於締約他方境內提供，且該個人係締約他方之國民，或非專為提供上述勞務而成為締約他方之居住者，該項報酬僅由該締約他方課稅。

二、

（一）締約一方、政府所屬機關或地方機關或經由其所籌設基金，給付予為其提供勞務個人之養老金，僅由該締約一方課稅。

（二）但該個人如係締約他方之居住者或國民者，該項報酬僅由該締約他方課稅。

三、為締約一方、政府所屬機關或地方機關經營之事業提供勞務所取得之報酬及養老金，應適用第十五條、第十六條、第十七條及第十八條規定。

第二十條　教授及教師

一、教授或教師係締約一方之居住者，因訪問締約他方之大學、學院、學校或其他教育機構，專為各該教育機構從事教學、高等研究或考察，且為期不超過兩年者，其因該項活動所取得之報酬僅由締約一方課稅。

二、教授或教師為特定人之私人利益從事研究所取得之報酬，不適用本條之規定。

三、本條第一項所稱「報酬」，包括源自締約他方境外匯入供教授或教師從事第一項有關目的之報酬。

第二十一條　學生

學生或企業受訓人員專為全時教育或訓練目的，而於締約一方停留，且於訪問該締約一方前係為締約他方之居住者，其取自該締約一方境外供生活、教育或訓練目的之給付，該締約一方應予免稅。

第二十二條　其他所得

締約一方之居住者取得非屬本協定前述各條規定之所得，不論其來源為何，僅由該締約一方課稅。

第二十三條　雙重課稅之消除

締約一方所代表領域之居住者，取得源於締約他方所代表領域之所得，他方領域依本協定規定對該所得課徵之應納稅額，准自該一方領域對該居住者課徵之稅額中扣抵。但扣抵之數額不得超過該一方領域依其稅法及細則規定對該所得課徵之稅額。

第二十四條　無差別待遇

一、締約一方之國民於締約他方境內，不應較締約他方之國民於相同情況下，負擔不同或較重之任何租稅或相關之要求。

二、對締約一方之企業於締約他方境內常設機構之課稅，不應較經營相同業務之締約他方之企業作更不利之課徵。本項規定不應解釋為締約一方基於國民身分或家庭責任而給予其居住者之個人免稅額或減免等課稅規定，同樣給予締約他方之居住者。

三、除適用第九條第一項、第十一條第七項或第十二條第七項規定外，締約一方之企業給付予締約他方居住者之利息、權利金及其他款項，於計算該企業之應稅利潤時，應與給付予該締約一方居住者之情況相同而准予減除。

四、締約一方之企業，其資本全部或部分由一個或一個以上之締約他方居住者直接或間接持有或控制者，該企業不應較該締約一方之其他類似企業，負擔不同或較重之任何租稅或相關之要求。

五、本條所稱「租稅」，係指本協定所規定之租稅。

第二十五條　相互協議之程序

一、任何人認為締約一方或締約雙方之行為，對其發生或將發生不符合本協定規定之課稅，不論各該締約雙方國內法之救濟規定，均得向其本人為居住者所在締約一方之主管機關提出申訴；如申訴案屬第二十四條第一項範疇，向其本人為國民所屬締約一方之主管機關提出申訴。此項申訴應於首次接獲不符合本協定規定課稅之通知起三年內為之。

二、主管機關如認為該申訴有理，且其本身無法獲致適當之解決，該主管機關應致力與締約他方之主管機關相互協議解決，以避免發生不符合本協定規定之課稅。達成之協議應予執行，不受締約雙方國內法之期間限制。

三、締約一方在締約他方於所得核課期間屆滿三年之日起，不得將業由締約他方已課稅之該項所得，納入任何締約一方居住者之所得而提高其課稅基礎。本項規定不適用於詐欺、故意不履行或疏忽之情形。

四、締約雙方之主管機關應相互協議致力解決有關本協定之解釋或適用上發生之任何困難或疑義，並得共同磋商，以消除本協定未規定之雙重課稅問題。

五、締約雙方之主管機關為達成前述各項規定之協議，得直接相互聯繫。為執行本條規定之相互協議程序，雙方主管機關應透過磋商，發展適當之雙邊程序、條件、方法及技術。

第二十六條　資訊交換

一、締約雙方之主管機關為執行本協定之規定或本協定所指租稅之國內法，在符合本協定之範圍內，特別係為防杜租稅詐欺及逃漏目的，應相互交換必要之資訊。資訊交換不以第一條規定為限。締約一方獲得之任何資訊，應與依該締約一方國內法取得之資訊同以密件處理，且僅得揭露予與本協定所指租稅之核定、徵收、執行、起訴或上訴之裁定有關人員或機關（包括法院及行政部門）。上述人員或機關應僅得為上述目的使用該資訊，但得於公開法庭之訴訟程序或司法之判決中揭露之。

二、前項規定不得解釋為締約一方之主管機關有下列義務：

（一）執行與締約一方或締約他方之法律或行政慣例不一致之行政措施。
（二）提供依締約一方或締約他方之法律規定或正常行政程序無法獲得之資訊。
（三）提供可能洩露任何貿易、營業、工業、商業或專業秘密或交易方法之資訊，或有違公共政策之資訊。
三、資訊交換可採例行性基礎或針對特殊個案提出要求。締約雙方之主管機關得同意以例行性基礎提供資訊清單。

第二十七條　生效

本協定於締約雙方完成使本協定生效之國內程序，於締約雙方相互通知對方後，以後通知之日起生效，其適用日期：
（一）就源扣繳稅款，為本協定生效日後之第二個月第一日起給付或應付之所得。
（二）其他稅款，為本協定生效日後之次年一月一日起之課稅年度。

第二十八條　終止

本協定未經締約一方終止前仍繼續有效，締約任一方得於本協定生效日起滿五年後任何曆年六月三十日前以書面通知終止本協定。其終止日期：
（一）就源扣繳稅款，為發出終止通知後之次年一月一日之給付或應付之所得。
（二）其他稅款，為發出終止通知日之次年一月一日起之課稅年度。

為此，雙方簽署人業經充分授權於本協定簽署，以昭信守。

本協定以英文、中文各繕兩份，兩種文字約本同一作準，如有歧異時，以英文本為準。

西元二〇〇二年五月二十九日於台北簽署。

駐菲律賓台北經濟文化辦事處代表　羅致遠

駐台灣馬尼拉經濟文化辦事處代表　艾斯比諾沙

見證人

財政部長　李庸三

財政部長　卡馬丘

議定書

雙方簽署人同意下列條款為構成駐台灣馬尼拉經濟文化辦事處與駐菲律賓台北經濟文化辦事處避免所得稅雙重課稅及防杜逃稅協定之一部分。

一、關於第四條第一項：

（一）在駐台灣馬尼拉經濟文化辦事處所代表之領域，稱「居住者」，包括駐台灣馬尼拉經濟文化辦事處所代表之領域之公民。

（二）在駐菲律賓台北經濟文化辦事處所代表之領域，稱「居住者」，包括駐菲律賓台北經濟文化辦事處所代表之領域依其所得稅課稅目的而視為居住者之個人。

二、關於第八條第二項第二款：

駐台灣馬尼拉經濟文化辦事處所代表之領域所簽訂之任何協定中，若駐台灣馬尼拉經濟文化辦事處所代表之領域對任何其他領域之居住者以船舶或航空器經營國際運輸之總收益所課徵之所得稅，予以免稅或減稅，駐台灣馬尼拉經濟文化辦事處所代表之領域將給予駐菲律賓台北經濟文化辦事處所代表之領域之居住者同等之減免，駐菲律賓台北經濟文化辦事處所代表之領域亦將給予駐台灣馬尼拉經濟文化辦事處同等減免。

三、關於第十條第七項：

駐台灣馬尼拉經濟文化辦事處所代表之領域未來簽署之任何避免雙重課稅協定中，對於分公司匯回總公司利潤課稅之上限稅率較本協定規定為低者，駐台灣馬尼拉經濟文化辦事處應立即通知駐菲律賓台北經濟文化辦事處，並共同檢討修正第十條第七項之規定，以提供相同之待遇。

為此，雙方代表各經充分授權於本協定簽署，以昭信守。

本協定以英文、中文各繕兩份，兩種文字約本同一作準，如有歧異時，以英文本為準。

西元二〇〇二年五月二十九日於台北簽署。

駐菲律賓台北經濟文化辦事處代表　羅致遠

駐台灣馬尼拉經濟文化辦事處代表　艾斯比諾沙

見證人

財政部長　李庸三

財政部長　卡馬丘

AGREEMENT BETWEEN

THE TAIPEI ECONOMIC AND CULTURAL OFFICE

IN THE PHILIPPINES

AND

THE MANILA ECONOMIC AND CULTURAL OFFICE

IN TAIWAN

FOR THE AVOIDANCE OF DOUBLE TAXATION

AND

THE PREVENTION OF FISCAL EVASION

WITH RESPECT TO TAXES ON INCOME

The Taipei Economic and Cultural Office (TECO) in the Philippines and the Manila Economic and Cultural Office (MECO) in Taiwan, desiring to conclude an Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, have agreed as follows:

Article 1
PERSONS COVERED

This Agreement shall apply to persons who are residents of one or both of the Contracting Parties.

Article 2
TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting Party irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, and taxes on total amounts of wages or salaries paid by enterprises.

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

   a) in the territory represented by the Manila Economic and Cultural Office in Taiwan:

      (i) income tax on individuals;
      (ii) income tax on corporations;
      (iii) income tax on estates and trusts;
      (iv) withholding taxes; and
      (v) stock transaction tax

   b) in the territory represented by the Taipei Economic and Cultural Office in the Philippines:

      (i) the individual consolidated income tax; and
      (ii) the profit seeking enterprise income tax.

4. The Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting Parties shall notify each other of substantial changes which have been made in their respective taxation laws.

Article 3
GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:

   a) (i) the term “the territory represented by the Manila Economic and Cultural Office in Taiwan” is identical to the national territory which comprises the Philippine archipelago, with all the islands and waters embraced therein, and all other territories over which the Philippines has sovereignty or jurisdiction, consisting of its terrestrial, fluvial and aerial domains, including its territorial sea, the seabed, the subsoil, the insular shelves, and other submarine areas. The waters around, between, and connecting the islands of the archipelago, regardless of their breadth and dimensions form part of the internal waters of the Philippines.

   (ii) the term “the territory represented by the Taipei Economic and Cultural Office in the Philippines” is identical to Taiwan, Penghu, Kinmen, Matsu and adjacent areas where it exercises sovereign rights or jurisdiction;

   b) the terms “a Contracting Party” and “the other Contracting Party” mean the territory represented by the Manila Economic and Cultural Office in Taiwan or the territory represented by the Taipei Economic and Cultural Office in the Philippines, as the context requires;

   c) the term “person” includes an individual, an estate, a trust, a company and any other body of persons;

   d) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;

   e) the terms “enterprise of a Contracting Party” and “enterprise of the other Contracting Party” mean respectively an enterprise carried on by a resident of a Contracting Party and an enterprise carried on by a resident of the other Contracting Party;

   f) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise which is a resident of a Contracting Party, except when the ship or aircraft is operated solely between places in the other Contracting Party;

   g) the term “national” means:

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

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

h) the term "competent authority" means:

(i) in the territory represented by the Manila Economic and Cultural Office in Taiwan, the office or official which the Contracting Party shall designate after the signing of this Agreement; and

(ii) in the territory represented by the Taipei Economic and Cultural Office in the Philippines, the office or official which the Contracting Party shall designate after the signing of this Agreement.

Both Contracting Parties shall notify each other of their designated competent authorities.

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

Article 4
RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting Party" means any person who, under the laws of that Party, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that Party and any political subdivision or local authority thereof. But this term does not include any person who is liable to tax in that Party in respect only of income from sources in that Party.

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

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

   b) if the Party in which he has his centre of vital interests cannot be determined, or if he has no permanent home available to him in either Party, he shall be deemed to be a resident only of the Party in which he has an habitual abode;

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

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

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting Parties, then this case shall be determined in accordance with the following rules:

   a) it shall be deemed to be a resident only of the Party in which it is incorporated, created or organized;

   b) if the Party in which it is incorporated, created or organized cannot be determined, it shall be deemed to be a resident only of the Party in which its place of effective management is situated;

c) if the place of effective management cannot be determined, the competent authorities of the Contracting Parties shall settle the question by mutual agreement.

Article 5
PERMANENT ESTABLISHMENT

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

2. The term “permanent establishment” includes especially:

   a) a place of management;

   b) a branch;

   c) an office;

   d) a factory;

   e) a workshop;

   f) a farm or plantation;

   g) a mine, an oil or gas well, a quarry or any other place of extraction or exploration of natural resources;

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

   i) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the territory for a period or periods aggregating more than six months within any twelve-month period.

3. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:

   a) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;

   b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;

   c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

4. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 5 applies - is acting in a Contracting Party on behalf of an enterprise of the other Contracting Party, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Party if:

a) he has, and habitually exercises in that Party, an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to those mentioned in paragraph 3 of this Article; or

b) he has no such authority, but habitually maintains in the first-mentioned Party a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

5. An enterprise of a Contracting Party shall not be deemed to have a permanent establishment in the other Contracting Party merely because it carries on business in that other Party through a broker, a general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he shall not be considered an agent of independent status within the meaning of this paragraph if the transactions between the agent and the enterprise were not made under arm’s length conditions.

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

Article 6
INCOME FROM IMMOVABLE PROPERTY

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

2. The term “immovable property” shall have the meaning which it has under the law of the Contracting Party in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7
BUSINESS PROFITS

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

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

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Contracting Party in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees, or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

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

that the result shall be in accordance with the principles contained in this Article.

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

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

7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8
SHIPPING AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft in international traffic of ships or aircraft shall be taxable in the Contracting Party of which the enterprise is a resident.

2. Notwithstanding the provisions of paragraph 1, profits from the operation of ships or aircraft in international traffic derived by an enterprise of a Contracting Party from sources within the other Contracting Party may be taxed in that other Party but the tax so charged shall not exceed the lesser of:

   a) one and one-half per cent of the gross revenues derived from sources in that other Party; and

   b) the lowest rate that may be imposed by the territory represented by the Manila Economic and Cultural Office in Taiwan on profits of the same kind derived under similar circumstances by a resident of a third Party.

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

Article 9
ASSOCIATED ENTERPRISES

1. Where

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

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

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

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

Article 10
DIVIDENDS

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

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

   a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends;

   b) 15 per cent of the gross amount of the dividends in all other cases.

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

3. The competent authorities of the Contracting Parties shall by mutual agreement settle the mode of application of the limitations provided in the preceding paragraph.

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

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting Party, carries on business in the other Contracting Party of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other Party independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Where a company which is a resident of a Contracting Party derives profits or income from the other Contracting Party, that other Party may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other Party or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other Party,

nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other Party.

7. Nothing in this Article shall prevent either Contracting Party from imposing, apart from the corporate income tax, a tax on remittance of profits by a branch to its head office provided that the tax so imposed shall not exceed 10 per cent of the amount remitted.

Article 11
INTEREST

1. Interest arising in a Contracting Party and paid to a resident of the other Contracting Party may be taxed in that other Party.

2. However, such interest may also be taxed in the Contracting Party in which it arises and according to the laws of that Party, but if the beneficial owner of the interest is a resident of the other Contracting Party, the tax so charged shall not exceed:

   a) 10 per cent of the gross amount of the interest if it is received by any financial institution (including an insurance company);

   b) 15 per cent of the gross amount of the interest in all other cases.

3. The competent authorities of the Contracting Parties shall by mutual agreement settle the mode of application of the limitations provided in the preceding paragraph.

4. Notwithstanding the provisions of paragraphs 1 and 2, interest arising in a Contracting Party and paid to the Government of the other Contracting Party shall be exempt from tax in the first-mentioned Contracting Party.

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

6. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting Party, carries on business in the other Contracting Party in which the interest arises, through a permanent establishment situated therein, or performs in that other Party independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such cases the provisions of Article 7 or Article 14, as the case may be, shall apply.

7. Interest shall be deemed to arise in a Contracting Party when the payer is the Party itself, a political subdivision, a local authority or a resident of that Party. Where, however, the person paying the interest, whether he is a resident of a Contracting Party or not, has in a Contracting Party a

permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the Party in which the permanent establishment or fixed base is situated.

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

Article 12
ROYALTIES

1. Royalties arising in a Contracting Party and paid to a resident of the other Contracting Party may be taxed in that other Party.

2. However, such royalties may also be taxed in the Contracting Party in which they arise and according to the laws of that Party, but if the beneficial owner of the royalties is a resident of the other Contracting Party, the tax so charged shall not exceed:

   a) 10 per cent of the gross amount of the royalties arising from the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, or films or tapes used for radio or television broadcasting;

   b) 15 per cent of the gross amount of the royalties in all other cases.

3. The competent authorities of the Contracting Parties shall by mutual agreement settle the mode of application of the limitations provided in the preceding paragraph.

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

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting Party, carries on business in the other Contracting Party in which the royalties arise, through a permanent establishment situated therein, or performs in that other Party independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such cases the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Royalties shall be deemed to arise in a Contracting Party when the payer is a resident of that Party. Where, however, the person paying the royalties, whether he is a resident of a Contracting Party or not, has in a Contracting Party a permanent establishment or a fixed base in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties

shall be deemed to arise in the Party in which the permanent establishment or fixed base is situated.

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

Article 13
CAPITAL GAINS

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

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

3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting Party of which the enterprise is a resident.

4. Gains from the alienation of shares of a company the property of which consists principally of immovable property situated in a Contracting Party may be taxed in that Party. Gains from the alienation of an interest in a partnership or trust the property of which consists principally of immovable property situated in a Contracting Party may be taxed in that Party.

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

Article 14
INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting Party in respect of professional services or other activities of an independent character shall be taxable only in that Party. However, such income may also be taxed in the other Contracting Party if:

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

   b) he is present in that other Party for a period or periods exceeding in the aggregate 183 days in any twelve-month period; in that case, only so much of the income as is derived from his activities performed in that other Party may be taxed in that other Party.

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

Article 15
DEPENDENT PERSONAL SERVICES

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

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

   a) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve-month period; and

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

   c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Party.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting Party shall be taxable only in that Party.

Article 16
DIRECTORS' FEES

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

2. The remuneration which a person to whom paragraph 1 applies derives from the company in respect of the discharge of day-to-day functions of a managerial or technical nature may be taxed in accordance with the provisions of Article 15.

Article 17
ARTISTES AND SPORTSPERSONS

1. Subject to the provisions of Articles 14 and 15, income derived by a resident of a Contracting Party as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other Contracting Party, may be taxed in that other Party.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, subject to the provisions of Articles 7, 14 and 15, be taxed in the Contracting Party in which the activities of the entertainer or sportsperson are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from activities referred to in paragraph 1 performed under a cultural agreement or arrangement between both authorities of the Contracting Parties shall be exempt from tax in the Contracting Party in which the activities are exercised if the visit to that Party is wholly or substantially supported by funds of one or both Contracting Parties, a local authority or public institution thereof.

Article 18
PENSIONS

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting Party in consideration of past employment shall be taxable only in that Party.

Article 19
GOVERNMENT SERVICE

1. a) Remuneration, other than a pension, paid by a Contracting Party or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Party or subdivision or authority shall be taxable only in that Party.

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

      (i) is a national of that Party; or
      (ii) did not become a resident of that Party solely for the purpose of rendering the services.

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

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

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

Article 20
PROFESSORS AND TEACHERS

1. Remuneration which a professor or teacher who is a resident of one of the Contracting Parties and who visits the other Contracting Party for a period not exceeding two years for the purpose of teaching or carrying out advanced study or research at a university, college, school or other educational institution, receives for those activities shall be taxable only in the first-mentioned Party.

2. This Article shall not apply to remuneration which a professor or teacher receives for conducting research if the research is undertaken primarily for the private benefit of a specific person or persons.

3. For the purposes of paragraph 1 of this Article, the term "remuneration" shall include remittance from sources outside the other Contracting Party sent to enable the professor or teacher to carry out the purposes referred to in paragraph 1.

Article 21
STUDENTS

Payments which a student or business apprentice who is or was immediately before visiting a Contracting Party a resident of the other Contracting Party and who is present in the first-mentioned Party solely for the purpose of his full-time education or training receives for the purpose of his maintenance, education or training shall not be taxed in that first-mentioned Party, provided that such payments arise from sources outside that Party.

Article 22
OTHER INCOME

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

Article 23
ELIMINATION OF DOUBLE TAXATION

Where a resident of a territory represented by a Contracting Party derives income from the territory represented by the other Contracting Party, the amount of tax on that income payable in that other territory in accordance with the provisions of this Agreement, may be credited against the tax levied in the first-mentioned territory imposed on that resident. The amount of credit, however, shall not exceed the amount of the tax on the first-mentioned territory on that income computed in accordance with its taxation laws and regulations.

Article 24
NON-DISCRIMINATION

1. Nationals of a Contracting Party shall not be subjected in the other Contracting Party to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other Contracting Party in the same circumstances are or may be subjected.

2. The taxation on a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party shall not be less favorably levied in that other Party than the taxation levied on enterprises of that other Party carrying on the same activities. This provision shall not be construed as obliging a Contracting Party to grant to residents of the other Contracting Party any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 7 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting Party to a resident of the other Contracting Party shall, for the purposes of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned Party.

4. Enterprises of a Contracting Party, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting Party, shall not be subjected in the first-mentioned Party to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned Party are or may be subjected.

5. In this Article, the term “taxation” means taxes which are the subject of this Agreement.

Article 25
MUTUAL AGREEMENT PROCEDURE

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

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

3. A Contracting Party shall not, after three years from the end of the taxable period in which the income concerned has accrued, increase the tax base of a resident of either of the Contracting Parties by including therein items of income which have also been charged to tax in the other Contracting Party. This paragraph shall not apply in the case of fraud, wilful default or neglect.

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

5. The competent authorities of the Contracting Parties may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. The competent authorities, through consultations, shall develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this Article.

Article 26
EXCHANGE OF INFORMATION

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

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

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

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

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

3. This exchange of information may be either on a routine basis or on request with reference to particular cases. The competent authorities of the Contracting Parties may agree on the list of information which shall be furnished on a routine basis.

Article 27
ENTRY INTO FORCE

This Agreement shall enter into force on the later of the dates on which both Contracting Parties notify each other of compliance with their respective internal requirements for entry into force of this Agreement and thereupon shall have effect:

a) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of the second month next following the date on which the Agreement enters into force; and

b) in respect of other taxes on income, for taxable years beginning on or after the first day of January in the year next following that in which the Agreement enters into force.

Article 28
TERMINATION

This Agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may terminate the Agreement by giving written notice of termination on or before the thirtieth day of June of any calendar year following after the period of five years from the year in which the Agreement enters into force. In such case, the Agreement shall cease to have effect:

a) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January in the year next following that in which the notice of termination is given; and

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

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Agreement.

DONE in duplicate at Taipei this 29th day of May 2002 in the English and Chinese languages, both texts being equally authentic. In case of any divergency of interpretation, the English text shall prevail.

FOR THE TAIPEI ECONOMIC AND CULTURAL OFFICE IN THE PHILIPPINES	FOR THE MANILA ECONOMIC AND CULTURAL OFFICE IN TAIWAN
BENJAMIN JYH-YUAN LO	**EDGARDO V. ESPINOSA**

Witnessed:

YUNG-SAN LEE **Minister of Finance**	**JOSE ISIDRO N. CAMACHO** **Secretary of Finance**

PROTOCOL

The undersigned have agreed that the following provisions shall form an integral part of the Agreement between the Manila Economic and Cultural Office (MECO) in Taiwan and the Taipei Economic and Cultural Office (TECO) in the Philippines for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income.

1. In relation to paragraph 1 of Article 4:

   a) In case of the territory represented by MECO, the term "resident" shall include a citizen of the territory represented by MECO;

   b) In case of the territory represented by TECO, the term "resident" shall include an individual who is treated as a resident for income tax purposes in the territory represented by TECO.

2. In relation to paragraph 2(b) of Article 8, if, under any Agreement or Convention concluded by the territory represented by MECO, a resident of any other territory is given an exemption or a reduction from the income tax on gross revenues imposed by the territory represented by MECO, relating to the operation of aircraft or ships in international traffic, the territory represented by MECO will grant a corresponding exemption or reduction to the residents of territory represented by TECO and TECO will grant a corresponding exemption or reduction to the residents of the territory represented by MECO.

3. In relation to paragraph 7 of Article 10, if in any future double taxation conventions concluded by the territory represented by MECO, it limits its taxation on remittance of profits by a branch to its head office to a rate lower than that provided for in the Agreement, MECO shall without any delay inform TECO and they shall review paragraph 7, Article 10 with a view to amending the Agreement to provide for the same treatment.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Protocol.

DONE in duplicate at Taipei this 29th day of May 2002 in the English and Chinese languages, both texts being equally authentic. In case of any divergency of interpretation, the English text shall prevail.

FOR THE TAIPEI ECONOMIC AND CULTURAL OFFICE IN THE PHILIPPINES	FOR THE MANILA ECONOMIC AND CULTURAL OFFICE IN TAIWAN
BENJAMIN JYH-YUAN LO	**EDGARDO V. ESPINOSA**

Witnessed:

YUNG-SAN LEE	**JOSE ISIDRO N. CAMACHO**
Minister of Finance	**Secretary of Finance**