

協 定 換 函

致駐台北馬來西亞友誼及貿易中心代表

逕啟者：

關於貴我雙方於一九九六年七月二十三日簽署之避免所得稅雙重課稅及防杜逃稅協定，茲知會貴方，上述協定內容業獲核准。

第二十四條所稱「居住者」，視情況不適用於駐馬來西亞台北經濟文化辦事處所代表領域或駐台北馬來西亞友誼及貿易中心所代表領域以外之「國民」。

復建議本照會及貴方之復照，使上述協定獲致生效。

本人順向貴代表重申崇高之敬意。

駐馬來西亞台北經濟文化辦事處代表 黃新壁

駐馬來西亞台北經濟文化辦事處與駐台北馬來西亞友誼及貿易中心避免所得稅雙重課稅及防杜逃稅協定

鑒於駐馬來西亞台北經濟文化辦事處與駐台北馬來西亞友誼及貿易中心咸欲促進密切之經濟合作與投資，對於駐馬來西亞台北經濟文化辦事處或駐台北馬來西亞友誼及貿易中心所代表領域居住者之投資與經濟活動，就避免雙重課稅、防杜逃稅及關於扣抵、利益、免稅或與租稅有關之其他便利等事宜，承允尋求其各自機關之核准。

雙方同意就本協定之內容尋求其各自機關之核准。

第一條 適用之人

本協定適用於具有「駐馬來西亞台北經濟文化辦事處所代表領域」與「駐台北馬來西亞友誼及貿易中心所代表領域」居住者身分之人。

第二條 適用租稅

一、本協定所適用之現行租稅：

- (一) 在駐馬來西亞台北經濟文化辦事處所代表領域：綜合所得稅及營利事業所得稅。
- (二) 在駐台北馬來西亞友誼及貿易中心所代表領域：所得稅及石油所得稅。

二、本協定亦適用於簽訂後新開徵或替代現行各項租稅，而實質上與現行租稅性質相同之其他租稅。締約雙方對其所代表領域稅法之重大修訂及適用本協定所發布之法規、解釋令或判例等資料應相互通知對方。

第三條 一般定義

一、除依文義須另作解釋外，本協定稱：

- (一) 「人」，包括個人、公司及為租稅目的而視同人之其他任何人之集合體。
- (二) 「公司」，係指公司組織或為租稅目的而視同公司組織之任何實體。
- (三) 「國際運輸」，視情況係指駐馬來西亞台北經濟文化辦事處所代表領域或駐台北馬來西亞友誼及貿易中心所代表領域之企業，以船舶或航空器經營之運輸業務。但該船舶或或航空器視情況僅於駐馬來西亞台北經濟文化辦事處所代表領域或駐台北馬來西亞友誼及貿易中心所代表領域境內經營者，不在此限。
- (四) 「主管機關」，視情況係指駐馬來西亞台北經濟文化辦事處所代表領域或駐台北馬來西亞友誼及貿易中心所代表領域負責租稅之適當機關。

二、本協定適用於駐馬來西亞台北經濟文化辦事處所代表領域或駐台北馬來西亞友誼及貿易中心所代表領域時，任何未經界定之名詞，除依文義須另作解釋者外，應具有駐馬來西亞台北經濟文化辦事處所代表領域或駐台北馬來西亞友誼及貿易中心所代表領域適用本協定有關租稅之法律意義。

第四條 居住者

一、本協定稱「居住者」，視情況係指依駐馬來西亞台北經濟文化辦事處所代表領域或駐台北馬來西亞友誼及貿易中心所代表領域稅法規定，具有居住者身分之人。

二、個人如依前項規定同為駐馬來西亞台北經濟文化辦事處所代表領域與駐台北馬來西亞友誼

及貿易中心所代表領域之居住者，其居住者身分決定如下：

- (一) 如於駐馬來西亞台北經濟文化辦事處所代表領域或駐台北馬來西亞友誼及貿易中心所代表領域境內有住所，視其為有住所所在地之居住者。如於駐馬來西亞台北經濟文化辦事處所代表領域或駐台北馬來西亞友誼及貿易中心所代表領域均有住所，視其為與其個人及經濟利益較為密切所在地之居住者（主要利益中心）。
 - (二) 主要利益中心所在地不能確定，或於駐馬來西亞台北經濟文化辦事處所代表領域與駐台北馬來西亞友誼及貿易中心所代表領域境內均無住所，視其為有經常居所所在地之居住者。
 - (三) 於駐馬來西亞台北經濟文化辦事處所代表領域與駐台北馬來西亞友誼及貿易中心所代表領域內均有或均無經常居所，由雙方各自機關共同協議解決。
- 三、個人以外之人如依第一項規定同為駐馬來西亞台北經濟文化辦事處所代表領域與駐台北馬來西亞友誼及貿易中心所代表領域之居住者，視其為營業之控制與管理所在地之居住者。

第五條 固定營業場所

一、本協定稱「固定營業場所」，係指企業從事全部或部分營業之固定場所。

二、「固定營業場所」包括：

- (一) 管理處。
- (二) 分支機構。
- (三) 辦事處。
- (四) 工廠。
- (五) 工作場所。
- (六) 礦場、油井、採石場或其他天然資源開採場所。
- (七) 種植場、農場、果樹園或葡萄園。
- (八) 建築工地、建築、安裝及裝配工程，在一曆年度內存續期間合計超過六個月，或在二曆年度內存續期間合計連續超過六個月者。

三、「固定營業場所」不包括：

- (一) 專為儲存、展示或運送屬於該企業之貨物或商品而使用之設備。
- (二) 專為儲存、展示或運送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之固定場所。
- (五) 專為該企業從事任何其他具有準備或輔助性質之活動而設置之固定場所。

四、駐台北馬來西亞友誼及貿易中心所代表領域之企業，如於駐馬來西亞台北經濟文化辦事處所代表領域境內從事與建築、安裝或裝配工程相關之管理監督活動存續期間超過六個月者，視該企業於駐馬來西亞台北經濟文化辦事處所代表領域境內有固定營業場所。

五、駐馬來西亞台北經濟文化辦事處所代表領域企業，如於駐台北馬來西亞友誼及貿易中心所代表領域境內從事與建築、安裝或裝配工程相關之管理監督活動存續期間超過六個月者，視該企業於駐台北馬來西亞友誼及貿易中心所代表領域境內有固定營業場所。

六、代表駐馬來西亞台北經濟文化辦事處所代表領域企業之人（非第八項所稱具有獨立身分之代理人），雖於駐台北馬來西亞友誼及貿易中心所代表領域境內無固定場所，如符合左列任一款規定者，視該人為於駐台北馬來西亞友誼及貿易中心所代表領域境內之固定營業場所：

- (一) 該人於駐台北馬來西亞友誼及貿易中心所代表領域境內有權以該企業名義簽訂契約，並經常行使該項權力。

- (二) 該人於駐台北馬來西亞友誼及貿易中心所代表領域境內儲備屬於該企業之貨物或商品，並經常代表該企業交付貨物或商品。
- (三) 該人經常於駐台北馬來西亞友誼及貿易中心所代表領域境內完全或幾乎完全為該企業爭取訂單。
- 七、代表駐台北馬來西亞友誼及貿易中心所代表領域企業之人（非第九項所稱具有獨立身分之代理人），雖於駐馬來西亞台北經濟文化辦事處所代表領域境內無固定場所，如符合左列任一款規定者，視該人為於駐馬來西亞台北經濟文化辦事處所代表領域境內之固定營業場所：
- (一) 該人於駐馬來西亞台北經濟文化辦事處所代表領域境內有權以該企業名義簽訂契約，並經常行使該項權力。
- (二) 該人於駐馬來西亞台北經濟文化辦事處所代表領域境內儲備屬於該企業之貨物或商品，並經常代表該企業交付貨物或商品。
- (三) 該人經常於駐馬來西亞台北經濟文化辦事處所代表領域境內完全或幾乎完全為該企業爭取訂單。
- 八、駐台北馬來西亞友誼及貿易中心所代表領域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，於駐馬來西亞台北經濟文化辦事處所代表領域境內從事營業者，不得視該企業於駐馬來西亞台北經濟文化辦事處所代表領域境內有固定營業場所。
- 九、駐馬來西亞台北經濟文化辦事處所代表領域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，於駐台北馬來西亞友誼及貿易中心所代表領域境內從事營業者，不得視該企業於駐台北馬來西亞友誼及貿易中心所代表領域境內有固定營業場所。
- 十、駐台北馬來西亞友誼及貿易中心所代表領域居住者之公司，控制或受控於駐馬來西亞台北經濟文化辦事處所代表領域居住者之公司或於駐馬來西亞台北經濟文化辦事處所代表領域境內從事營業之公司（不論是否透過固定營業場所或其他方式），均不得認定該公司於駐馬來西亞台北經濟文化辦事處所代表領域境內有固定營業場所。
- 十一、駐馬來西亞台北經濟文化辦事處所代表領域居住者之公司，控制或受控於駐台北馬來西亞友誼及貿易中心所代表領域居住者之公司或於駐台北馬來西亞友誼及貿易中心所代表領域境內從事營業之公司（不論是否透過固定營業場所或其他方式），均不得認定該公司於駐台北馬來西亞友誼及貿易中心所代表領域境內有固定營業場所。

第六條 不動產所得

- 一、駐台北馬來西亞友誼及貿易中心所代表領域之居住者自駐馬來西亞台北經濟文化辦事處所代表領域境內之不動產取得之所得，駐馬來西亞台北經濟文化辦事處所代表領域得予課稅。
- 二、駐馬來西亞台北經濟文化辦事處所代表領域之居住者自駐台北馬來西亞友誼及貿易中心所代表領域境內之不動產取得之所得，駐台北馬來西亞友誼及貿易中心所代表領域得予課稅。
- 三、本協定稱「不動產」，視其情況應依該財產所在地（駐馬來西亞台北經濟文化辦事處所代表領域或駐台北馬來西亞友誼及貿易中心所代表領域）之法律規定，包括附著於不動產之財產、牲畜及供農林業使用之設備、適用一般法律規定有關地產之權利、不動產收益權、及對於礦產、油井或氣井、採石場與其他天然資源（包括木材或其他林產品）開採場所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。
- 四、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，應適用第一項及第二項規定。
- 五、企業之不動產所得，及供執行業務使用之不動產所得，亦適用第一項、第二項及第四項規定。

第七條 營業利潤

- 一、駐台北馬來西亞友誼及貿易中心所代表領域之企業，除經由其於駐馬來西亞台北經濟文化辦事處所代表領域境內之固定營業場所從事營業外，其利潤僅由駐台北馬來西亞友誼及貿易中心所代表領域課稅。如該企業經由其於駐馬來西亞台北經濟文化辦事處所代表領域境內之固定營業場所從事營業，駐馬來西亞台北經濟文化辦事處所代表領域得就該企業之利潤課稅，以歸屬於該固定營業場所之利潤為限。
- 二、駐馬來西亞台北經濟文化辦事處所代表領域之企業，除經由其於駐台北馬來西亞友誼及貿易中心所代表領域境內之固定營業場所從事營業外，其利潤僅由駐馬來西亞台北經濟文化辦事處所代表領域課稅。如該企業經由其於駐台北馬來西亞友誼及貿易中心所代表領域境內之固定營業場所從事營業，駐台北馬來西亞友誼及貿易中心所代表領域得就該企業之利潤課稅，以歸屬於該固定營業場所之利潤為限。
- 三、除第五項規定外，駐台北馬來西亞友誼及貿易中心所代表領域之企業經由其於駐馬來西亞台北經濟文化辦事處所代表領域境內之固定營業場所從事營業，駐馬來西亞台北經濟文化辦事處所代表領域歸屬該固定營業場所之利潤，應與該固定營業場所為一獨立之企業，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。
- 四、除第五項規定外，駐馬來西亞台北經濟文化辦事處所代表領域之企業經由其於駐台北馬來西亞友誼及貿易中心所代表領域境內之固定營業場所從事營業，駐台北馬來西亞友誼及貿易中心所代表領域歸屬該固定營業場所之利潤，應與該固定營業場所為一獨立之企業，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。
- 五、於決定固定營業場所之利潤時，若該固定營業場所為一獨立企業，應准予減除該固定營業場所於合理範圍內所分攤之費用，包括行政及一般管理費用，不論各該費用視情況係在固定營業場所所在地之駐馬來西亞台北經濟文化辦事處所代表領域或駐台北馬來西亞友誼及貿易中心所代表領域境內或其他處所發生。
- 六、固定營業場所如僅為企業採購（包括運輸）貨物或商品，不得對該固定營業場所歸屬利潤。
- 七、上述有關固定營業場所利潤之歸屬，除具有正當且充分理由者外，每年均應採用相同方法決定之。
- 八、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、駐台北馬來西亞友誼及貿易中心所代表領域之企業，以船舶或航空器經營國際運輸業務之利潤，僅由駐台北馬來西亞友誼及貿易中心所代表領域課稅。
- 二、駐馬來西亞台北經濟文化辦事處所代表領域之企業，以船舶或航空器經營國際運輸業務之利潤，僅由駐馬來西亞台北經濟文化辦事處所代表領域課稅。
- 三、參與聯營、合資企業或國際代理業務分配之利潤，亦適用第一項及第二項規定。
- 四、出租船舶或航空器（包括計時、計程及光船出租）之租賃所得，出租貨櫃及與經營船舶或航空器國際運輸業務有附帶關係之相關設備之租賃所得，亦適用第一項及第二項規定。

第九條 關係企業

- 一、兩企業有左列情事之一，於其商業或財務關係上所訂定之條件，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) 駐台北馬來西亞友誼及貿易中心所代表領域之企業直接或間接參與駐馬來西亞台北經濟文化辦事處所代表領域企業之管理、控制或資本。
 - (二) 相同之人直接或間接參與駐台北馬來西亞友誼及貿易中心所代表領域之企業及駐馬來西亞台北經濟文化辦事處所代表領域企業之管理、控制或資本。

- 二、兩企業有左列情事之一，於其商業或財務關係上所訂定之條件，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) 駐馬來西亞台北經濟文化辦事處所代表領域之企業直接或間接參與駐台北馬來西亞友誼及貿易中心所代表領域企業之管理、控制或資本。
 - (二) 相同之人直接或間接參與駐馬來西亞台北經濟文化辦事處所代表領域之企業及駐台北馬來西亞友誼及貿易中心所代表領域企業之管理、控制或資本。

第十條 股利

- 一、駐台北馬來西亞友誼及貿易中心所代表領域居住者之公司給付予駐馬來西亞台北經濟文化辦事處所代表領域居住者之股利，駐馬來西亞台北經濟文化辦事處所代表領域得予課稅。
- 二、駐馬來西亞台北經濟文化辦事處所代表領域居住者之公司給付予駐台北馬來西亞友誼及貿易中心所代表領域居住者之股利，駐台北馬來西亞友誼及貿易中心所代表領域得予課稅。
- 三、駐馬來西亞台北經濟文化辦事處所代表領域居住者之公司給付予駐台北馬來西亞友誼及貿易中心所代表領域居住者之股利，駐馬來西亞台北經濟文化辦事處所代表領域亦得依其法律規定，對該項股利課稅，股利取得者如為此項股利受益所有人，其課徵之稅額不得超過股利總額之百分之十二·五。
- 四、駐台北馬來西亞友誼及貿易中心所代表領域居住者之公司給付予駐馬來西亞台北經濟文化辦事處所代表領域居住者之股利，駐台北馬來西亞友誼及貿易中心所代表領域對於股利受益人應予免稅。駐台北馬來西亞友誼及貿易中心所代表領域之法律規定，對於駐台北馬來西亞友誼及貿易中心所代表領域居住者之公司自其應納稅額中減除股利之已付稅額或視同已付稅額，該減除數額得依給付股利次年（核定年度）所適用之稅率調整，不受本項規定之影響。
- 五、本條所稱「股利」，係指自股份或其他非屬債權而得參加利潤分配之其他權利取得之所得，及視情況依分配股利之公司為居住者之所在地（駐馬來西亞台北經濟文化辦事處所代表領域或駐台北馬來西亞友誼及貿易中心所代表領域）稅法規定，與股利所得課徵相同租稅之公司其他權利取得之所得。
- 六、股利受益所有人如係駐馬來西亞台北經濟文化辦事處所代表領域之居住者，經由其於駐台北馬來西亞友誼及貿易中心所代表領域境內之固定營業場所從事營業，而給付股利之公司為駐台北馬來西亞友誼及貿易中心所代表領域之居住者，其股份持有與該場所所有實際關聯時，不適用第一項及第四項規定，而適用第七條規定。
- 七、股利受益所有人如係駐台北馬來西亞友誼及貿易中心所代表領域之居住者，經由其於駐馬來西亞台北經濟文化辦事處所代表領域境內之固定營業場所從事營業，而給付股利之公司

為駐馬來西亞台北經濟文化辦事處所代表領域之居住者，其股份持有與該場所有實際關聯時，不適用第二項及第三項規定，而適用第七條規定。

- 八、駐馬來西亞台北經濟文化辦事處所代表領域居住者之公司，自駐台北馬來西亞友誼及貿易中心所代表領域取得所得或利潤，其所給付之股利或其未分配盈餘，即使全部或部分來自駐台北馬來西亞友誼及貿易中心所代表領域之所得或利潤，駐台北馬來西亞友誼及貿易中心所代表領域不得對該給付予非駐台北馬來西亞友誼及貿易中心所代表領域居住者之股利或未分配盈餘課稅。
- 九、駐台北馬來西亞友誼及貿易中心所代表領域居住者之公司，自駐馬來西亞台北經濟文化辦事處所代表領域取得所得或利潤，其所給付之股利或其未分配盈餘，即使全部或部分來自駐馬來西亞台北經濟文化辦事處所代表領域之所得或利潤，駐馬來西亞台北經濟文化辦事處所代表領域不得對該給付予非駐馬來西亞台北經濟文化辦事處所代表領域居住者之股利或未分配盈餘課稅。

第十一條 利息

- 一、源自駐台北馬來西亞友誼及貿易中心所代表領域而給付駐馬來西亞台北經濟文化辦事處所代表領域居住者之利息，駐馬來西亞台北經濟文化辦事處所代表領域得予課稅。
- 二、源自駐馬來西亞台北經濟文化辦事處所代表領域而給付駐台北馬來西亞友誼及貿易中心所代表領域居住者之利息，駐台北馬來西亞友誼及貿易中心所代表領域得予課稅。
- 三、源自駐台北馬來西亞友誼及貿易中心所代表領域之利息，駐台北馬來西亞友誼及貿易中心所代表領域亦得依其法律規定，對該項利息課稅，利息取得者如為此項利息受益所有人，其課徵之稅額不得超過利息總額之百分之十。
- 四、源自駐馬來西亞台北經濟文化辦事處所代表領域之利息，駐馬來西亞台北經濟文化辦事處所代表領域亦得依其法律規定，對該項利息課稅，利息取得者如為此項利息受益所有人，其課徵之稅額不得超過利息總額之百分之十。
- 五、利息受益所有人為駐馬來西亞台北經濟文化辦事處所代表領域之居住者，與利息有關之貸款或債務係屬依駐台北馬來西亞友誼及貿易中心所代表領域一九六七年所得稅法第二條第一項規定核准者，該項利息應予免稅，不受第三項規定之限制。
- 六、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，及公司債及債券之所得。
- 七、利息受益所有人如係駐馬來西亞台北經濟文化辦事處所代表領域之居住者，經由其於駐台北馬來西亞友誼及貿易中心所代表領域境內之固定營業場所從事營業，且與利息有關之債權與該場所有實際關聯時，不適用第一項、第三項及第五項規定，而適用第七條規定。
- 八、利息受益所有人如係駐台北馬來西亞友誼及貿易中心所代表領域之居住者，經由其於駐馬來西亞台北經濟文化辦事處所代表領域境內之固定營業場所從事營業，且與利息有關之債權與該場所有實際關聯時，不適用第二項及第四項規定，而適用第七條規定。
- 九、由駐台北馬來西亞友誼及貿易中心所代表領域之居住者所給付之利息，視為源自駐台北馬來西亞友誼及貿易中心所代表領域。利息給付人如於駐台北馬來西亞友誼及貿易中心所代表領域境內有固定營業場所，而給付利息債務之發生與該場所有關聯，且由該場所負擔該項利息者，不論該利息給付人是否為駐台北馬來西亞友誼及貿易中心所代表領域之居住者，此項利息視為源自駐台北馬來西亞友誼及貿易中心所代表領域。
- 十、由駐馬來西亞台北經濟文化辦事處所代表領域之居住者所給付之利息，視為源自駐馬來西亞台北經濟文化辦事處所代表領域。利息給付人如於駐馬來西亞台北經濟文化辦事處所代表領域境內有固定營業場所，而給付利息債務之發生與該場所有關聯，且由該場所負擔該

項利息者，不論該利息給付人是否為駐馬來西亞台北經濟文化辦事處所代表領域之居住者，此項利息視為源自駐馬來西亞台北經濟文化辦事處所代表領域。

十一、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，如債權之利息數額，超過利息給付人與利息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，得考量本協定其他規定，視情況依駐馬來西亞台北經濟文化辦事處所代表領域或駐台北馬來西亞友誼及貿易中心所代表領域之法律，對此項超額給付課稅。

第十二條 權利金

一、源自駐台北馬來西亞友誼及貿易中心所代表領域而給付駐馬來西亞台北經濟文化辦事處所代表領域居住者之權利金，駐馬來西亞台北經濟文化辦事處所代表領域得予課稅。

二、源自駐馬來西亞台北經濟文化辦事處所代表領域而給付駐台北馬來西亞友誼及貿易中心所代表領域居住者之權利金，駐台北馬來西亞友誼及貿易中心所代表領域得予課稅。

三、源自駐台北馬來西亞友誼及貿易中心所代表領域之權利金，駐台北馬來西亞友誼及貿易中心所代表領域亦得依其法律規定，對該項權利金課稅，權利金取得者如為該項權利金之受益所有人，其課徵之稅額不得超過權利金總額之百分之十。

四、源自駐馬來西亞台北經濟文化辦事處所代表領域之權利金，駐馬來西亞台北經濟文化辦事處所代表領域亦得依其法律規定，對該項權利金課稅，權利金取得者如為該項權利金之受益所有人，其課徵之稅額不得超過權利金總額之百分之十。

五、本條所稱「權利金」，係指取得左列任何方式給付之報酬：

(一) 使用或有權使用任何專利權、商標權、設計或模型、計畫、秘密處方或方法、或科學作品之任何著作權，或工業、商業或科學設備，或有關工業、商業或科學經驗之資訊。

(二) 使用或有權使用電影或供廣播或電視播映用之影片或錄音帶、文學作品或藝術作品之任何著作權。

六、權利金受益所有人如係駐馬來西亞台北經濟文化辦事處所代表領域之居住者，經由其於權利金來源地之駐台北馬來西亞友誼及貿易中心所代表領域境內之固定營業場所從事營業，且與權利金有關之權利或財產與該場所有實際關聯時，不適用第一項及第三項規定，而適用第七條。

七、權利金受益所有人如係駐台北馬來西亞友誼及貿易中心所代表領域之居住者，經由其於權利金來源地之駐馬來西亞台北經濟文化辦事處所代表領域境內之固定營業場所從事營業，且與權利金有關之權利或財產與該場所有實際關聯時，不適用第二項及第四項規定，而適用第七條規定。

八、由駐台北馬來西亞友誼及貿易中心所代表領域之居住者給付之權利金，視為源自駐台北馬來西亞友誼及貿易中心所代表領域。權利金給付人如於駐台北馬來西亞友誼及貿易中心所代表領域境內有固定營業場所，而給付權利金義務之發生與該場所有關聯，且由該場所負擔該項權利金者，不論該權利金給付人是否為駐台北馬來西亞友誼及貿易中心所代表領域之居住者，此項權利金視為源自駐台北馬來西亞友誼及貿易中心所代表領域。

九、由駐馬來西亞台北經濟文化辦事處所代表領域之居住者給付之權利金，視為源自駐馬來西亞台北經濟文化辦事處所代表領域。權利金給付人如於駐馬來西亞台北經濟文化辦事處所代表領域境內有固定營業場所，而給付權利金義務之發生與該場所有關聯，且由該場所負擔該項權利金者，不論該權利金給付人是否為駐馬來西亞台北經濟文化辦事處所代表領域之居住者，此項權利金視為源自駐馬來西亞台北經濟文化辦事處所代表領域。

- 十、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，如使用、權利或資訊之權利金給付數額，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，得考量本協定其他規定，視情況依駐馬來西亞台北經濟文化辦事處所代表領域或駐台北馬來西亞友誼及貿易中心所代表領域之法律，對此項超額給付課稅。

第十三條 技術費

- 一、源自駐台北馬來西亞友誼及貿易中心所代表領域而給付駐馬來西亞台北經濟文化辦事處所代表領域之居住者之技術費，駐馬來西亞台北經濟文化辦事處所代表領域得予課稅，不受第十五條規定之限制。
- 二、源自駐馬來西亞台北經濟文化辦事處所代表領域而給付駐台北馬來西亞友誼及貿易中心所代表領域之居住者之技術費，駐台北馬來西亞友誼及貿易中心所代表領域得予課稅，不受第十五條規定之限制。
- 三、源自駐台北馬來西亞友誼及貿易中心所代表領域之技術費，駐台北馬來西亞友誼及貿易中心所代表領域亦得依其法律規定，對該項技術費課稅，技術費取得者如為該項技術費之受益所有人，其課徵之稅額不得超過技術費總額之百分之七·五。
- 四、源自駐馬來西亞台北經濟文化辦事處所代表領域之技術費，駐馬來西亞台北經濟文化辦事處所代表領域亦得依其法律規定，對該項技術費課稅，技術費取得者如為該項技術費之受益所有人，其課徵之稅額不得超過技術費總額之百分之七·五。
- 五、本條所稱「技術費」，係指因技術、管理或諮詢性質之任何服務，對員工以外之人所為任何方式之給付。
- 六、技術費受益所有人如係駐馬來西亞台北經濟文化辦事處所代表領域之居住者，經由其於技術費來源地之駐台北馬來西亞友誼及貿易中心所代表領域境內之固定營業場所從事營業或執行業務，且技術費與該場所或業務有實際關聯時，不適用本條第一項及第三項規定，而視情況適用第七條或第十五條規定。
- 七、技術費受益所有人如係駐台北馬來西亞友誼及貿易中心所代表領域之居住者，經由其於技術費來源地之駐馬來西亞台北經濟文化辦事處所代表領域境內之固定營業場所從事營業或執行業務，且技術費與該場所或業務有實際關聯時，不適用本條第二項及第四項規定，而視情況適用第七條或第十五條規定。
- 八、由駐台北馬來西亞友誼及貿易中心所代表領域之居住者給付之技術費，視為源自駐台北馬來西亞友誼及貿易中心所代表領域。技術費給付人如於駐台北馬來西亞友誼及貿易中心所代表領域境內有固定營業場所，而給付技術費義務之發生與該場所有關聯，且由該場所負擔該項技術費者，不論該技術費給付人是否為駐台北馬來西亞友誼及貿易中心所代表領域之居住者，此項技術費視為源自駐台北馬來西亞友誼及貿易中心所代表領域。
- 九、由駐馬來西亞台北經濟文化辦事處所代表領域之居住者給付之技術費，視為源自駐馬來西亞台北經濟文化辦事處所代表領域。技術費給付人如於駐馬來西亞台北經濟文化辦事處所代表領域境內有固定營業場所，而給付技術費義務之發生與該場所有關聯，且由該場所負擔該項技術費者，不論該技術費給付人是否為駐馬來西亞台北經濟文化辦事處所代表領域之居住者，此項技術費視為源自駐馬來西亞台北經濟文化辦事處所代表領域。

第十四條 財產交易所得

- 一、駐台北馬來西亞友誼及貿易中心所代表領域之居住者因轉讓第六條規定之駐馬來西亞台北經濟文化辦事處所代表領域境內之不動產而取得之增益，駐馬來西亞台北經濟文化辦事處所代表領域得予課稅。
- 二、駐馬來西亞台北經濟文化辦事處所代表領域之居住者因轉讓第六條規定之駐台北馬來西亞友誼及貿易中心所代表領域境內之不動產而取得之增益，駐台北馬來西亞友誼及貿易中心所代表領域得予課稅。
- 三、駐台北馬來西亞友誼及貿易中心所代表領域之企業因轉讓其於駐馬來西亞台北經濟文化辦事處所代表領域境內固定營業場所資產中之動產而取得之增益，或駐台北馬來西亞友誼及貿易中心所代表領域之居住者因轉讓其於駐馬來西亞台北經濟文化辦事處所代表領域執行業務所使用之動產而取得之增益，包括因轉讓該場所（單獨或連同整個企業）而取得之增益，駐馬來西亞台北經濟文化辦事處所代表領域得予課稅。
- 四、駐馬來西亞台北經濟文化辦事處所代表領域之企業因轉讓其於駐台北馬來西亞友誼及貿易中心所代表領域境內固定營業場所資產中之動產而取得之增益，或駐馬來西亞台北經濟文化辦事處所代表領域之居住者因轉讓其於駐台北馬來西亞友誼及貿易中心所代表領域執行業務所使用之動產而取得之增益，包括因轉讓該場所（單獨或連同整個企業）而取得之增益，駐台北馬來西亞友誼及貿易中心所代表領域得予課稅。
- 五、轉讓經營國際運輸業務之船舶或航空器、從事內陸運輸業務之小艇、或與該等船舶、航空器或小艇營運有關之動產而取得之增益，視情況僅企業所在地之駐馬來西亞台北經濟文化辦事處所代表領域或駐台北馬來西亞友誼及貿易中心所代表領域課稅。
- 六、因轉讓第一項、第二項及第三項規定以外之任何財產而取得之增益，視情況僅由該轉讓人為居住者之駐馬來西亞台北經濟文化辦事處所代表領域或駐台北馬來西亞友誼及貿易中心所代表領域課稅。

第十五條 執行業務

- 一、駐台北馬來西亞友誼及貿易中心所代表領域之居住者因執行業務或其他類似性質之獨立活動而取得之所得，僅駐台北馬來西亞友誼及貿易中心所代表領域得予課稅。但左列情況之所得，駐馬來西亞台北經濟文化辦事處所代表領域得予課稅：
 - （一）於一曆年度內在駐馬來西亞台北經濟文化辦事處所代表領域境內居留合計超過一百八十三天。
 - （二）於一曆年度內在駐馬來西亞台北經濟文化辦事處所代表領域境內居留合計不超過一百八十三天，而在駐馬來西亞台北經濟文化辦事處所代表領域境內提供勞務之報酬，係由駐馬來西亞台北經濟文化辦事處所代表領域居住者給付，或由駐馬來西亞台北經濟文化辦事處所代表領域非居住者之固定營業場所負擔，於該曆年度內金額超過美金三千元或等額之新臺幣。
- 二、駐馬來西亞台北經濟文化辦事處所代表領域之居住者因執行業務或其他類似性質之獨立活動而取得之所得，僅駐馬來西亞台北經濟文化辦事處所代表領域得予課稅。但左列情況之所得，駐台北馬來西亞友誼及貿易中心所代表領域得予課稅：
 - （一）於一曆年度內在駐台北馬來西亞友誼及貿易中心所代表領域境內居留合計超過一百八十三天。
 - （二）於一曆年度內在駐台北馬來西亞友誼及貿易中心所代表領域境內居留合計不超過一百八十三天，而在駐台北馬來西亞友誼及貿易中心所代表領域境內提供勞務之報酬，係由駐台北馬來西亞友誼及貿易中心所代表領域居住者給付，或由駐台北馬來西亞友誼及貿易中心所代表領域非居住者之固定營業場所負擔，於該曆年度內金額超過美金三千元或等額之馬來西亞幣。
- 三、「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、牙醫師與會計師等獨立性質之活動。

第十六條 個人勞務

- 一、除第十七條、第十八條、第十九條及第二十條規定外，駐台北馬來西亞友誼及貿易中心所代表領域之居住者因受僱而取得之薪俸、工資及其他類似報酬，僅由駐台北馬來西亞友誼及貿易中心所代表領域課稅。但該項勞務係於駐馬來西亞台北經濟文化辦事處所代表領域提供者，不在此限。如該項勞務係於駐馬來西亞台北經濟文化辦事處所代表領域提供，駐馬來西亞台北經濟文化辦事處所代表領域得對該項勞務取得之報酬課稅。
- 二、除第十七條、第十八條、第十九條及第二十條規定外，駐馬來西亞台北經濟文化辦事處所代表領域之居住者因受僱而取得之薪俸、工資及其他類似報酬，僅由駐馬來西亞台北經濟文化辦事處所代表領域課稅。但該項勞務係於駐台北馬來西亞友誼及貿易中心所代表領域提供者，不在此限。如該項勞務係於駐台北馬來西亞友誼及貿易中心所代表領域提供，駐台北馬來西亞友誼及貿易中心所代表領域得對該項勞務取得之報酬課稅。
- 三、駐台北馬來西亞友誼及貿易中心所代表領域之居住者於駐馬來西亞台北經濟文化辦事處所代表領域提供勞務而取得之報酬，如符合左列規定，僅由駐台北馬來西亞友誼及貿易中心所代表領域課稅，不受第一項規定之限制：
 - (一) 該所得人於一曆年度內在駐馬來西亞台北經濟文化辦事處所代表領域境內居留合計不超過一百八十三天。
 - (二) 該項報酬非由駐馬來西亞台北經濟文化辦事處所代表領域居住者之雇主所給付或代為給付。
 - (三) 該項報酬非由駐馬來西亞台北經濟文化辦事處所代表領域居住者或該雇主於駐馬來西亞台北經濟文化辦事處所代表領域境內之固定營業場所負擔。
- 四、駐馬來西亞台北經濟文化辦事處所代表領域之居住者於駐台北馬來西亞友誼及貿易中心所代表領域提供勞務而取得之報酬，如符合左列規定，僅由駐馬來西亞台北經濟文化辦事處所代表領域課稅，不受第一項規定之限制：
 - (一) 該所得人於一曆年度內在駐台北馬來西亞友誼及貿易中心所代表領域境內居留合計不超過一百八十三天。
 - (二) 該項報酬非由駐台北馬來西亞友誼及貿易中心所代表領域居住者之雇主所給付或代為給付。
 - (三) 該項報酬非由駐台北馬來西亞友誼及貿易中心所代表領域居住者或該雇主於駐台北馬來西亞友誼及貿易中心所代表領域境內之固定營業場所負擔。
- 五、因受僱於駐台北馬來西亞友誼及貿易中心所代表領域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，駐台北馬來西亞友誼及貿易中心所代表領域得予課稅，不受前述各項規定之限制。
- 六、因受僱於駐馬來西亞台北經濟文化辦事處所代表領域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，駐馬來西亞台北經濟文化辦事處所代表領域得予課稅，不受前述各項規定之限制。

第十七條 董事報酬

- 一、駐台北馬來西亞友誼及貿易中心所代表領域之居住者因擔任駐馬來西亞台北經濟文化辦事處所代表領域境內公司董事會之董事而取得之董事報酬及類似給付，駐馬來西亞台北經濟文化辦事處所代表領域得予課稅。
- 二、駐馬來西亞台北經濟文化辦事處所代表領域之居住者因擔任駐台北馬來西亞友誼及貿易中心所代表領域境內公司董事會之董事而取得之董事報酬及類似給付，駐台北馬來西亞友誼及貿易中心所代表領域得予課稅。
- 三、第一項及第二項規定之董事因執行日常之管理或技術性之職務，而自公司取得之報酬，依第十六條規定課稅。

第十八條 演藝人員與運動員

- 一、駐台北馬來西亞友誼及貿易中心所代表領域之居住者為劇院、電影、廣播或電視之演藝人員或音樂家等表演人、或運動員，於駐馬來西亞台北經濟文化辦事處所代表領域從事個人活動而取得之所得，駐馬來西亞台北經濟文化辦事處所代表領域得予課稅，不受第十五條及第十六條規定之限制。

- 二、駐馬來西亞台北經濟文化辦事處所代表領域之居住者為劇院、電影、廣播或電視之演藝人員或音樂家等表演人、或運動員，於駐台北馬來西亞友誼及貿易中心所代表領域從事個人活動而取得之所得，駐台北馬來西亞友誼及貿易中心所代表領域得予課稅，不受第十五條及第十六條規定之限制。
- 三、表演人或運動員以該身分從事個人活動，如其所得不歸屬該表演人或運動員本人而歸屬其他人者，視情況由該活動舉行地之駐馬來西亞台北經濟文化辦事處所代表領域或駐台北馬來西亞友誼及貿易中心所代表領域對該項所得課稅，不受第七條、第十五條及第十六條規定之限制。
- 四、如訪問駐馬來西亞台北經濟文化辦事處所代表領域，全部或實質上係直接或間接由駐台北馬來西亞友誼及貿易中心所代表領域公共經費資助者，於駐馬來西亞台北經濟文化辦事處所代表領域從事活動而取得之報酬或利潤，不適用第一項及第三項規定。
- 五、如訪問駐台北馬來西亞友誼及貿易中心所代表領域，全部或實質上係直接或間接由駐馬來西亞台北經濟文化辦事處所代表領域公共經費資助者，於駐台北馬來西亞友誼及貿易中心所代表領域從事活動而取得之報酬或利潤，不適用第二項及第三項規定。

第十九條 教師與研究人員

- 一、個人於訪問駐馬來西亞台北經濟文化辦事處所代表領域之前，係駐台北馬來西亞友誼及貿易中心所代表領域之居住者，因接受駐馬來西亞台北經濟文化辦事處所代表領域之公立大學、學院或其他類似公立機構之邀請，專為各該公立機構從事教學或研究為期不超過兩年者，如駐台北馬來西亞友誼及貿易中心所代表領域對該教學或研究之報酬課稅，駐馬來西亞台北經濟文化辦事處所代表領域應予免稅。
- 二、個人於訪問駐台北馬來西亞友誼及貿易中心所代表領域之前，係駐馬來西亞台北經濟文化辦事處所代表領域之居住者，因接受駐台北馬來西亞友誼及貿易中心所代表領域之公立大學、學院或其他類似公立機構之邀請，專為各該公立機構從事教學或研究為期不超過兩年者，如駐馬來西亞台北經濟文化辦事處所代表領域對該教學或研究之報酬課稅，駐台北馬來西亞友誼及貿易中心所代表領域應予免稅。
- 三、與駐馬來西亞台北經濟文化辦事處所代表領域或駐台北馬來西亞友誼及貿易中心所代表領域之公立機構簽訂一個或一個以上之合約，訪問期間超過兩年者，不適用第一項及第二項規定。
- 四、主要為特定人之私人利益進行研究所取得之所得，不適用本條規定。

第二十條 學生與受訓人員

- 一、個人於訪問駐台北馬來西亞友誼及貿易中心所代表領域之前，係駐馬來西亞台北經濟文化辦事處所代表領域之居住者，如其暫時居留於駐台北馬來西亞友誼及貿易中心所代表領域境內專為：
 - (一) 就讀於駐台北馬來西亞友誼及貿易中心所代表領域境內經認可之大學、學院、學校或其他經認可之類似教育機構。
 - (二) 當商業或技術學徒。
 - (三) 就學、研究或訓練目的而接受由駐馬來西亞台北經濟文化辦事處所代表領域或駐台北馬來西亞友誼及貿易中心所代表領域之相關機關、或科學、教育、宗教或慈善機構、或技術協助計畫所提供之補助費、津貼或獎學金。駐台北馬來西亞友誼及貿易中心所代表領域就左列各款應予免稅：
 - (一) 自國外匯入供生活、教育、就學、研究或訓練之款項。
 - (二) 補助費、津貼或獎學金。
 - (三) 在駐台北馬來西亞友誼及貿易中心所代表領域境內提供與其就學、研究或訓練有關或為生活目的所需之勞務，其報酬每年不超過美金三千元或等額之新臺幣。
- 二、個人於訪問駐馬來西亞台北經濟文化辦事處所代表領域之前，係駐台北馬來西亞友誼及貿易中心所代表領域之居住者，如其暫時居留於駐馬來西亞台北經濟文化辦事處所代表領域境內專為：
 - (一) 就讀於駐馬來西亞台北經濟文化辦事處所代表領域境內經認可之大學、學院、學校或其

- 他類似經認可之教育機構。
- (二) 當商業或技術學徒。
 - (三) 就學、研究或訓練目的而接受由駐馬來西亞台北經濟文化辦事處所代表領域或駐台北馬來西亞友誼及貿易中心所代表領域之相關機關、或科學、教育、宗教或慈善機構、或技術協助計畫所提供之補助費、津貼或獎學金。
- 駐馬來西亞台北經濟文化辦事處所代表領域就左列各款應予免稅：
- (一) 自國外匯入供生活、教育、就學、研究或訓練之款項。
 - (二) 補助費、津貼或獎學金。
 - (三) 在駐馬來西亞台北經濟文化辦事處所代表領域境內提供與其就學、研究或訓練有關，或為生活目的所需之勞務，其報酬每年不超過美金三千元或等額之馬來西亞幣。

第二十一條 其他所得

- 一、駐馬來西亞台北經濟文化辦事處所代表領域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，僅由駐馬來西亞台北經濟文化辦事處所代表領域課稅，該所得如源自駐台北馬來西亞友誼及貿易中心所代表領域，駐台北馬來西亞友誼及貿易中心所代表領域亦得課稅。
- 二、駐台北馬來西亞友誼及貿易中心所代表領域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，僅由駐台北馬來西亞友誼及貿易中心所代表領域課稅，該所得如源自駐馬來西亞台北經濟文化辦事處所代表領域，駐馬來西亞台北經濟文化辦事處所代表領域亦得課稅。

第二十二條 減免之限制

- 一、源於駐馬來西亞台北經濟文化辦事處所代表領域之所得，依本協定規定（不論有無其他條件）在駐馬來西亞台北經濟文化辦事處所代表領域係免稅或減稅，而依駐台北馬來西亞友誼及貿易中心所代表領域之法律規定，該項所得係按匯入駐台北馬來西亞友誼及貿易中心所代表領域之金額或按駐台北馬來西亞友誼及貿易中心所代表領域收到之金額課稅，而非按該項所得全額課稅，駐馬來西亞台北經濟文化辦事處所代表領域依本協定規定之免稅或減稅，僅適用於匯入駐台北馬來西亞友誼及貿易中心所代表領域之金額或駐台北馬來西亞友誼及貿易中心所代表領域收到之金額為限。
- 二、源於駐台北馬來西亞友誼及貿易中心所代表領域之所得，依本協定規定（不論有無其他條件）在駐台北馬來西亞友誼及貿易中心所代表領域係免稅或減稅，而依駐馬來西亞台北經濟文化辦事處所代表領域之法律規定，該項所得係按匯入駐馬來西亞台北經濟文化辦事處所代表領域之金額或按駐馬來西亞台北經濟文化辦事處所代表領域收到之金額課稅，而非按該項所得全額課稅，駐台北馬來西亞友誼及貿易中心所代表領域依本協定規定之免稅或減稅，僅適用於匯入駐馬來西亞台北經濟文化辦事處所代表領域之金額或駐馬來西亞台北經濟文化辦事處所代表領域收到之金額為限。

第二十三條 雙重課稅之消除

- 一、為避免對駐台北馬來西亞友誼及貿易中心所代表領域居住者之雙重課稅：

依駐台北馬來西亞友誼及貿易中心所代表領域稅法規定准許駐台北馬來西亞友誼及貿易中心所代表領域境外之應納稅額扣抵駐台北馬來西亞友誼及貿易中心所代表領域之應納稅額，駐台北馬來西亞友誼及貿易中心所代表領域居住者源自駐馬來西亞台北經濟文化辦事處所代表領域境內之所得，依駐馬來西亞台北經濟文化辦事處所代表領域稅法規定在駐馬來西亞台北經濟文化辦事處所代表領域之應納稅額，應准予扣抵該所得在駐台北馬來西亞友誼及貿易中心所代表領域之應納稅額。但扣抵之數額，不得超過扣抵前駐台北馬來西亞友誼及貿易中心所代表領域對該所得課徵之應納稅額。

- 二、第一項稱「在駐馬來西亞台北經濟文化辦事處所代表領域之應納稅額」，應視同包括任何源自駐馬來西亞台北經濟文化辦事處所代表領域之所得，依本協定簽署日施行之促進產業升級條例第六條、第七條、第八條及第八條之一規定之減稅或免稅。其後修正或新增之獎勵投資法律規定，其性質實質上類似，經駐馬來西亞台北經濟文化辦事處所代表領域與駐台北馬來西亞友誼及貿易中心所代表領域之機關同意者，亦適用之。

- 三、為避免對駐馬來西亞台北經濟文化辦事處所代表領域居住者之雙重課稅：
依駐馬來西亞台北經濟文化辦事處所代表領域稅法規定准許駐馬來西亞台北經濟文化辦事處所代表領域境外之應納稅額扣抵駐馬來西亞台北經濟文化辦事處所代表領域之應納稅額，駐馬來西亞台北經濟文化辦事處所代表領域居住者源自駐台北馬來西亞友誼及貿易中心所代表領域境內之所得，依駐台北馬來西亞友誼及貿易中心所代表領域稅法規定在駐台北馬來西亞友誼及貿易中心所代表領域之應納稅額，應准予扣抵該所得在駐馬來西亞台北經濟文化辦事處所代表領域之應納稅額。但扣抵之數額，不得超過扣抵前駐馬來西亞台北經濟文化辦事處所代表領域對該所得課徵之應納稅額。
- 四、第三項稱「在駐台北馬來西亞友誼及貿易中心所代表領域之應納稅額」，應視同包括任何源自駐台北馬來西亞友誼及貿易中心所代表領域之所得，依本協定簽署日施行之駐台北馬來西亞友誼及貿易中心所代表領域一九八六年促進投資法第二十二條、第二十三條、第二十九條、第三十五條及第三十七條規定之減稅或免稅。其後修正或新增之獎勵投資法律規定，其性質實質上類似，經駐馬來西亞台北經濟文化辦事處所代表領域與駐台北馬來西亞友誼及貿易中心所代表領域之機關同意者，亦適用之。依本協定第十一條第五項規定免稅之利息，視同已按利息總額之百分之十課稅。
- 五、本條第二項及第四項規定自本協定生效日起適用五年，並以經駐馬來西亞台北經濟文化辦事處所代表領域有關機關核准之居住者及駐台北馬來西亞友誼及貿易中心所代表領域之居住者為限。駐馬來西亞台北經濟文化辦事處所代表領域與駐台北馬來西亞友誼及貿易中心所代表領域雙方及其主管機關應相互協商上述期間是否延長。

第二十四條 無差別待遇

- 一、駐馬來西亞台北經濟文化辦事處或駐台北馬來西亞友誼及貿易中心應告知各該主管機關以確保：
- (一) 一方領域之居住者於他方領域境內，不應較他方領域之居住者於相同情況下，負擔不同或較重之任何租稅或相關之要求。
- (二) 對一方領域之企業於他方領域境內固定營業場所之課稅，不應較經營相同業務之他方領域之企業作較不利之課徵。
- (三) 一方領域之企業，其資本全部或部分由他方領域一個或一個以上之居住者直接或間接持有或控制者，該一方領域之企業不應較該一方領域之其他相似企業，負擔不同或較重之任何租稅或相關之要求。
- 二、駐馬來西亞台北經濟文化辦事處或駐台北馬來西亞友誼及貿易中心視情況同意：
- (一) 本條規定不得解釋為一方領域之主管機關，為課稅目的，基於國民身分之家庭責任而給予該一方領域居住者之個人免稅額或減免，同樣給予他方領域之居住者。
- (二) 本條規定不得解釋為阻止任一方主管機關限制一方領域居住者適用該一方領域為促進經濟發展而制定之租稅獎勵。
- 三、本條所稱「租稅」，係指本協定所適用之租稅。

第二十五條 相互協議之程序

- 一、一人認為駐馬來西亞台北經濟文化辦事處所代表領域與駐台北馬來西亞友誼及貿易中心所代表領域一方或雙方主管機關之行為，對其發生或將發生不符合本協定規定之課稅，不論各該領域法律之救濟規定，得視情況向駐馬來西亞台北經濟文化辦事處或駐台北馬來西亞友誼及貿易中心提出申訴，駐馬來西亞台北經濟文化辦事處或駐台北馬來西亞友誼及貿易中心再轉交主管機關，此項申訴應於首次接獲不符合本協定課稅之通知起三年內為之。
- 二、駐馬來西亞台北經濟文化辦事處與駐台北馬來西亞友誼及貿易中心應致力以協議方式解決申訴案件，以避免發生不符合本協定規定之課稅。
- 三、駐馬來西亞台北經濟文化辦事處與駐台北馬來西亞友誼及貿易中心應致力以協議方式解決有關本協定之解釋或適用上發生之困難或疑義，雙方並得共同磋商，以消除本協定未規定之雙重課稅問題。

第二十六條 資訊交換

- 一、駐馬來西亞台北經濟文化辦事處與駐台北馬來西亞友誼及貿易中心為執行本協定之規定或本協定所指租稅之各該國內法，應相互交換必要之資訊。交換之任何資訊應以密件處理，且不得揭露予與本協定所指租稅之核定、徵收、執行、起訴或裁定行政救濟以外有關之人員或機關。
- 二、前項規定不得解釋為駐馬來西亞台北經濟文化辦事處或駐台北馬來西亞友誼及貿易中心之任何一方有左列各款義務：
 - (一) 執行不同於各該國內法律之行政措施。
 - (二) 提供依各該國內法律規定無法獲得之資訊。
 - (三) 提供可能洩露任何貿易、營業、工業、商業或執行業務之秘密或交易方法之資訊，或其洩露有違公共政策之資訊。

第二十七條 生效

- 一、本協定由獲合法授權之駐馬來西亞台北經濟文化辦事處代表或駐台北馬來西亞友誼及貿易中心代表相互換函，確認雙方已完成使本協定生效之國內法定程序後生效。
- 二、本協定規定之適用日期：
 - (一) 在駐馬來西亞台北經濟文化辦事處所代表領域：
 - 1、非居住者所得之就源扣繳稅款為換函日之次年一月一日。
 - 2、其他稅款為換函日之次年一月一日起之課稅年度及以後之課稅年度。

(二) 在駐台北馬來西亞友誼及貿易中心所代表領域：

1、非居住者所得之就源扣繳為換函日之次年一月一日。

2、其他稅款為換函日後第二年一月一日起之核定年度及以後之核定年度。

第二十八條 終止

本協定應無限期有效，但駐馬來西亞台北經濟文化辦事處或駐台北馬來西亞友誼及貿易中心任何一方得於本協定生效後第四年起任一年之六月三十日前以書面通知對方終止本協定。其終止日期：

(一) 在駐馬來西亞台北經濟文化辦事處所代表領域：

1、非居住者所得之就源扣繳稅款為接獲通知日之次年一月一日。

2、其他稅款為接獲通知日次年一月一日起之課稅年度。

(二) 在駐台北馬來西亞友誼及貿易中心所代表領域：

1、非居住者所得之就源扣繳為接獲通知日之次年一月一日。

2、其他稅款為接獲通知日後第二年一月一日起之核定年度。

本協定於中華民國八十五年七月二十三日（公元一九九六年七月二十三日）在台北簽署。本協定以中文、馬來西亞及英文各繕二份，三種文字約本同一作準，如本協定解釋上及適用上有不一致，以英文本為準。

駐馬來西亞台北經濟文化辦事處 代表 黃新壁 駐台北
馬來西亞友誼及貿易中心 代表 哈榮

Date: 23rd July, 1996

President,
The Malaysian Friendship and Trade Centre,
8th Floor, San Ho Plastic Building,
102, Tun Hua North Road,
Taipei, Taiwan, R.O.C.

Dear Mr. President,

I have the honour to refer to the Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed between us on July 23, 1996, and have the pleasure to inform you that approval has been given in respect of matters set out in the said Agreement.

I wish to state further that, for the purposes of Article 24, the word "resident" shall not apply to "nationals" of areas other than the area represented by the Malaysian Friendship and Trade Centre in Taipei or the Taipei Economic and Cultural Office in Malaysia, as the case may be.

I have further the honour to propose that this letter and your letter in reply, shall bring into force the said Agreement.

Please accept, Mr. President, the assurances of my highest consideration.

(Huang Hsin-pi)
The Representative,
The Taipei Economic and Cultural Office in Malaysia,
Kuala Lumpur, Malaysia.

**AGREEMENT BETWEEN THE TAIPEI ECONOMIC AND CULTURAL OFFICE IN
MALAYSIA AND THE MALAYSIAN FRIENDSHIP AND TRADE CENTRE IN TAIPEI FOR
THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES ON INCOME**

The Taipei Economic and Cultural Office in Malaysia and the Malaysian Friendship and Trade Centre in Taipei, being desirous of promoting closer economic cooperation and investment, undertake to seek the approval of their respective authorities on matters relating to the avoidance of double taxation and the prevention of fiscal evasion and on matters relating to credits, benefits, exemptions or other facilities relating to taxation, as may be applicable, to the residents of the area represented by the Taipei Economic and Cultural Office in Malaysia or the area represented by the Malaysian Friendship and Trade Centre in Taipei, as the case may be, in respect of investments and economic activities;

Both parties have agreed to seek the approval of their respective authorities in respect of matters set out in this Agreement.

ARTICLE 1 PERSONAL SCOPE

This Agreement shall apply to persons who are residents of the "area represented by the Malaysian Friendship and Trade Centre in Taipei" (hereinafter called the "MFTC") and the "area represented by the Taipei Economic and Cultural Office in Malaysia" (hereinafter called the "TECO").

ARTICLE 2 TAXES COVERED

1. The existing taxes to which this Agreement shall apply are:
 - (a) in the MFTC: the income tax and the petroleum income tax;
 - (b) in the TECO: the individual consolidated income tax and the profit seeking enterprise income tax.

2. This Agreement shall also apply to any other taxes of a substantially similar character which are subsequently imposed in addition to, or in place of, the existing taxes. Both parties shall notify each other of any significant changes which have been made in the taxation laws applicable in the MFTC or in the TECO, as the case may be, and of any significant official publication concerning the application of the Agreement, including explanations, regulations, rulings or judicial decisions.

ARTICLE 3 GENERAL DEFINITIONS

1. In this Agreement, unless the context otherwise requires:
 - (a) the term "person" comprises an individual, a company and any other body of persons which is treated as a person for tax purposes;
 - (b) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - (c) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise in the MFTC or in the TECO, as the case may be, except when the ship or aircraft is operated solely between places in the MFTC or in the TECO, as the case may be;
 - (d) the term "competent authority" means the appropriate authority responsible for taxation in the MFTC or in the TECO, as the case may be.

2. As regards the application of this Agreement in the MFTC or in the TECO, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws applicable in the MFTC or in the TECO relating to the taxes which are the subject of this Agreement.

ARTICLE 4 RESIDENT

1. For the purposes of this Agreement, the term "resident" means any person who is a resident in accordance with the taxation laws applicable in the MFTC or in the TECO, as the case may be.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both the MFTC and the TECO, then his status shall be determined in accordance with the following rules:
 - (a) he shall be deemed to be a resident of either the MFTC or the TECO where he has a

- permanent home available to him. If he has a permanent home available to him in both the MFTC and the TECO, he shall be deemed to be a resident of the MFTC or the TECO with which his personal and economic relations are closer (centre of vital interest);
- (b) in cases where his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either the MFTC or the TECO, he shall be deemed to be a resident of the MFTC or the TECO in which he has an habitual abode;
 - (c) if he has an habitual abode in both the MFTC and the TECO or in neither of them, the respective authorities in the MFTC and in the TECO 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 the MFTC and the TECO, then it shall be deemed to be a resident of the MFTC or the TECO in which the control and management of its business is exercised.

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 the enterprise is wholly or partly carried on.
2. The term "permanent establishment" shall include especially:
 - (a) a place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a factory;
 - (e) a workshop;
 - (f) a mine, oil well, quarry or other place of extraction of natural resources;
 - (g) a plantation, farm, orchard or vineyard;
 - (h) a building site, construction, installation and assembly project which exist in the aggregate for more than six months in a calendar year or for more than six consecutive months overlapping two calendar years.
3. The term "permanent establishment" shall not be deemed to include:
 - (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
 - (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for 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.
4. An enterprise of the MFTC shall be deemed to have a permanent establishment in the TECO if it carries on supervisory activities in the TECO for more than six months in connection with a construction, installation or assembly project which is being undertaken in the TECO.
5. An enterprise of the TECO shall be deemed to have a permanent establishment in the MFTC if it carries on supervisory activities in the MFTC for more than six months in connection with a construction, installation or assembly project which is being undertaken in the MFTC.
6. A person acting in the MFTC on behalf of an enterprise of the TECO (other than an agent of an independent status to whom paragraph 8 applies) notwithstanding he has no fixed place of business in the MFTC shall be deemed to be a permanent establishment in the MFTC if -
 - (a) he has, and habitually exercises a general authority in the MFTC to conclude contracts in the name of the enterprise; or
 - (b) he maintains in the MFTC a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise; or
 - (c) he regularly secures orders in the MFTC wholly or almost wholly for the enterprise.
7. A person acting in the TECO on behalf of an enterprise of the MFTC (other than an agent of an independent status to whom paragraph 9 applies) notwithstanding he has no fixed place of business in the TECO shall be deemed to be a permanent establishment in the TECO if -

- (a) he has, and habitually exercises a general authority in the TECO to conclude contracts in the name of the enterprise; or
 - (b) he maintains in the TECO a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise; or
 - (c) he regularly secures orders in the TECO wholly or almost wholly for the enterprise.
8. An enterprise of the MFTC shall not be deemed to have a permanent establishment in the TECO merely because it carries on business in the TECO through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.
9. An enterprise of the TECO shall not be deemed to have a permanent establishment in the MFTC merely because it carries on business in the MFTC through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.
10. The fact that a company which is a resident of the MFTC controls or is controlled by a company which is a resident of the TECO, or which carries on business in the TECO (whether through a permanent establishment or otherwise), shall not of itself constitute for either company a permanent establishment of the TECO.
11. The fact that a company which is a resident of the TECO controls or is controlled by a company which is a resident of the MFTC, or which carries on business in the MFTC (whether through a permanent establishment or otherwise), shall not of itself constitute for either company a permanent establishment of the MFTC.

ARTICLE 6 INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of the MFTC from immovable property situated in the TECO may be taxed in the TECO.
2. Income derived by a resident of the TECO from immovable property situated in the MFTC may be taxed in the MFTC.
3. For the purposes of this Agreement, the term "immovable property" shall be defined in accordance with the laws applicable in the MFTC or in the TECO, as the case may be, 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, oil or gas wells, quarries and other places of extracting of natural resources including timber or other forest produce. Ships, boats and aircraft shall not be regarded as immovable property.
4. The provisions of paragraphs 1 and 2 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
5. The provisions of paragraphs 1, 2 and 4 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 the MFTC shall be taxable only in the MFTC unless the enterprise carries on business in the TECO through a permanent establishment situated in the TECO. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the TECO but only on so much thereof as is attributable to that permanent establishment.
2. The profits of an enterprise of the TECO shall be taxable only in the TECO unless the enterprise carries on business in the MFTC through a permanent establishment situated in the MFTC. If the

enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the MFTC but only on so much thereof as is attributable to that permanent establishment.

3. Subject to the provisions of paragraph 5, where an enterprise of the MFTC carries on business in the TECO through a permanent establishment situated therein, there shall in the TECO 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.
4. Subject to the provisions of paragraph 5, where an enterprise of the TECO carries on business in the MFTC through a permanent establishment situated therein, there shall in the MFTC 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.
5. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses including executive and general administrative expenses, which would be deductible if the permanent establishment were an independent enterprise insofar as they are reasonably allocable to the permanent establishment, whether incurred in the MFTC or the TECO as the case may be, in which the permanent establishment is situated or elsewhere.
6. No profits shall be attributed to a permanent establishment by reason of the mere purchase (including transportation) by that permanent establishment of goods or merchandise for the enterprise.
7. 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.
8. 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 derived by an enterprise of the MFTC from the operation of ships or aircraft in international traffic shall be taxable only in the MFTC.
2. Profits derived by an enterprise of the TECO from the operation of ships or aircraft in international traffic shall be taxable only in the TECO.
3. Paragraphs 1 and 2 shall also apply to the share of profits from the participation in a pool, a joint business or an international operating agency.
4. Paragraphs 1 and 2 shall also apply to profits from the rental of ships or aircraft on a full (time, voyage or bareboat) basis, and profits from the rental of containers and related equipment, which is incidental to the international operation of ships or aircraft.

ARTICLE 9 ASSOCIATED ENTERPRISES

1. Where-
 - (a) an enterprise of the MFTC participates directly or indirectly in the management, control or capital of an enterprise of the TECO, or
 - (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of the MFTC and an enterprise of the TECO,and in either case conditions are made or imposed between the two enterprise 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) an enterprise of the TECO participates directly or indirectly in the management, control or capital of an enterprise of the MFTC, or
 - (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of the TECO and an enterprise of the MFTC,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.

ARTICLE 10 DIVIDENDS

1. Dividends paid by a company which is a resident of the MFTC to a resident of the TECO may be taxed in the TECO.
2. Dividends paid by a company which is a resident of the TECO to a resident of the MFTC may be taxed in the MFTC.
3. However, dividends paid by a company which is a resident of the TECO to a resident of the MFTC may be taxed in the TECO in accordance with the laws applicable in the TECO, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 12.5 per cent of the gross amount of the dividends.
4. However, dividends paid by a company which is a resident of the MFTC to a resident of the TECO who is the beneficial owner thereof shall be exempt from any tax in the MFTC which is chargeable on dividends in addition to the tax chargeable in respect of the income of the company. Nothing in this paragraph shall affect the provisions of the law of the MFTC under which the tax in respect of a dividend paid by a company which is a resident of the MFTC from which tax payable in the MFTC has been, or has been deemed to be, deducted may be adjusted by reference to the rate of tax appropriate to the year of assessment of the MFTC immediately following that in which the dividend was paid.
5. 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 as applicable in the MFTC or in the TECO, as the case may be, of which the company making the distribution is a resident.
6. The provisions of paragraphs 1 and 4 shall not apply if the beneficial owner of the dividends, being a resident of the TECO, carries on business in the MFTC, of which the company paying the dividends is a resident, through a permanent establishment situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.
7. The provisions of paragraphs 2 and 3 shall not apply if the beneficial owner of the dividends, being a resident of the MFTC, carries on business in the TECO, of which the company paying the dividends is a resident, through a permanent establishment situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.
8. Where a company which is a resident of the TECO derives income or profits from the MFTC, the MFTC may not impose any tax on the dividends paid by the company to persons who are not residents of the MFTC, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of income or profits arising in the MFTC.
9. Where a company which is a resident of the MFTC derives income or profits from the TECO, the

TECO may not impose any tax on the dividends paid by the company to persons who are not residents of the TECO, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of income or profits arising in the TECO.

ARTICLE 11 INTEREST

1. Interest arising in the MFTC and paid to a resident of the TECO may be taxed in the TECO.
2. Interest arising in the TECO and paid to a resident of the MFTC may be taxed in the MFTC.
3. However, interest arising in the MFTC may be taxed in the MFTC according to the laws applicable in the MFTC, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.
4. However, interest arising in the TECO may be taxed in the TECO according to the laws applicable in the TECO, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.
5. Notwithstanding the provisions of paragraph 3, interest to which a resident of the TECO is beneficially entitled may be exempt from tax if the loan or other indebtedness in respect of which the interest is paid is an approved loan as defined in Section 2(1) of the Income Tax Act 1967 of the MFTC.
6. 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.
7. The provisions of paragraphs 1, 3 and 5 shall not apply if the beneficial owner of the interest, being a resident of the TECO, carries on business in the MFTC, through a permanent establishment situated in the MFTC, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.
8. The provisions of paragraphs 2 and 4 shall not apply if the beneficial owner of the interest, being a resident of the MFTC, carries on business in the TECO, through a permanent establishment situated in the TECO, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.
9. Interest shall be deemed to arise in the MFTC when the payer is a resident of the MFTC. Where, however, the person paying the interest, whether he is a resident of the MFTC or not, has in the MFTC a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the MFTC.
10. Interest shall be deemed to arise in the TECO when the payer is a resident of the TECO. Where, however, the person paying the interest, whether he is a resident of the TECO or not, has in the TECO a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the TECO.
11. 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 paid, 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 applicable in the MFTC or in the TECO, as the case may be, due regard being had to the other provisions of this Agreement.

ARTICLE 12 ROYALTIES

1. Royalties arising in the MFTC and paid to a resident of the TECO may be taxed in the TECO.
2. Royalties arising in the TECO and paid to a resident of the MFTC may be taxed in the MFTC.
3. However, royalties arising in the MFTC may also be taxed in the MFTC according to the laws applicable in the MFTC, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.
4. However, royalties arising in the TECO may also be taxed in the TECO according to the laws applicable in the TECO, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.
5. The term "royalties" as used in this Article means payments of any kind received as a consideration for:
 - (a) the use of, or the right to use, any patent, trade mark, design or model, plan, secret formula or process, or any copyright of scientific work, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience;
 - (b) the use of, or the right to use, cinematograph films, or tapes for radio or television broadcasting, any copyright of literary or artistic work.
6. The provisions of paragraphs 1 and 3 shall not apply if the beneficial owner of the royalties, being a resident of the TECO, carries on business in the MFTC in which the royalties arise through a permanent establishment situated in the MFTC, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.
7. The provisions of paragraphs 2 and 4 shall not apply if the beneficial owner of the royalties, being a resident of the MFTC, carries on business in the TECO in which the royalties arise through a permanent establishment situated in the TECO, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.
8. Royalties shall be deemed to arise in the MFTC when the payer is a resident of the MFTC. Where, however, the person paying such royalties, whether he is a resident of the MFTC or not, has in the MFTC a permanent establishment in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the MFTC.
9. Royalties shall be deemed to arise in the TECO when the payer is a resident of the TECO. Where, however, the person paying such royalties, whether he is a resident of the TECO or not, has in the TECO a permanent establishment in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the TECO.
10. 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 paid, 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 a case, the excess part of the payments shall remain taxable according to the laws applicable in the MFTC or in the TECO, as the case may be, due regard being had to the other provisions of this Agreement.

ARTICLE 13 TECHNICAL FEES

1. Notwithstanding the provisions of Article 15, technical fees arising in the MFTC and paid to a resident of the TECO may be taxed in the TECO.
2. Notwithstanding the provisions of Article 15, technical fees arising in the TECO and paid to a

resident of the MFTC may be taxed in the MFTC.

3. However, technical fees arising in the MFTC may also be taxed in the MFTC according to the laws applicable in the MFTC, but if the recipient is the beneficial owner of the technical fees, the tax so charged shall not exceed 7.5 per cent of the gross amount of the technical fees.
4. However, technical fees arising in the TECO may also be taxed in the TECO according to the laws applicable in the TECO, but if the recipient is the beneficial owner of the technical fees, the tax so charged shall not exceed 7.5 per cent of the gross amount of the technical fees.
5. The term "technical fees" as used in this Article means payments of any kind to any person, other than to an employee of the person making the payments, in consideration for any services of a technical, managerial or consultancy nature.
6. The provisions of paragraphs 1 and 3 of this Article shall not apply if the beneficial owner of the technical fees, being a resident of the TECO, carries on business in the MFTC in which the technical fees arise, through a permanent establishment situated therein, or perform in the MFTC personal (professional) services and the technical fees are effectively connected with such permanent establishment or such services. In such case, the provisions of Article 7 or Article 15, as the case may be, shall apply.
7. The provisions of paragraphs 2 and 4 of this Article shall not apply if the beneficial owner of the technical fees, being a resident of the MFTC, carries on business in the TECO in which the technical fees arise, through a permanent establishment situated therein, or perform in the TECO personal (professional) services and the technical fees are effectively connected with such permanent establishment or such services. In such case, the provisions of Article 7 or Article 15, as the case may be, shall apply.
8. Technical fees shall be deemed to arise in the MFTC when the payer is a resident of the MFTC. Where, however, the person paying the technical fees, whether he is a resident of the MFTC or not, has in the MFTC a permanent establishment in connection with which the obligation to pay the technical fees was incurred, and such technical fees are borne by that permanent establishment, then such technical fees shall be deemed to arise in the MFTC.
9. Technical fees shall be deemed to arise in the TECO when the payer is a resident of the TECO. Where, however, the person paying the technical fees, whether he is a resident of the TECO or not, has in the TECO a permanent establishment in connection with which the obligation to pay the technical fees was incurred, and such technical fees are borne by that permanent establishment, then such technical fees shall be deemed to arise in the TECO.

ARTICLE 14 CAPITAL GAINS

1. Gains derived by a resident of the MFTC from the alienation of immovable property referred to in Article 6 and situated in the TECO may be taxed in the TECO.
2. Gains derived by a resident of the TECO from the alienation of immovable property referred to in Article 6 and situated in the MFTC may be taxed in the MFTC.
3. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of the MFTC has in the TECO or of movable property available to a resident of the MFTC in the TECO 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 may be taxed in the TECO.
4. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of the TECO has in the MFTC or of movable property available to a resident of the TECO in the MFTC 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 may be taxed in the MFTC.

5. Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft or boats, shall be taxable only in the MFTC or in the TECO, as the case may be, in which the enterprise is situated.
6. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the MFTC or in the TECO, as the case may be, of which the alienator is a resident.

ARTICLE 15 INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of the MFTC in respect of professional services or other independent activities of a similar character shall be taxable only in the MFTC. However, in the following circumstances such income may be taxed in the TECO:
 - (a) if his stay in the TECO is for a period or periods amounting to or exceeding in the aggregate 183 days in the calendar year concerned; or
 - (b) if the remuneration for his services in the TECO is either derived from residents of the TECO or borne by a permanent establishment which a person not resident in the TECO has in the TECO and which, in either case exceeds 3,000 US Dollars or the equivalent in New Taiwan Dollars in the calendar year concerned, notwithstanding that his stay in the TECO is for a period or periods amounting to less than 183 days during that calendar year.
2. Income derived by a resident of the TECO in respect of professional services or other independent activities of a similar character shall be taxable only in the TECO. However, in the following circumstances such income may be taxed in the MFTC:
 - (a) if his stay in the MFTC is for a period or periods amounting to or exceeding in the aggregate 183 days in the calendar year concerned; or
 - (b) if the remuneration for his services in the MFTC is either derived from residents of the MFTC or borne by a permanent establishment which a person not resident in the MFTC has in the MFTC and which, in either case exceeds 3,000 US Dollars or the equivalent in Malaysia Ringgit in the calendar year concerned, notwithstanding that his stay in the MFTC is for a period or periods amounting to less than 183 days during that calendar year.
3. 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 16 DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 17, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of the MFTC in respect of an employment shall be taxable only in the MFTC unless the employment is exercised in the TECO. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in the TECO.
2. Subject to the provisions of Articles 17, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of the TECO in respect of an employment shall be taxable only in the TECO unless the employment is exercised in the MFTC. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in the MFTC.
3. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of the MFTC in respect of an employment exercised in the TECO shall be taxable only in the MFTC if:
 - (a) the recipient is present in the TECO for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned; and
 - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the TECO; and
 - (c) the remuneration is not borne by a resident or a permanent establishment which the employer has in the TECO.
4. Notwithstanding the provisions of paragraph 2, remuneration derived by a resident of the TECO in

respect of an employment exercised in the MFTC shall be taxable only in the TECO if:

- (a) the recipient is present in the MFTC for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned; and
 - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the MFTC; and
 - (c) the remuneration is not borne by a resident or a permanent establishment which the employer has in the MFTC.
5. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of the MFTC may be taxed in the MFTC.
 6. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of the TECO may be taxed in the TECO.

ARTICLE 17 DIRECTORS' FEES

1. Directors' fees and similar payments derived by a resident of the MFTC in his capacity as a member of the board of directors of a company which is a resident of the TECO, may be taxed in the TECO.
2. Directors' fees and similar payments derived by a resident of the TECO in his capacity as a member of the board of directors of a company which is a resident of the MFTC, may be taxed in the MFTC.
3. The remuneration which a director to whom paragraphs 1 and 2 apply 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 16.

ARTICLE 18 ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 15 and 16, income derived by a resident of the MFTC as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the TECO, may be taxed in the TECO.
2. Notwithstanding the provisions of Articles 15 and 16, income derived by a resident of the TECO as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the MFTC, may be taxed in the MFTC.
3. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 15 and 16, be taxed in the TECO or in the MFTC, as the case may be in which the activities of the entertainer or sportsman are exercised.
4. Paragraphs 1 and 3 shall not apply to remuneration or profits derived from activities exercised in the TECO if the visit to the TECO is directly or indirectly supported wholly or substantially from the public funds of the MFTC.
5. Paragraphs 2 and 3 shall not apply to remuneration or profits derived from activities exercised in the MFTC if the visit to the MFTC is directly or indirectly supported wholly or substantially from the public funds of the TECO.

ARTICLE 19 TEACHERS AND RESEARCHERS

1. An individual who is a resident of the MFTC immediately before making a visit to the TECO, and who, at the invitation of a public university, college, or other similar public institutions, visits the TECO for a period not exceeding two years solely for the purpose of teaching or research or both at such public institutions shall be exempt from tax in the TECO on his remuneration for such teaching or research which is subject to tax in the MFTC.

2. An individual who is a resident of the TECO immediately before making a visit to the MFTC, and who, at the invitation of a public university, college, or other similar public institutions, visits the MFTC for a period not exceeding two years solely for the purpose of teaching or research or both at such public institutions shall be exempt from tax in the MFTC on his remuneration for such teaching or research which is subject to tax in the TECO.
3. The provisions of paragraphs 1 and 2 shall not apply where his visit, under one or more contracts with the public institutions of the MFTC or the TECO, as the case may be, exceed two years.
4. This Article shall not apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.

ARTICLE 20 STUDENTS AND TRAINEES

1. An individual who is a resident of the TECO immediately before making a visit to the MFTC and is temporarily present in the MFTC solely:
 - (a) as a student at a recognised university, college, school or other similar recognised educational institution in the MFTC;
 - (b) as a business or technical apprentice; or
 - (c) as a recipient of a grant, allowance or award for the primary purpose of study, research or training from the relevant authorities either in the TECO or in the MFTC or from a scientific, educational, religious or charitable organisation or under a technical assistance programme, shall be exempt from tax in the MFTC on:
 - (i) all remittances from abroad for the purposes of his maintenance, education, study, research or training;
 - (ii) the amount of such grant, allowance or award; and
 - (iii) any remuneration not exceeding 3,000 US Dollars or the equivalent in New Taiwan Dollars per annum in respect of services in the MFTC provided the services are performed in connection with his study, research or training or are necessary for the purposes of his maintenance.
2. An individual who is resident of the MFTC immediately before making a visit to the TECO and is temporarily present in the TECO solely:
 - (a) as a student at a recognised university, college, school or other similar recognised educational institution in the TECO;
 - (b) as a business or technical apprentice; or
 - (c) as a recipient of a grant, allowance or award for the primary purpose of study, research or training from the relevant authorities either in the MFTC or in the TECO or from a scientific, educational, religious or charitable organisation or under a technical assistance programme, shall be exempt from tax in the TECO on:
 - (i) all remittances from abroad for the purposes of his maintenance, education, study, research or training;
 - (ii) the amount of such grant, allowance or award; and
 - (iii) any remuneration not exceeding 3,000 US Dollars or the equivalent in Malaysian Ringgit per annum in respect of services in the TECO provided the services are performed in connection with his study, research or training or are necessary for the purposes of his maintenance.

ARTICLE 21 OTHER INCOME

1. Items of income of a resident of the TECO, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in the TECO except that if such income is derived from sources in the MFTC, it may also be taxed in the MFTC.
2. Items of income of a resident of the MFTC, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in the MFTC except that if such income is derived from sources in the TECO, it may also be taxed in the TECO.

ARTICLE 22 LIMITATION OF RELIEF

1. Where this Agreement provides (with or without other conditions) that income from sources in the TECO shall be exempt from tax, or taxed at a reduced rate in the TECO and under the laws in force in the MFTC the said income is subject to tax by reference to the amount thereof which is remitted to or received in the MFTC and not by reference to the full amount thereof, then the exemption or reduction of tax to be allowed under this Agreement in the TECO shall apply to so much of the income as is remitted to or received in the MFTC.
2. Where this Agreement provides (with or without other conditions) that income from sources in the MFTC shall be exempt from tax, or taxed at a reduced rate in the MFTC and under the laws in force in the TECO the said income is subject to tax by reference to the amount thereof which is remitted to or received in the TECO and not by reference to the full amount thereof, then the exemption or reduction of tax to be allowed under this Agreement in the MFTC shall apply to so much of the income as is remitted to or received in the TECO.

ARTICLE 23 ELIMINATION OF DOUBLE TAXATION

1. In the case of a resident in the MFTC, double taxation shall be avoided as follows:

Subject to the taxation laws applicable in the MFTC regarding the allowance as a credit against tax payable outside the MFTC, tax payable in the TECO under the taxation laws applicable in the TECO by a resident of the MFTC in respect of income derived from the TECO shall be allowed as a credit against tax payable in the MFTC in respect of that income. The credit shall not, however, exceed that part of the tax payable in the MFTC, as computed before the credit is given, which is appropriate to such item of income.

2. For the purposes of paragraph 1, the term "tax payable in the TECO" shall be deemed to include any income derived from sources in the TECO had the income not been taxed at a reduced rate or exempted from tax payable in the TECO in accordance with articles 6, 7, 8 and 8 - 1 of the Statute for Upgrading Industries in the TECO which were in force on the date of signature of this Agreement; or any other provisions which may subsequently be introduced in the TECO in modification of, or in addition to, the investment incentives laws so far as they are agreed by the authorities in the TECO and in the MFTC to be of a substantially similar character.
3. In the case of a resident in the TECO, double taxation shall be avoided as follows:
Subject to the taxation laws applicable in the TECO regarding the allowance as a credit against tax payable outside the TECO, tax payable in the MFTC under the taxation laws applicable in the MFTC by a resident of the TECO in respect of income derived from the MFTC shall be allowed as a credit against tax payable in the TECO in respect of that income. The credit shall not, however, exceed that part of the tax payable in the TECO, as computed before the credit is given, which is appropriate to such item of income.
4. For the purposes of paragraph 3, the term "tax payable in the MFTC" shall be deemed to include any income derived from sources in the MFTC had the income not been taxed at a reduced rate or exempted from tax payable in the MFTC in accordance with sections 22, 23, 29, 35 and 37 of the Promotion of Investments Act 1986 in the MFTC which were in force on the date of signature of this Agreement; or any other provisions which may subsequently be introduced in the MFTC in modification of, or in addition to, the investment incentives laws so far as they are agreed by the authorities in the MFTC and in the TECO to be of a substantially similar character; and interest to which paragraph 5 of Article 11 applies, an amount not exceeding 10 per cent of the gross amount of the interest in respect of which tax payable in the MFTC would have been payable but for the exemption granted in accordance with that paragraph.
5. The provisions of paragraphs 2 and 4 shall apply for the first five years from the date on which this Agreement takes effect. These provisions shall apply to a resident in the TECO approved by its authority and to a resident in the MFTC. The MFTC and the TECO shall consult each other and their competent authorities in order to determine whether the period stipulated herein shall be extended.

ARTICLE 24 NON-DISCRIMINATION

1. The Malaysian Friendship and Trade Centre in Taipei or the Taipei Economic and Cultural Office in Malaysia shall make representation to their competent authorities to ensure that:
 - (a) the residents of an area shall not be subjected in the other area to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which residents of that other area in the same circumstances are or may be subjected;
 - (b) the taxation on a permanent establishment which an enterprise of an area has in the other area shall not be less favourably levied in that other area than the taxation levied on enterprises of that other area carrying on the same activities;
 - (c) enterprises of an area, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other area, shall not be subjected in the first-mentioned area 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 that first-mentioned area are or may be subjected.
2. The Malaysian Friendship and Trade Centre in Taipei or the Taipei Economic and Cultural Office in Malaysia as the case may be, agreed that:
 - (a) nothing in this Article shall be construed as obliging the competent authority of an area to grant to individuals who are residents of the other area any personal allowances, reliefs and reductions for tax purposes on account of civil status or family responsibilities which are granted to the residents of the first-mentioned area;
 - (b) nothing in this Article shall be construed so as to prevent either competent authority from limiting to the residents of an area the enjoyment of tax incentives designed to promote economic development in that area.
3. In this Article, the term "taxation" means taxes to which this Agreement applies.

ARTICLE 25 MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the competent authorities of the MFTC and the TECO 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 relevant domestic laws, present his case to the Malaysian Friendship and Trade Centre in Taipei or the Taipei Economic and Cultural Office in Malaysia, as the case may be, who will in turn present his case to the competent authority. 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 Malaysian Friendship and Trade Centre in Taipei and the Taipei Economic and Cultural Office in Malaysia shall endeavour to resolve the case by mutual agreement with a view to the avoidance of taxation which is not in accordance with the Agreement.
3. The Malaysian Friendship and Trade Centre in Taipei and the Taipei Economic and Cultural Office in Malaysia shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may consult together for the elimination of double taxation in cases not provided for in the Agreement.

ARTICLE 26 EXCHANGE OF INFORMATION

1. The Malaysian Friendship and Trade Centre in Taipei and the Taipei Economic and Cultural Office in Malaysia shall exchange such information as is necessary for carrying out the provisions of this Agreement or of their respective domestic laws concerning taxes covered by this Agreement insofar as the taxation thereunder is in accordance with this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of this Agreement.
2. In no case shall the provisions of paragraph 1 be construed so as to impose on either the Centre or the Office the obligation:
 - (a) to carry out administrative measures at variance with their respective domestic laws;
 - (b) to supply information which is not obtainable under their respective domestic laws;
 - (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.

ARTICLE 27 ENTRY INTO FORCE

1. This Agreement shall enter into force upon an exchange of notes by the duly authorized representatives of the Malaysian Friendship and Trade Centre in Taipei and the Taipei Economic and Cultural Office in Malaysia confirming their mutual agreement that both sides have completed all internal legal procedures necessary to give effect to this Agreement.
2. The provisions of the Agreement shall have effect:
 - (a) in the TECO:
 - (i) in respect of tax withheld or deducted at source on income paid to non-residents on or after the first day of January in the calendar year following that in which the exchange of notes takes place; and
 - (ii) in all other cases, in respect of tax for the taxable year beginning on the first day of January of the calendar year immediately following the year in which the exchange of notes takes place and subsequent taxable years.
 - (b) in the MFTC:
 - (i) in respect of withholding tax on income that is derived by a non-resident, in relation to income derived on or after the first day of January in the calendar year following that in which the exchange of notes takes place; and
 - (ii) in respect of other taxes for the year of assessment beginning on or after the first day of January in the second calendar year immediately following the year in which the exchange of notes takes place and subsequent years of assessment.

ARTICLE 28 TERMINATION

This Agreement shall remain in force indefinitely but either the Malaysian Friendship and Trade Centre in Taipei or the Taipei Economic and Cultural Office in Malaysia may terminate the Agreement by giving to the other Office or Centre written notice of termination on or before the 30th day of June in any calendar year from the fourth year from the year in which the Agreement entered into force. In such an event, the Agreement shall cease to have effect:

- (a) in the TECO:
 - (i) in respect of tax withheld or deducted at source on income paid to non-residents on or after the first day of January in the calendar year following that in which the notice is given; and
 - (ii) in all other cases, in respect of tax for the taxable year beginning on the first day of January of the calendar year following that in which the notice is given.
- (b) in the MFTC:
 - (i) in respect of withholding tax on income that is derived by a non-resident, in relation to income derived on or after the first day of January in the calendar year following the year in which the notice is given; and
 - (ii) in all other cases, in respect of tax for the year of assessment beginning on or after the first day of January in the second calendar year following the year in which the notice is given.

DONE in duplicate at Taipei this 23rd day of July 1996 each in Bahasa Malaysia, Chinese and English languages, the three texts being equally authentic. In the event of there being a dispute in the interpretation and the application of this Agreement, the English text shall prevail.

..... the Representative
The Taipei Economic and Cultural Office in Malaysia Huang Hsin-
Pi..... President The
Malaysian Friendship and Trade Centre in Taipei Datu Harun Datu Mansor