

[駐越南臺北經濟文化辦事處與駐臺北越南經濟文化辦事處避免所得稅雙重課稅與防杜逃稅協定]

AGREEMENT BETWEEN THE TAIPEI ECONOMIC AND CULTURAL OFFICE IN HANOI AND THE VIETNAM ECONOMIC AND CULTURAL OFFICE IN TAIPEI FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

Signed on April 6, 1998
Entered into force on May 6, 1998

The Vietnam Economic and Cultural Office in Taipei and the Taipei Economic and Cultural Office in Hanoi,

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income for the purpose of further promoting friendship, cooperation and investment,

Have agreed as follows:

ARTICLE 1
Personal Scope

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. The existing taxes to which the Agreement shall apply are:
 - (a) in the country represented by the Vietnam Economic and Cultural Office in Taipei:
 - (i) the personal income tax;
 - (ii) the profit tax;
 - (iii) the profit remittance tax;
 - (iv) the foreign contractor tax; and
 - (v) the foreign petroleum sub-contractor tax;
 - (b) in the country represented by the Taipei Economic and Cultural Office in Hanoi:

- (i) the profit seeking enterprise income tax; and
 - (ii) the individual consolidated income tax.
3. This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes.
 4. If by reason of changes made in the taxation laws of a Contracting Party, it seems desirable to amend any Article of this Agreement without affecting the general principles thereof the necessary amendments may be made by mutual consent by means of an Exchange of Letters.

ARTICLE 3 General Definitions

1. For the purposes of this Agreement, unless the context otherwise requires :
 - (a) the terms "a Contracting Party" and "the other Contracting Party" mean the country represented by the Vietnam Economic and Cultural Office in Taipei and the country represented by the Taipei Economic and Cultural Office in Hanoi;
 - (b) the term "person" includes an individual, a company and any other body of persons;
 - (c) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - (d) 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;
 - (e) the term "national" means:
 - (i) any individual possessing the nationality of a Contracting Party;
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting Party;
 - (f) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting Party, except when the ship or aircraft is operated solely between places in the other Contracting Party; and
 - (g) the term "competent authority" means the Director-General, Department of Taxation in the countries represented by the Vietnam Economic and Cultural Office in Taipei and by the Taipei Economic and Cultural Office in Vietnam.

2. As regards the application of the Agreement by a Contracting Party, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that Party concerning the taxes to which the Agreement applies.

ARTICLE 4 Resident

1. For the purposes of this Agreement, the term "resident of a Contracting Party" means any person who is a resident in accordance with the tax laws in that Party.
2. Where by reason of the provisions of paragraph I 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 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 of the Party with which his personal and economic relations are closer (centre of vital interests);
 - (b) if the Contracting 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 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 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 I, a person other than an individual is a resident of both Contracting Parties, then it shall be deemed to be a resident of the Party where it was incorporated.

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" includes especially:
 - (a) a place of management;
 - (b) a branch;
 - (c) an office;

- (d) a factory;
 - (e) a workshop;
 - (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources; and
 - (g) a building site, 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.
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, display or transport 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 transport;
 - (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 Contracting Party in respect of any activities which that person undertakes for the enterprise, if such a person has and habitually exercises in that Party an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 3 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.
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, general commission agent or any other agent of

an independent status, provided that such persons are acting in the ordinary course of their business.

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 I shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs I 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 determining the profits of a permanent establishment, there shall be allowed as reasonable 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 Party in which the permanent establishment is situated or elsewhere.
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 such 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 derived by an enterprise of a Contracting Party from the operation of ships or aircraft in international traffic shall be taxable only in that Party.
2. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic include:
 - (a) profits from the rental on a full (time, voyage or bareboat) basis of ships or aircraft; and
 - (b) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise;

where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

3. The provisions of paragraphs 1 and 2 shall also apply to profits 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 adjustment, due regard shall be had to the other provisions of the 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 recipient is the beneficial owner of the dividends the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

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

3. 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.

4. 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.
5. 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 Contracting 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.

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 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.
3. 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.
4. 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 case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Interest shall be deemed to arise in a Contracting Party when the payer is that 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.
6. 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 Contracting 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 recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 15 percent of the gross amount of the royalties.
3. The term "royalties" as used in this Article means payments 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, or films or tapes used for radio or television broadcasting, 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.
4. 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 case the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting Party when the payer is that Party itself, a political subdivision, a local authority or 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 liability 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.

6. 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 derived by a resident of a Contracting Party from the alienation of shares or comparable interests in a company, the assets of which consist wholly or principally of immovable property situated in the other Contracting Party, may be taxed in that other Party.
4. Gains derived by an enterprise of a Contracting Party 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 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 unless he has a fixed base regularly available to him in the other Contracting Party for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Party but only so much of it as is attributable to that fixed base.

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 the calendar year concerned, 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

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.

ARTICLE 17 Artistes and Sportsmen

Notwithstanding the provisions of Articles 14 and 15, income derived by a resident

of a Contracting Party as an entertainer, such as a theater, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting Party, may be taxed in that other Party.

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, 14 and 15, be taxed in the Contracting Party in which the activities of the entertainer or sportsman are exercised.

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 Public Service

Remuneration, other than a pension, paid by a Contracting Party to an individual in respect of services rendered to that Party shall be taxable only in that Party.

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.

Any pension paid by, or out of funds created by, a Contracting Party to an individual in respect of services rendered to that Party shall be taxable only in that Party.

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

The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect services rendered in connection with a business carried on by a Contracting Party.

ARTICLE 20 Students and Apprentices

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 education or training receives for the purpose of his maintenance, education or training shall not be taxed in that Party, provided that such payments arise from sources outside that Party.

ARTICLE 21
Teachers, Professors and Researchers

An individual who is a resident of a Contracting Party immediately before making a visit to the other Contracting Party, and who, at the invitation of any university, college, school or other similar educational institution which is recognized by the competent authority in that other Contracting Party, visits that other Contracting Party for a period not exceeding two years solely for the purpose of teaching or research or both at such educational institution shall be exempt from tax in that other Contracting Party on any remuneration for such teaching or research.

This Article shall only apply to income from research if such research is undertaken by the individual for the public interest and not primarily for the benefit of some other private person or persons.

ARTICLE 22
Other Income

1. 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.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting Party, carries on business in the other Contracting Party 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 income is 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.

ARTICLE 23
Elimination of Double Taxation

1. In the case of a resident of the country represented by the Vietnam Economic and Cultural Office in Taipei, double taxation shall be avoided as follows:

Where a resident of the country represented by the Vietnam Economic and Cultural Office in Taipei derives income from the country represented by the Taipei Economic and Cultural Office in Hanoi, tax payable in the country represented by the Taipei Economic and Cultural Office in Hanoi on that income in accordance with the provisions of this Agreement may be credited against the tax levied in the country represented by the Vietnam Economic and Cultural Office in Taipei on that resident. The amount of credit, however, shall not exceed the amount of tax in the country represented by the Vietnam Economic and Cultural Office in Taipei on that income computed in accordance with its tax laws and regulations.

2. For the purposes of credit referred to in paragraph I, the term " tax payable in the country represented by the Taipei Economic and Cultural Office in Hanoi" shall be

deemed to include any income derived from sources in the country represented by the Taipei Economic and Cultural Office in Hanoi had the income not been taxed at a reduced rate or exempted from tax payable in the country represented by the Taipei Economic and Cultural Office in Hanoi in accordance with:

- (a) the provisions of Articles 6,7,8 or 8-1 of the Statute for Upgrading Industries and Articles 28, 29 or 33 of the Statute for Encouraging Private Participation in Transportation Construction in the country represented by the Taipei Economic and Cultural Office in Hanoi as amended from time to time and connected regulations, as are effective on the date of signature of this Agreement as have been modified only in minor aspects after the date of signature of this Agreement; or
- (b) any other special incentive measures designed to promote economic development in the country represented by the Taipei Economic and Cultural Office in Hanoi which may be introduced hereafter in modification of or in addition to, the existing laws, as may be agreed between the competent authorities of the Contracting Parties.

3. In the case of a resident of the country represented by the Taipei Economic and Cultural Office in Hanoi, double taxation shall be avoided as follows:

Where a resident of the country represented by the Taipei Economic and Cultural Office in Hanoi derives income from the country represented by the Vietnam Economic and Cultural Office in Taipei, tax payable in the country represented by the Vietnam Economic and Cultural Office in Taipei on that income in accordance with the provisions of this Agreement may be credited against the tax levied in the country represented by the Taipei Economic and Cultural Office in Hanoi on that resident. The amount of credit, however, shall not exceed the amount of tax in the country represented by the Taipei Economic and Cultural Office in Hanoi on that income computed in accordance with its tax laws and regulations.

4. For the purposes of credit referred to in paragraph 3, the term "tax payable in the country represented by the Vietnam Economic and Cultural Office in Taipei" shall be deemed to include any income derived from sources in the country represented by the Vietnam Economic and Cultural Office in Taipei had the income not been taxed at a reduced rate or exempted from tax payable in the country represented by the Vietnam Economic and Cultural Office in Taipei in accordance with:
 - (a) the provisions of Articles 26, 27, 28, 32 or 33 of the Law on Foreign Investment 1987 in the country represented by the Vietnam Economic and Cultural Office in Taipei as amended from time to time and connected regulations, as are effective on the date of signature of this Agreement as have been modified only in minor aspects after the date of signature of this Agreement; or
 - (b) any other special incentive measures designed to promote economic development in the country represented by the Vietnam Economic and Cultural Office in Taipei which may be introduced hereafter in modification of or in addition to,

the existing laws, as may be agreed between the competent authorities of the Contracting Parties.

5. The provisions of paragraphs 2 and 4 shall apply in a period of seven and a half years from the date on which this Agreement enters into force. These provisions shall apply to a resident of the country represented by the Taipei Economic and Cultural Office in Hanoi approved by the Investment Commission and to a resident, of the country represented by the Vietnam Economic and Cultural Office in Taipei. The period of application may be extended by mutual agreement between the competent authorities of the Contracting Parties.

ARTICLE 24 Non-discrimination

1. The 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. This provision shall not be construed as obliging the competent authority of a Contracting Party to grant to nationals of the other Contracting Party not resident in the first-mentioned Party those personal allowances, reliefs and reductions for tax purposes which are by law available only to nationals of the first-mentioned Party or to such other persons as may be specified therein who are not resident in that Party.
2. The taxation on a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party shall not be less favourably levied in that other Party than the taxation levied on enterprises of that other Party carrying on the same activities.
3. The provision of this Article shall not be construed as obliging the competent authority of 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 are granted to the residents 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 that first-mentioned Party are or may be subjected.
5. The provisions of paragraphs 2 and 4 of this Article shall not apply to the profit remittance tax in the country represented by the Vietnam Economic and Cultural Office in Taipei, which in any case shall not exceed 10 per cent of the gross amount of profits remitted, and the taxation in the country represented by the Vietnam Economic and Cultural Office in Taipei in respect of oil exploration or production activities or in respect of agricultural production activities.

6. A Contracting Party concludes or has already concluded with any other country a tax treaty of which the non-discrimination provisions are less discriminatory to a resident of the other Contracting Party than the current provisions of non-discrimination of this Agreement, the first-mentioned provisions shall be applied promptly in place of the last-mentioned provisions.
7. In this Article the term "taxation" means taxes which are the subject of this Agreement.

ARTICLE 25 Mutual Agreement Procedure

Where a person who is a resident of a Contracting Party considers that the actions of the competent authority 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 the person is a resident. 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.

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 this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting Parties.

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

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.

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 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 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 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.

ARTICLE 27 Entry into Force

This Agreement shall enter into force thirty days after it has been signed, and shall have effect:

- (a) in respect of taxes withheld at source, for amount paid or credited on or after the first day of the month next following that on which the Agreement enters into force; and
- (b) in respect of other taxes, for taxable years of the persons entitled to the benefits of this Agreement beginning on or after the first day of the month next following that on which the Agreement enters into force.

ARTICLE 28 Termination

This Agreement shall remain in force until terminated by either of the Contracting Party. Either Contracting Party may terminate the Agreement at any time after a period of five years from the date on which the Agreement enters into force, provided that at least six months prior notice of termination in writing has been given. In such event, the Agreement shall cease to have effect:

- (a) in respect of taxes withheld at source, for amounts paid or credited on or after the end of the calendar year in which the notice is given; and
- (b) in respect of other taxes, for taxable years of persons entitled to the benefits of the Agreement beginning on or after the first day of January following that in which the notice is given.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective authorities have signed this Agreement.

DONE in duplicate at Hanoi this 6th day of April of the year one thousand nine hundred and ninety-eight in the English language.

FOR THE TAIPEI ECONOMIC AND
CULTURAL OFFICE IN HANOI

[Signed]
Hu Cha-Chi

FOR THE VIETNAM ECONOMIC
AND CULTURAL OFFICE IN TAIPEI

[Signed]
Dang Dinh Luu

〔(中華民國行政院)衛生署與越南國家人口暨家庭計畫委員會間瞭解備忘錄〕
MEMORANDUM OF UNDERSTANDING BETWEEN THE NATIONAL
COMMITTEE FOR POPULATION & FAMILY PLANNING OF VIETNAM
AND THE DEPARTMENT OF HEALTH, TAIWAN

Signed on August 11, 1998
Entered into force on August 27, 1998

During their five-day visit to Vietnam (08-13 August, 1998), a Mission from the Department of Health Taiwan (DOH) headed by Dr. Jeff Tsai, Director of International Cooperation Office had discussions and agreements with the National Committee for Population & Family Planing of Vietnam (NCPFP) on the followings:

1. Both Parties were pleased to note that the cooperation between NCPFP and DOH in the past three years (1996-1998) in the field of population and family planning has had very good and positive results and expressed their wishes to continue this mutual cooperation in the fiscal year 1998 - 1999.
2. The two major cooperation activities which have been executed in the past three years are the successful completion of seven overseas study tour (OST) groups and six groups of trainees on program management and research from Vietnam in Taiwan. For the cooperation in the fiscal year 1998 - 1999, it was agreed that efforts should be focused on the following activities.
3. DOH will accept the following personnel selected by NCPFP for study tour and training in Taiwan in 1998 - 1999 :
 - 3.1. One group of 6 persons for ten-day observation study on population programme implementation and management (in the first quarter 1999).
 - 3.2. Three groups of 6 persons each for two-week training courses on the management of population programme (one in the fourth quarter 1998 and two others in the first and second quarter 1999).
4. Both parties further agreed that DOH will send two experts to Vietnam to assist NCPFP to give lectures on programme management to Vietnamese master trainers from Population Center of National Economic University, Economic University of Hochiminh city and other part-time trainers from the NCPFP and concerned Ministries. The duration is about ten days including field-work in the second