

名稱： 中華民國與塞內加爾共和國避免所得稅雙重課稅及防杜逃稅協定 (民國 93 年 09 月 10 日 公發布)

1 前言

中華民國政府與塞內加爾共和國政府咸欲締結避免所得稅雙重課稅及防杜

逃稅協定，爰經議定下列條款：

第一章 協定範圍

第一條 適用之人

本協定適用於具有一方或雙方締約國居住者身分之人。

第二條 適用租稅

一 本協定適用於代表締約國或其政府所屬機關或地方政府機關

就所得所課徵之租稅，其課徵方式在所不問。

二 對總所得或分類所得課徵之所有租稅，包括對轉讓動產或不

動產之利得所課徵之租稅、對企業給付薪俸或工資總額所課

徵之租稅，應視為對所得課稅。

三 本協定所適用之現行租稅：

(一) 在中華民國：

1 營利事業所得稅。

2 綜合所得稅。

(二) 在塞內加爾共和國：

1 公司所得稅。

2 最低公司稅。

3 個人所得稅。

4 雇主薪工稅。

5 財產交易所得稅。

四 本協定亦適用於協定簽署後新開徵或替代現行各項租稅，而

與現行租稅相同或實質類似之任何租稅。雙方締約國之主管

機關應於每一年度結束時，相互通知對方有關其各自稅法之

重大修正。

## 第二章 定義

### 第三條 一般定義

一 除上下文另有規定外，本協定稱：

(一) 「中國」，係指中華民國，就地理之意義而言，包括其領

海，及依國際法規定有權行使主權權利或管轄權之領海以

外區域。

(二) 「塞內加爾」，係指塞內加爾共和國，其領海依國際法規

定有權行使主權權利或管轄權之海域。

(三) 「一方締約國」及「他方締約國」，依其文義係指中華民

國或塞內加爾共和國。

(四) 「人」，包括個人、公司及其他任何人之集合體。

(五) 「公司」，係指法人或依稅法規定視同法人之任何實體。

(六) 「一方締約國之企業」及「他方締約國之企業」，分別係

指由一方締約國之居住者所經營之企業及他方締約國之居

住者所經營之企業。

(七) 「國民」，係指：

1 具有一方締約國國籍之任何個人。

2 依一方締約國現行法律規定，取得其身分之任何法人、

合夥或社團。

(八) 「國際運輸」，係指一方締約國之企業，以船舶或航空器

經營之運輸業務。

但該船舶或航空器僅於他方締約國境內經營者，不在此限

。

(九) 「主管機關」：

1 在中華民國，係指財政部部長或其授權之代表。

2 在塞內加爾共和國，係指主管財政之部長或其授權之代表。

二 本協定於一方締約國適用時，未於本協定界定之任何名詞，

除上下文另有規定外，應依本協定所稱租稅於協定適用當時

該締約國之法律規定辦理，且稅法之規定優先於其他法律之

規定。

#### 第四條 居住者

一 本協定所稱一方締約國居住者，係指依該締約國法律規定，

因住所、居所、總機構所在地、管理處所、設立登記地或其

他類似性質之標準，負有納稅義務之人。

二 僅因有一方締約國之來源所得而負該國納稅義務之人，非屬

本協定所稱該國之居住者。但第二條第三項第一款所稱締約

國之個人居住者，不適用本項規定。

三 個人如依第一項規定同為雙方締約國之居住者，其身分決定

如下：

(一) 於一方締約國境內有永久住所，視其為該締約國之居住者

。如於雙方締約國境內均有永久住所，視其為與其個人及

經濟關係較為密切之締約國之居住者

(主要利益中心)。

(二) 主要利益中心所在地國不能確定，或於任一締約國境內均

無永久住所，視其為有經常居所之締約國之居住者。

(三) 於雙方締約國境內均有或均無經常居所，視其為具有國民

身分之締約國之居住者。

(四) 如均屬或均非屬雙方締約國之國民，由雙

方締約國之主管

機關共同協議解決。

四 個人以外之人如依第一項規定同為雙方締約國之居住者，視

其為實際管理處所所在地國之居住者。

第五條 常設機構

一 本協定稱「常設機構」，係指企業從事全部或部分營業之固

定營業場所。

二 「常設機構」包括：

(一) 管理處。

(二) 分支機構。

(三) 辦事處。

(四) 工廠。

(五) 工作場所。

(六) 礦場、油井或氣井、採石場或任何其他天然資源開採場所

。

(七) 建築工地、營建或安裝工程，其存續期間超過六個月者。

三 「常設機構」不包括：

(一) 專為儲存或展示屬於該企業之貨物或商品而使用設備，且

具有準備或輔助性質者。

(二) 專為儲存或展示而儲備屬於該企業之貨物或商品，且具有

準備或輔助性質者。

(三) 專為供其他企業加工而儲備屬於該企業之貨物或商品。

(四) 專為該企業採購貨物或商品或蒐集資訊而設置固定營業場

所。

(五) 專為該企業廣告、提供資訊、從事科學研究或其他具有準

備或輔助性質之類似活動而設置固定營

業場所。

(六) 專為該企業從事其他具有準備或輔助性質之活動而設置固

定營業場所。

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

四 代表一企業，有權以該企業名義於一方締約國簽訂契約，並經常行使該項權力之人（非第五項所稱具有獨立身分之代理人），其為該企業所從事之任何活動，視該企業於該國內有常設機構，不受第一項及第二項規定之限制。但該人透過固定營業場所僅從事第三項規定之活動者，該固定營業場所不視為常設機構。

五 一方締約國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，於他方締約國境內從事營業者，不得視為該企業於他方締約國境內有常設機構。

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

### 第三章 所得之課稅

#### 第六條 不動產所得

一 一方締約國之居住者取得他方締約國境內之不動產所得（包括農業或林業所得），該他方締約國得予課稅。

二 稱「不動產」，應具有該財產所在地締約國

法律規定之含義

，包括附著於不動產之財產、供農業及林業使用之牲畜及設

備、適用一般法律規定之地產之權利、不動產收益權、及對

於礦產、資源與其他天然資源之開採、或開採權所主張之變

動或固定報酬之權利。船舶、小艇及航空器不視為不動產。

三 直接使用、出租或以其他任何方式使用不動產所取得之所得

，應適用第一項規定。

四 由企業之不動產及供執行業務使用之不動產所產生之所得，

亦適用第一項及第三項規定。

第七條 營業利潤

一 一方締約國之企業，除經由其於他方締約國境內之常設機構

從事營業外，其利潤僅由該一方締約國課稅。如該企業經由

其於他方締約國境內之常設機構從事營業，他方締約國得就

該企業之利潤課稅，但以歸屬於該常設機構之利潤為限。

二 除第三項規定外，一方締約國之企業經由其於他方締約國境

內之常設機構從事營業，各締約國歸屬該常設機構之利潤，

應與該常設機構為一獨立企業，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或其他企業從

事交易時，所應獲得之利潤相同。

三 於計算常設機構之利潤時，應准予減除為該常設機構營業目

的而發生之費用，包括行政及一般管理費用，不論各該費用

係於常設機構所在地國境內或其他處所發

生。但依常設機構

所在地締約國之法律規定不得扣除之費用，不准減除。

四 常設機構如僅為企業採購貨物或商品，不得對該常設機構歸屬利潤。

五 前四項有關常設機構所得或利潤之歸屬，除具有正當且充分理由者外，每年均應採用相同方法計算之。

六 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 一方締約國之企業，以船舶或航空器經營國際運輸業務之利潤，僅由該締約國課稅。

二 海運事業之實際管理處所如設於船舶上，以船舶經營者為居住者之締約國為該企業實際管理處所所在國。

三 參與聯營、合資企業或國際代理業務之利潤，亦適用第一項規定。

四 本條所稱利潤，包含以船舶或航空器經營國際運輸業務之全部利潤，包括以計時、計程或光船方式出租船舶或航空器之租賃利潤，出租與以船舶或航空器經營國際運輸業務有補充或附帶關係之貨櫃及相關設備之租賃利潤。

#### 第九條 關係企業

一 兩企業間有下列情事之一，於其商業或財務關係上所訂定之條件，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) 一方締約國之企業直接或間接參與他方締約國企業之管理

、控制或資本。

(二) 相同之人直接或間接參與一方締約國之企業及他方締約國

企業之管理、控制或資本。

二 一方締約國將業經他方締約國課稅之他方締約國企業利潤，

列計為該一方締約國企業之利潤而予以課稅，如該兩企業所

訂定之條件與互為獨立之企業所訂定者相同，且該項列計之

利潤應歸屬於該一方締約國企業之利潤時，該他方締約國對

該項利潤所課徵之稅額，應作適當之調整。在決定此項調整

時，應考量本協定之其他規定，如有必要，雙方締約國之主

管機關應相互磋商。

第一〇條 股利

一 一方締約國之居住者公司給付他方締約國居住者之股利，

他方締約國予課稅。

二 前項給付股利之公司如係一方締約國之居住者，該締約國

亦得依其法律規定，對該項股利課稅，股利之受益所有人

如為他方締約國之居住者，其課徵之稅額不得超過股利總

額之百分之十。本項規定不影響對該公司給付股利前之利

潤課徵之稅。

三 本條所稱「股利」，係指自股份、礦業股份、發起人股份

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

，及依分配股利之公司為居住者之締約國法律規定，與股



利所得課徵相同租稅之公司其他權利取得之所得。

四 股利受益所有人如係一方締約國之居住者，經由其於他方

締約國境內之常設機構從事營業或固定處所執行業務，而

給付股利之公司為他方締約國之居住者，其股份持有與該

機構或處所有實際關聯時，不適用第一項及第二項規定，

而視情況適用第七條或第十四條規定。

五 一方締約國之居住者公司自他方締約國取得所得或利潤，

其所給付之股利或其未分配盈餘，即使全部或部分源自他

方締約國之所得或利潤，他方締約國不得對該給付之股利

或未分配盈餘課稅。但該股利係給付予他方締約國之居住

者，或該股份之持有與他方締約國之常設機構或固定處所

有實際關聯者，不在此限。

第一一條 利息

一 源自一方締約國而給付予他方締約國居住者之利息，他方

締約國得予課稅。

二 前項利息來源地締約國亦得依其法律規定，對該項利息課

稅，但利息受益所有人如為他方締約國之居住者，其課徵

之稅額不得超過利息總額之百分之十五。

三 源自一方締約國，而由他方締約國政府或地方政府機關、

或上述政府或地方政府機關完全擁有並控制之機構所獲得

之利息，僅由該他方締約國課稅，不受第二項規定之限制

。

四 因下列各款而支付第一項所稱之利息，僅由利息受益所有

人爲居住者之締約國課稅，不受第二項規定之限制：

(一) 以信用方式銷售工業、商業或科學設備，或與建工業、商業或科學設施、或公共工程，如該信用係源自與供應商約定之貸款及相同條件之下轉貸。

(二) 金融機構以資金借貸及轉貸方式提供之任何貸款，但以資金之借貸及轉貸在相同條件下爲限。

(三) 爲協助塞內加爾共和國發展之貸款。

五 本條所稱「利息」，係指由各種債權所孳生之所得，不論

有無抵押擔保及是否有權參與債務人利潤之分配，尤指政

府債券之所得、及公司債或債券之所得，包括附屬於上述

各類債券之溢價收入或獎金在內，及依所得來源締約國之

稅法規定，與金錢借貸之所得課徵本同租稅之所有其他所

得。但延遲給付之違約金，不視爲本條所稱之利息。

六 利息受益所有人如係一方締約國之居住者，經由其於利息

來源地之他方締約國境內之常設機構從事營業或固定處所

執行業務，且與利息有關之債權與該機構或處所有實際關

聯時，不適用第一項及第二項規定，而視情況適用第七條

或第十四條規定。

七 由一方締約國本身、政府所屬機關、地方政府機關或該締

約國之居住者所給付之利息，視爲源自該締約國。利息給

付人如於一方締約國境內有常設機構或  
固定處所，而給付  
利息債務之發生與該機構或處所有關  
聯，且由該機構或處  
所負擔該項利息者，不論該利息給付人是  
否為一方締約國  
之居住者，此項利息視為源自該機構或處  
所所在地締約國  
。

八 利息之給付人與受益人所有人間，或上述  
二者與其他人間  
有特殊關係，如債務之利息數額，超過給  
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，各締約國得  
考量本協定其他  
規定，依各該締約國之法律，對此項超額  
給付課稅。

#### 第一二條 權利金

一 源自一方締約國而給付他方締約國居住  
者之權利金，他方  
締約國得予課稅。

二 前項權利金來源地締約國亦得依其法律  
規定，對該項權利  
金課稅，但權利金受益所有人如為他方締  
約國之居住者，  
其課徵之稅額不得超過權利金總額之百  
分之十二·五。

三 本條所稱「權利金」，係指使用或有權使  
用文學作品、藝  
術作品或科學作品（包括電影或供廣播  
或電視播映用之影  
片或錄音帶）之任何著作權、專利權、商  
標權、設計或模  
型、計畫、秘密處方或方法，或使用或有  
權使用工業、商  
業或科學設備，或有關工業、商業或科學

經驗之資訊，而

給付任何方式之報酬。

四 權利金受益所有人如係一方締約國之居住者，經由其於他

方締約國境內之常設機構從事營業或固定處所執行業務，

且與權利金有關之權利或財產與該機構或處所有實際關聯

時，不適用第一項及第二項規定，而視情況適用第七條或

第十四條規定。

五 由一方締約國本身、政府所屬機關、地方政府機關或該締

約國之居住者所給付之權利金，視為源自該締約國。權利

金給付人如於一方締約國境內有常設機構或固定處所，而

給付權利金義務之發生與該機構或處所有關聯，且由該機

構或處所負擔該項權利金者，不論該權利金給付人是否為

一方締約國之居住者，此項權利金視為源自該機構或處所

所在地締約國。

六 權利金之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，與使用、權利或資訊有關而給付之權利金數

額，超過給付人與受益所有人在無上述特殊關係下所同意

之數額，本條規定應僅適用於後者之數額。在此情形下，

各締約國得考量本協定其他規定，依各該締約國之法律，

對此項超額給付課稅。

第一三條 財產交易所得

一 一方締約國之居住者轉讓他方締約國境內合於第六條所稱

之不動產而取得之利得，他方締約國得予課稅。

二 一方締約國之企業轉讓其於他方締約國境內常設機構營業

資產中之動產而取得之利得，或一方締約國之居住者轉讓

其於他方締約國境內執行業務固定處所之動產而取得之利

得，包括轉讓該機構（單獨或連同整個企業）或處所而取

得之利得，他方締約國得予課稅。

三 一方締約國之企業轉讓經營國際運輸業務之船舶或航空器

或與該等船舶或航空器營運有關之動產而取得之利得，僅

由該締約國課稅。

四 轉讓前三項規定以外之任何財產而取得之利得，僅由該轉

讓人為居住者之締約國課稅。

第一四條 執行業務

一 一方締約國之居住者，除經由其於他方締約國境內之固定

處所執行業務外，其因執行業務或其他具有獨立性質活動

而取得之所得，僅由該一方締約國課稅。

如該人於他方締

約國境內有固定處所，他方締約國得對該固定處所之所得

課稅。但以歸屬於該固定處所之所得為

限。

二 「執行業務」包括具有獨立性質之科學、文學、藝術、教

育或教學等活動，及醫師、律師、工程師、建築師、牙醫

師及會計師等獨立性質之活動。

第一五條 個人受僱勞務

一 除第十六條、第十八條及第十九條規定外，一方締約國之

居住者因受僱而取得之薪俸、工資及其他類似報酬，除該

項勞務係於他方締約國境內提供者外，僅由該一方締約國

課稅。該項勞務如係於他方締約國境內提供，他方締約國

得對該項勞務取得之報酬課稅。

二 一方締約國之居住者受僱於他方締約國境內提供勞務而取

得之報酬，符合下列三款規定者，僅由該一方締約國課稅

，不受第一項規定之限制：

(一) 該所得人於一會計年度內開始或結束之任何十二個月期

間內，於他方締約國境內居留合計不超過一百八十三天

。

(二) 該項報酬非由他方締約國居住者之雇主給付或代表雇主

給付。

(三) 該項報酬非由雇主於他方締約國境內之常設機構或固定

處所負擔。

三 因受僱於一方締約國之企業經營國際運輸業務之船舶或航

空器上提供勞務而取得之報酬，僅由該一方締約國課稅，

不受前二項規定之限制。

第一六條 董事報酬

一方締約國之居住者因擔任他方締約國之居住者公司董事會或

其他類似組織之董事會或其他類似組織之董事而取得之董事報

酬及其他類似給付，他方締約國得予課稅。

第一七條 演藝人員與運動員

一 一方締約國之居住者係劇院、電影、廣播或電視之演藝人

員或音樂家等表演人、或運動員，於他方

締約國境內從事

個人活動而取得之所得，他方締約國得予課稅，不受第十

四條及第十五條規定之限制。

二 表演人或運動員以該身分從事個人活動之所得，如非歸屬

該表演人或運動員本人而歸屬其他人者，該活動舉行地之

締約國得對該項所得課稅，不受第七條、第十四條及第十

五條規定之限制。

三 依雙方締約國政府機關之文化協定或安排，從事第一項活

動所取得之所得，如其訪問該締約國係完全或實質上由一

方或雙方締約國、地方政府機關或公共機構之經費資助者

，該活動舉行地締約國應予免稅，不受前二項規定之限制

。

第一八條 養老金

除第十九條第二項規定外，因過去僱傭關係，給付予一方締約

國居住者之任何養老金或其他類似報酬，該一方締約國得予課

稅。

第一九條 政府勞務

一 一方締約國、政府所屬機關或地方政府機關給付予為其提

供勞務個人之薪俸、工資或其他類似報酬（養老金除外）

，僅由該一方締約國課稅。但該勞務係由他方締約國之居

住者個人於他方締約國境內提供，且該個人係他方締約國

之國民，或非專為提供上述勞務而成為他方締約國之居住

者，該項報酬僅由他方締約國課稅。

二 一方締約國、政府所屬機關或地方政府機關或經由其所籌

設基金，給付予為其提供勞務個人之養老金，僅由該一方

締約國課稅。但該個人如係他方締約國之居住者，該項報

酬僅由該他方締約國課稅。

三 為一方締約國、政府所屬機關或地方政府機關經營之事業

提供勞務而取得之薪俸、工資、其他類似給付及養老金，

應適用第十五條、第十六條及第十八條規定。

## 第二〇條 教師與學生

一 個人於訪問一方締約國之前，係他方締約國之居住者，因

接受一方締約國、或該一方締約國之大學、學院、學校、

博物館或其他文化機構之邀請，或基於官方文化交流計畫

，專為各該機構從事教學、演講或進行研究為期不超過兩

年者，其因上述活動自該一方締約國境外取得之報酬，該

一方締約國應予免稅。

二 學生或企業受訓人員專為教育或受訓目的，而於一方締約

國停留，且於停留前，係為他方締約國之居住者，其自該

一方締約國境外取得生活、教育或訓練目的之給付，該一

方締約國應予免稅。

## 第二一條 其他所得

一 一方締約國之居住者取得非屬本協定前述各條規定之所得

，不論其來源為何，僅由該一方締約國課稅。

二 所得人如係一方締約國之居住者，經由其



於他方締約國境

內之常設機構從事營業或固定處所執行  
業務，且與所得有

關之權利或財產與該常設機構或處所有  
實際關聯時，除第

六條第二項規定之不動產所得外，不適用  
前項規定，而視

情況適用第七條或第十四條規定。

#### 第四章 雙重課稅之消除

##### 第二二條 雙重課稅之消除

一 一方締約國之居住者取得之所得，依據本  
協定規定，他方

締約國得予課稅者，該一方締約國應准就  
其已在他方締約

國繳納之稅額，自該一方締約國對該項所  
得課徵之稅額中

扣抵。但扣抵之數額不得超過扣抵前，他  
方締約國對該所

得所課徵之稅額。

二 一方締約國之居住者取得之所得，依據本  
協定規定，該國

准予免稅者，該國於計算該居住者其餘所  
得之稅額時，仍

得將該免稅所得納入考量。

#### 第五章 特別規定

##### 第二三條 無差別待遇

一 一方締約國之國民於他方締約國境內，不  
應較他方締約國

之國民於相同情況下（特別是基於居住  
之關係），負擔不

同或較重之任何租稅或相關之要求。

二 無國籍之一方締約國居住者，於他方締約  
國境內，不應較

他方締約國之國民於相同情況下，負擔不  
同或較重之任何

租稅或相關之要求。

三 對一方締約國之企業於他方締約國境內  
常設機構之課稅，

不應較經營相同業務之他方締約國之企業作較不利之課徵

。本項規定不應解釋為一方締約國基於國民身分或家庭責

任而給予其本國居住者之個人免稅額或減免等課稅規定，

同樣給予他方締約國之居住者。

四 除適用第九條第一項、第十一條第八項或第十二條第六項

規定外，一方締約國之企業給付予他方締約國居住者之利

息、權利金及其他款項，於計算該企業之課稅利潤時，應

與給付予該一方締約國之居住者之情況相同而准予減除。

五 一方締約國之企業，其資本全部或部分由一個或一個以上

之他方締約國居住者直接或間接持有或控制者，該企業不

應較該一方締約國之其他類似企業，負擔不同或較重之任

何租稅或相關之要求。

六 本條所稱「租稅」，係指本協定所規定之租稅。

第二四條 相互協議之程序

一 一方締約國之居住者認為一方或雙方締約國之行爲，對其

發生或將發生不符合本協定規定之課稅，不論各該締約國

國內法之救濟規定為何，得向其本人為居住者之締約國主

管機關提出申訴。此項申訴應於首次接獲不符合本協定規

定課稅之通知起兩年內為之。

二 主管機關如認為該申訴有理，且其本身無法獲致適當之解

決，該主管機關應致力與他方締約國之主管機關相互協議

解決，以避免發生不符合本協定規定之課稅。達成之協議

應予執行，不受各該締約國國內法期間之限制。

三 雙方締約國之主管機關應相互協議致力解決有關本協定之

解釋或適用上發生之任何困難或疑義，並得共同磋商，以

消除本協定未規定之雙重課稅問題。

四 雙方締約國之主管機關為達成前述各項規定之協議，得直

接相互聯繫。

## 第二五條 資訊交換

一 雙方締約國之主管機關為執行本協定或本協定所指租稅之

國內法，在符合本協定之範圍內，應相互交換必要之資訊

。一方締約國獲得之任何資訊，應與依該締約國國內法取

得之資訊同以密件處理，且僅得揭露予與本協定所指租稅

之核定、徵收、執行、起訴或行政救濟之裁定有關人員或

機關（包括法院及行政部門）。上述人員或機關應僅得為

上述目的使用該資訊，但得於公開法庭之訴訟程序或司法

之判決中揭露之。

二 前項規定不得解釋為一方締約國之主管機關有下列各款義

務：

（一）執行與一方或他方締約國之法律或行政慣例不一致之行

政措施。

（二）提供依一方或他方締約國之法律規定或正常行政程序無

法獲得之資訊。

（三）提供可能洩露任何貿易、營業、工業、

商業或專業秘密

或交易方法之資訊，或有違公共政策之資訊。

第二六條 外交與領事人員

本協定之規定不影響外交或領事人員依國際法之一般原則或特別協定之規定所享有之財政特權。

第六章 最後規定

第二七條 生效

本協定於雙方締約國通知對方完成本協定生效之各該法律要件之日起生效。其適用：

(一) 就源扣繳稅款，為本協定生效日後之第二個月第一日起已付或應付之所得。

(二) 其他稅款，為本協定生效日後之次年一月一日起課稅年度之所得。

第二八條 終止

本協定未經一方締約國終止前仍繼續有效，任何一方締約國得於本協定生效滿五年起任一曆年六月三十日或以前，以書面通知對方終止本協定。其終止適用：

(一) 就源扣繳稅款，為發出終止通知日次年一月一日起已付或應付之所得。

(二) 其他稅款，為發出終止通知日次年一月一日起課稅年度之所得。

為此，雙方代表各經合法授權於本協定簽字，以昭信守。

本協定以中文、法文及英文各繕兩份，所有文字約本同一作準。

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中華民國八十九年一月二十日（公元二〇〇〇年一月二十日）

訂於塞內加爾。

中華民國政府代表

程建人

外交部部長

塞內加爾共和國政府代表

波丹

外交暨僑務部部長

名稱： AGREEMENT BETWEEN THE REPUBLIC OF CHINA AND THE REPUBLIC OF SENEGAL FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME (民國 93 年 09 月 10 日 公發布)

1 PREAMBLE

The Government of the Republic of China and the Government of the Republic of Senegal, desiring to conclude an agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

CHAPTER I

SCOPE OF THE AGREEMENT

Article 1

Personal Scope

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

Article 2

Taxes Covered

1. This Agreement shall apply to taxes on income imposed on beha-

lf of a Contracting State or of its political subdivisions or

local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed

on total income or on elements of income, including taxes on

gains from the alienation of movable or immovable property,

taxes on the total amounts of wages or salaries paid by enterprises.

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

(a) in the Republic of China:

- (i) the Profit Seeking Enterprise Income Tax;
- (ii) the Individual Consolidate Income tax;

(b) in the Republic of Senegal;

- (i) corporate income tax;
- (ii) minimum corporate tax;
- (iii) tax on the income of individual entities;
- (iv) employers' contribution;
- (v) property capital gains tax.

4. The Agreement shall apply also to any identical or substantially

similar taxes which are imposed after the date of signature

of the Agreement in addition to, or in place of, the existing

taxes. At the end of each year, the competent authorities

of the Contracting States shall notify each other of significant

changes which have been made in their respective taxation laws.

## CHAPTER II DEFINITIONS

### Article 3 General Definitions

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

ise requires:

(a) the term "China" means the Republic of China and, when us-

ed in a geographical sense, includes the territorial sea

thereof as well as any area outside the territorial sea in

respect of which China is entitled, in accordance with in-

ternational law, to exercise sovereign rights or jurisdic-

tion;

(b) the term "Senegal" means the Republic of Senegal its terr-

itorial waters and the maritime zones in which, under int-

ernational law, Senegal, can exercise its sovereignty or

jurisdiction;

(c) the terms "a Contracting State" and "the other Contracting

State" mean the Republic of China or the Republic of Sene-

gal as the context requires;

(d) the term "person" includes an individual, a company and a-

ny other body of persons;

(e) the term "company" means any body corporate or any entity

which is treated as a body corporate for tax purposes;

(f) the terms "enterprise of a Contracting State" and "enterp-

rise of the other Contracting State" mean respectively an

enterprise carried on by a resident of a Contracting State

and an enterprise carried on by a resident of



the other C-

ontracting State;

(g) the term "national" means:

(i) any individual possessing the nationality of  
a Contract-

ing State;

(ii) any legal person, partnership or  
association deriving

its status as such from the laws in force  
in a Contrac-

ting State;

(h) the term "international traffic") means any  
transport by a

ship or aircraft operated by an enterprise of  
a Contracti-

ng State, except when the ship or aircraft is  
operated so-

lely between places in the other Contracting  
State;

(i) the term "competent authority" means:

(i) in the case of the Republic of China, the  
Minister of Fi-

nance or his authorised representative; and

(ii) in the case of the Republic of Senegal, the  
Minister in

charge of Finance or his authorised  
representative.

2.As regards the application of the Agreement at any  
time by a

Contracting State, any term not defined therein  
shall, unless

the context otherwise requires, have the meaning  
that it has

at that time under the law of that State for the  
purposes of

the taxes to which the Agreement applies, any  
meaning under t-

he applicable tax laws of that State prevailing

over a meaning

given to the term under other laws of that State.

#### Article 4

##### Resident

1. For the purposes of this Agreement, the term "resident of a C-

ontracting State" means any person who, under the laws of that

State, is liable to tax therein by reason of his domicile, re-

sidence, place of head office, place of management or incorpo-

ration or any other criterion of a similar nature.

2. A person is not a resident of a Contracting State for the pur-

poses of this Agreement if the person is liable to tax in that

State in respect only of income from sources in that State, p-

rovided that this paragraph shall not apply to individuals re-

sident in the State referred to in subparagraph 3(a) of Artic-

le 2.

3. Where by reason of the provisions of paragraph 1 an individual

is a resident of both Contracting States, then his status sha-

ll be determined as follows:

(a) he shall be deemed to be a resident of the State in which

he has a permanent home available to him; if he has a per-

manent home available to him in both States, he shall be

deemed to be a resident of the State with which his perso-

nal and economic relations are closer (centre of vital interests);

(b) if the State in which he has his centre of vital interests

cannot be determined, or if he has not a permanent home a-

available to him in either State, he shall be deemed to be

a resident of the State in which he has an habitual abode;

(c) if he has an habitual abode in both States or in neither

of them, he shall be deemed to be a resident of the State

of which he is a national;

(d) if he is a national of both States or of neither of them,

the competent authorities of the Contracting States shall

settle the question by mutual agreement.

4. Where by reason of the provisions of paragraph 1 a person oth-

er than an individual is a resident of both Contracting States

, then it shall be deemed to be a resident of the State in wh-

ich its place of effective management is situated.

## Article 5

### Permanent Establishment

1. For the purposes of this Agreement, the term "permanent estab-

lishment" means a fixed place of business through which the b-

usiness of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes

especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory,
- (e) a workshop;
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources; and
- (g) a building site or construction or installation project which exists for a period of more than six months.

3. The term "permanent establishment" shall be deemed not to include:

- (a) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise and having; a preparatory or auxiliary character;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display and having a preparatory or auxiliary character;
- (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 t-

he purpose of advertising, for the supply of information,

for scientific research or for similar activities which h-

ave a preparatory or auxiliary character, for the enterpr-

ise;

(f) the maintenance of a fixed place of business solely for t-

he purpose of carrying on, for the enterprise, any other

activity of a preparatory or auxiliary character;

(g) the maintenance of a fixed place of business solely for a-

ny combination of activities mentioned in subparagraphs (a

) to (f), 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 paragraph 1 and 2, where a

person--other than an agent of an independent status to whom

paragraph 5 applies -- is acting on behalf of an enterprise a-

nd has, and habitually exercises, in a Contracting State an a-

uthority to conclude contracts in the name of the enterprise,

that enterprise shall be deemed to have a permanent establish-

ment in that State in respect of any activities which that pe-

person undertakes for 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 shall not be deemed to have a permanent establishment

in a Contracting State merely because it carries on business

in that State 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

State controls or is controlled by a company which is a resident

of the other Contracting State, or which carries on business

in that other State (whether through a permanent establishment

or otherwise), shall not of itself constitute either company

a permanent establishment of the other.

### CHAPTER III

### TAXATION OF INCOME

#### Article 6

#### Income from Immovable Property

1. Income derived by a resident of a Contracting State

from immo-  
vable property (including income from agriculture  
or forestry)  
situated in the other Contracting State may be  
taxed in that  
other State.

2. The term "immovable property" shall have the  
meaning which it  
has under the law of the Contracting State in which  
the prope-  
rty in question is situated. The term shall in any  
case inclu-  
de property accessory to immovable property,  
livestock and eq-  
uipment used in agriculture and forestry, rights  
to which the  
provisions of general law respecting landed  
property apply, u-  
sufruct of immovable property and rights to  
variable or fixed  
payments as consideration for the working of, or  
the right to  
work, mineral deposits, sources and other natural  
resources;  
ships, boats and aircraft shall not be regarded as  
immovable  
property.

3. The provisions of paragraph 1 shall apply to income  
derived f-  
rom the direct use, letting, or use in any other  
form of imm-  
ovable property.

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

nt personal services.

## Article 7

### Business Profits

1. The profits of an enterprise of a Contracting State shall be

taxable only in that State unless the enterprise carries on b-

usiness in the other Contracting State through a permanent es-

tablishment situated therein. If the enterprise carries on bu-

usiness as aforesaid, the profits of the enterprise may be tax-

ed in the other State but only so much of them as is attribut-

able to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise

of a Contracting State carries on business in the other Contr-

acting State through a permanent establishment situated there-

in, there shall in each Contracting State be attributed to th-

at permanent establishment the profits which it might be expe-

cted to make if it were a distinct and separate enterprise en-

gaged in the same or similar activities under the same or sim-

ilar conditions and dealing wholly independently with the ent-

erprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there

shall be allowed as deductions expenses which are incurred for



the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no deduction is allowable in respect of expenses which are not deductible under the laws of the Contracting State in which the permanent establishment is situated.

4.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.

5.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.

6.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 of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be

taxable only in that State.

2.If the place of effective management of a shipping enterprise

is aboard a ship or boat, then it shall be deemed to be situa-

ted in the Contracting State of which the operator of the ship

or boat is a resident.

3.The provisions of paragraph 1 shall also apply to profits from

the participation in a pool, a joint business or an internati-

onal operating agency.

4.Profits that mentioned in this Article include all profits de-

rived from the operation of ships and aircraft in internation-

al traffic, including profits from the rental of ships or air-

craft on a full (time, voyage or bareboat) basis and profits

from the rental of containers and related equipment which is

supplementary or incidental to the operation of ships and air-

craft in international traffic.

## Article 9

### Associated Enterprises

1.Where

(a) an enterprise of a Contracting State participates directly

or indirectly in the management, control or capital of an

enterprise of the other Contracting State, or

(b) the same persons participate directly or indirectly in the

management, control or capital of an

enterprise of a Contracting State and an enterprise of the other Contracting State, 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 State includes in the profits of an enterprise of that State -- and taxes accordingly -- profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged thereon on those profits. In determining such

adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

## Article 10

### Dividends

1. Dividends paid by a company which is a resident of a Contract-

ing State to a resident of the other Contracting State may be

taxed in that other State.

2. However, such dividends may also be taxed in the Contracting

State of which the company paying the dividends is a resident

and according to the laws of that State, but if the beneficial

owner of the dividends is a resident of the other Contracting

State, the tax so charged shall not exceed 10 percent 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, mining shares, founders' shares or other rights, not

being debtclaims, participating in profits, as well as income

from other corporate rights which is subjected to the same ta-

xation treatment as income from shares by the laws

of the Sta-

te of which the company making the distribution is a resident.

4.The provisions of paragraphs 1 and 2 shall not apply if the b-

eneficial owner of the dividends, being a resident of a Contr-

acting State, carries on business in the other Contracting St-

ate of which the company paying the dividends is a resident,

through a permanent establishment situated therein, or perfor-

ms in that other State independent personal services from a f-

ixed base situated therein, and the holding in respect of whi-

ch the dividends are paid is effectively connected with such

permanent establishment or fixed base. In such case the provi-

sions of Article 7 or Article 14, as the case may be, shall a-

pply.

5.Where a company which is a resident of a Contracting State de-

rives profits or income from the other Contracting State, that

other State may not impose any tax on the dividends paid by t-

he company, except insofar as such dividends are paid to a re-

sident of that other State or in so far as the holding in res-

pect of which the dividends are paid is effectively connected

with a permanent establishment or a fixed base situated in th-

at other State, 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 State.

## Article 11

### Interest

1. Interest arising in a Contracting State and paid to a resident

of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State

in which it arises and according to the laws of that State,

but if the beneficial owner of the interest is a resident

of the other Contracting State, the tax so charged shall not

exceed 15 percent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising

in a Contracting State and derived by the Government of the

other Contracting State or a local authority thereof, or any

agency wholly owned and controlled by that Government or local

authority shall be taxable only in that other State.

(a) for the sale on credit of industrial, commercial or scientific

tific equipment, or the construction of industrial, commercial or scientific facilities, or public works, provided that the credit granted derives from a loan contracted by the supplier and is reassigned under the same conditions;

(b) on any kind of loan granted by a banking institution through funds borrowed and reassigned but only in so far as the funds are borrowed and reassigned under the same conditions;

(c) on a loan granted to contribute to the development of the Republic of Senegal.

5. The term "interest" as used in this Article means income from debt claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, and all other income that is subjected to the same taxation treatment as income from money lent by the taxation law of the Contracting State in which the income arises.

Penalty charges

for late payment shall not be regarded as interest for the pu-

urpose of this Article.

6. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State 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.

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



in which the permanent establishment or fixed base is situated

.

8. Where, by reason of a special relationship between the payer

and the beneficial owner or between both of them and some oth-

er person, the amount of the interest, having regard to the d-

ebt-claim for which it is paid, exceeds the amount which would

have been agreed upon by the payer and 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 State, due regard being had to

the other provisions of this Agreement.

## Article 12

### Royalties

1. Royalties arising in a Contracting State and paid to a reside-

nt of the other Contracting State may be taxed in that other

State.

2. However, such royalties may also be taxed in the Contracting

State in which they arise and according to the laws of that S-

tate, but if the beneficial owner of the royalties is a resid-

ent of the other Contracting State, the tax so charged shall

not exceed 12.5 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 r-

ight 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, des-

ign 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, commerci-

al or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the b-

eneficial owner of the royalties, being a resident of a Contr-

acting State, carries on business in the other Contracting St-

ate in which the royalties arise, through a permanent establi-

shment situated therein, or performs in that other State inde-

pendent personal services from a fixed base situated therein,

and the right or property in respect of which the royalties a-

re paid is effectively connected with such permanent establis-

hment 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 State when

the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State 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 State 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 State,

due regard being had to the other provisions of this Agreement

.

### Article 13

#### Capital Gains

1. Gains derived by a resident of a Contracting State from the a-

lienation of immovable property referred to in Article 6 and

situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of

the business property of a permanent establishment which an e-

nterprise of a Contracting State has in the other Contracting

State or of movable property pertaining to a fixed base avail-

able to a resident of a Contracting State in the other Contra-

cting State 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 State.

3. Gains derived by an enterprise of a Contracting State from the

alienation of ships or aircraft operated in international tra-

ffic or movable property pertaining to the operation of such

ships or aircraft shall be taxable only in that

State.

4. Gains from the alienation of any property other than that ref-

erred to in paragraphs 1, 2 and 3, shall be taxable only in t-

he Contracting State of which the alienator is a resident.

#### Article 14

##### Independent Personal Services

1. Income derived by a resident of a Contracting State in respect

of professional services or other activities of an independent

character shall be taxable only in that State unless he has a

fixed base regularly available to him in the other Contracting

State for the purpose of performing his activities. If he has

such a fixed base, the income may be taxed in the other State

but only so much of it as is attributable to that fixed base.

2. The term "professional services" includes especially independ-

ent scientific, literary, artistic, educational or teaching a-

ctivities 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 State in respect of an employment  
shall be taxable  
only in that State unless the employment is  
exercised in  
the other Contracting State. If the employment is  
so exercised  
, such remuneration as is derived therefrom may be  
taxed in t-  
hat other State.

2. Notwithstanding the provisions of paragraph 1,  
remuneration d-  
erived by a resident of a Contracting State in  
respect of an  
employment exercised in the other Contracting  
State shall be  
taxable only in the first-mentioned State if:  
(a) the recipient is present in the other State for  
a period  
or periods not exceeding in the aggregate 183  
days in any  
twelve month period commencing or ending in  
the fiscal ye-  
ar concerned, and  
(b) the remuneration is paid by, or on behalf of,  
an employer  
who is not a resident of the other State, and  
(c) the remuneration is not borne by a permanent  
establishment  
or a fixed base which the employer has in the  
other State.

3. Notwithstanding the preceding provisions of this  
Article, rem-  
uneration derived in respect of an employment  
exercised aboard  
a ship or aircraft operated in international  
traffic by an en-  
terprise of a Contracting State shall be taxable

only in that  
State.

#### Article 16

##### Directors' Fees

Directors' fees and other similar payments derived  
by a resident  
of a Contracting State in his capacity as a member  
of the board  
of directors or any other similar organ of a company  
which is a  
resident of the other Contracting State may be taxed  
in that ot-  
her State.

#### Article 17

##### Artistes and Sportspersons

1. Notwithstanding the provisions of Articles 14 and  
15, income

derived by a resident of a Contracting State as an  
entertainer

, such as a theatre, motion picture, radio or  
television arti-

ste, or a musician, or as a sportsperson, from his  
personal ac

tivities as such exercised in the other  
Contracting State, may

be taxed in that other State.

2. Where income in respect of the personal activities  
exercised

by an entertainer or a sportsperson in his capacity  
as such a-

ccrues not to the entertainer or sportsperson  
himself but to

another person, that income may, notwithstanding  
the provisio-

ns of Articles 7, 14 and 15, be taxed in the  
Contracting State

in which the activities of the entertainer or sportsperson are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income

derived from activities referred to in paragraph 1 performed

under a cultural agreement or arrangement between both author-

ities of the Contracting States shall be exempt from tax in t-

he Contracting State in which the activities are exercised if

the visit to that State is wholly or substantially supported

by funds of one or both Contracting States, a local authority

or public institution thereof.

## Article 18

### Pensions

Subject to the provisions of paragraph 2 of Article 19, pensions

and other similar remunerations paid to a resident of a Contrac-

ting States in consideration of past employment may be taxable

in that State.

## Article 19

### Government Service

1.

(a) Salaries, wages, and other similar remuneration, other th-

an a pension, paid by a Contracting State or a political

subdivision or a local authority thereof to an individual



in respect of services rendered to that State or subdivis-

ion or authority shall be taxable only in that State.

(b) However, such salaries, wages and other similar remunerat-

ion shall be taxable only in the other Contracting State

if the services are rendered in that State and the indivi-

dual is a resident of that State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the

purpose of rendering the services.

2.

(a) Any Pension paid by, or out of funds created by, a Contra-

cting State or a political subdivision or a local authori-

ty thereof to an individual in respect of services render-

ed to that State or subdivision or authority shall be tax-

able only in that State.

(b) However, such pension shall be taxable only in the other

Contracting State if the individual is a resident of that

State.

3. The provisions of Article 15, 16 and 18 shall apply to salari-

es, wages and other similar remuneration, and to pensions, in

respect of services rendered in connection with a business ca-

rried on by a Contracting State or a political subdivision or

a local authority thereof.

## Article 20

### Teachers and Students

1. An individual who visits a Contracting State at the invitation

of that State or of a university, college, school, museum or

other cultural institution of that State or under an official

program of cultural exchange for a period not exceeding two y-

ears solely for the purpose of teaching, giving lectures or c-

arrying out research at such institution and who is, or was i-

mediately before that visit, a resident of the other Contract-

ing State shall be exempt from tax in the firstmentioned Sta-

te on his remuneration for such activity, provided that such

remuneration is derived by him from outside that State.

2. Payments which a student or business trainee who is or was im-

mediately before visiting a Contracting State a resident of t-

he other Contracting State and who is present in the first-me-

ntioned State solely for the purpose of his full-time educati-

on or training receives for the purpose of his maintenance, e-

ducation or training shall not be taxed in that first-mention-

ed State, provided that such payments arise from sources outs-

ide that State.

#### Article 21

##### Other Income

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.
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 State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State 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.

#### CHAPTER IV

##### ELIMINATION OF DOUBLE TAXATION

#### Article 22

##### Elimination of Double Taxation

1. Where a resident of a Contracting State derives income which,

in accordance with the provisions of this Agreement, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other State.

Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable, as the case may be, to the income which may be taxed in that other State.

2. Where in accordance with any provision of the Agreement income derived by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

## CHAPTER V SPECIAL PROVISIONS

### Article 23

#### Non-Discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State 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 State in the same circumstances, in particular with respect to residence, are or may be subjected.

2. Stateless persons who are residents of a Contracting State sh-

all not be subjected in either Contracting State to any taxat-

ion or any requirement connected therewith, which is other or

more burdensome than the taxation and connected requirements

to which nationals of the State concerned in the same circums-

tances are or may be subjected.

3. The taxation on a permanent establishment which an enterprise

of a Contracting State has in the other Contracting State sha-

ll not be less favourably levied in that other State than the

taxation levied on enterprises of that other State carrying on

the same activities. This provision shall not be construed as

obliging a Contracting State to grant to residents of the oth-

er Contracting State any personal allowances, reliefs and redu-

ctions for taxation purposes on account of civil status or fa-

mily responsibilities which it grants to its own residents.

4. Except where the provisions of paragraph 1 of Article 9, Para-

graph 8 of Article 11, or paragraph 6 of Article 12, apply, i-

nterest, royalties and other disbursements paid by

an enterpr-  
ise of a Contracting State to a resident of the  
other Contrac-  
ting State shall, for the purpose of determining  
the taxable  
profits of such enterprise, be deductible under  
the same cond-  
itions as if they had been paid to a resident of  
the first-me-  
ntioned country.

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

6. In this Article the term "taxation" means taxes  
which are the  
subject of the Agreement.

#### Article 24

##### Mutual Agreement Procedure

1. Where a person of a Contracting State considers  
that the acti-  
ons of one or both of the Contracting State result  
or will re-  
sult for him in taxation not in accordance with  
this Agreement  
, he may, irrespective of the remedies provided by

the domest-

ic laws of those States, present his case to the competent au-

thority of the Contracting State of which he is a resident. T-

he case must be presented within two years from the first not-

ification of the action resulting in taxation not in accordan-

ce with the provisions of this Agreement.

2.The competent authority shall endeavour, if the objection app-

ears to it to be justified and if it is not itself able to ar-

rive at a satisfactory solution, to resolve the case by mutual

agreement with the competent authority of the other Contracti-

ng State, with a view to the avoidance of taxation which is n-

ot in accordance with the Agreement. Any agreement reached sh-

all be implemented notwithstanding any time limits in the dom-

estic law of the Contracting States.

3.The competent authorities of the Contracting States shall end-

avour to resolve by mutual agreement any difficulties or dou-

pts arising as to the interpretation or application of the Ag-

reement. They may also consult together for the elimination of

double taxation in cases not provided for in the Agreement .

4.The competent authorities of the Contracting States may commu-

nicate with each other directly for the purpose of

reaching an agreement in the sense of the preceding paragraphs.

## Article 25

### Exchange of Information

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

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



(a) to carry out administrative measures at variance with the

laws and administrative practice of that or of the other

Contracting State;

(b) to supply information which is not obtainable under the l-

aws or in the normal course of the administration of that

or of the other Contracting State;

(c) to supply information which would disclose any trade, bus-

iness, industrial, commercial or professional secret or t-

rade process, or information, the disclosure of which wou-

ld be contrary to public policy.

Article 26

Members of Diplomatic Missions and Consular Posts

Nothing in this Agreement shall affect the fiscal privileges of

members of diplomatic missions or consular posts under the gene-

ral rules of international law or under the provisions of speci-

al agreements.

CHAPTER VI

FINAL PROVISIONS

Article 27

Entry into Force

This Agreement shall enter into force on the date on which both

Contracting States shall have notified each other of compliance

with their respective constitutional requirements for entry into

force of this Agreement and thereupon shall have effect:

1. in respect of taxes withheld at source, for amounts paid or c-

redited on or after the first day of the second month next fo-

llowing the date on which the Agreement enters into force; and

2. in respect of other taxes on income, for taxable years beginn-

ing on or after the first day of January in the year next fol-

lowing that in which the Agreement enters into force.

## Article 28

### Termination

This Agreement shall remain in force until terminated by a Cont-

racting State. Either Contracting State may terminate the Agree-

ment, by giving written notice of termination on or before the

thirtieth day of June of any calendar year following after the

period of five years from the year in which the Agreement enters

into force. In such case, the Agreement shall cease to have eff-

ect:

1. in respect of taxes withheld at source, for amounts paid or c-

redited on or after the first day of January in the year next

following that in which the notice of termination is given; a-

nd

2. in respect of other taxes on income, for taxable

years beginn-

ing on or after the first day of January in the year  
next fol-

lowing that in which the notice of termination is  
given.

In witness whereof, the undersigned, being duly  
authorised ther-

eto, have signed this Agreement.

Done in duplicate in Senegal on this Twentieth day  
of January,

2000 in the Chinese, French and English languages,  
all texts be-

ing equally authentic.

FOR THE GOVERNMENT  
GOVERNMENT  
OF THE REPUBLIC OF CHINA  
OF SENEGAL

FOR THE  
OF THE REPUBLIC

C.J. (Chien-jen) CHEN  
BAUDIN  
MINISTER  
MINISTRY OF FOREIGN AFFAIRS  
FOREIGN AFFAIRS  
OF THE REPUBLIC OF CHINA  
ABROAD  
REPUBLIC OF SENEGAL

Jacques  
MINISTER  
MINISTRY OF  
AND SENEGALESE  
OF THE