

AGREEMENT BETWEEN THE TAIPEI MISSION IN SWEDEN AND THE SWEDISH TRADE  
COUNCIL FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF  
FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

In order to maintain and promote bilateral economic and commercial relations, the Taipei Mission in Sweden and the Swedish Trade Council have agreed to work towards achieving the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

In this respect the Taipei Mission in Sweden and the Swedish Trade Council have agreed on the usefulness to set up certain rules concerning taxes with a view to avoiding double taxation and preventing fiscal evasion with respect to taxes on income.

The Taipei Mission in Sweden and the Swedish Trade Council, being most desirous of implementing this Agreement subject to their legal requirements in the respective territories, will work towards achieving the rules to be applied,

Have agreed as follows:

Article 1 Personal scope

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

Article 2 Taxes covered

1. The existing taxes to which this Agreement shall apply are:

- (a) In the territory in which the taxation laws administered by the National Tax Board (Riksskatteverket) are applied:
  - (i) the national income tax (den statliga inkomstkatten);
  - (ii) the withholding tax on dividends (kuponngskatten);
  - (iii) the income tax on non-residents (den sarskilda inkomstkatten for utomlands bosatta);
  - (iv) the income tax on non-resident artistes and athletes (den sarskilda inkomstkatten for utomlands bosatta artister m.fl.); and
  - (v) the municipal income tax (den kommunala inkomstkatten);
- (b) in the territory in which the taxation laws administered by the taxation authorities in Taipei are applied:

the profit seeking enterprise income tax and the individual consolidated income tax.

2. 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. The competent authorities of the territories shall notify each other of any significant changes which have been made in their respective taxation laws.

### Article 3 General definitions

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

(a) the term "territory" means the territory referred to in subparagraph 1(a) or 1(b) of Article 2, as the context requires;

(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 that is treated as a body corporate for tax purposes;

(d) the terms "enterprise of a territory" and "enterprise of the other territory" mean respectively an enterprise carried on by a resident of a territory and an enterprise carried on by a resident of the other territory;

(e) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a territory, except when the ship or aircraft is operated solely between places in the other territory;

(f) the term "competent authority" means:

(i) in the territory in which the taxation laws administered by the taxation authorities in Taipei are applied, the Director-General of the Department of Taxation or an authorized representative of the Director-General;

(ii) in the territory in which the taxation laws administered by the National Tax Board (Riksskatteverket) are applied, the National Tax Board (Riksskatteverket) or the authority which is designated as a competent authority for the purposes of this Agreement.

2. As regards the application of the Agreement at any time by a territory, 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 territory for the purposes of the taxes to which the Agreement applies, any meaning under the

applicable tax laws of that territory prevailing over a meaning given to the term under other laws of that territory.

#### Article 4 Resident

1. For the purposes of this Agreement, the term "resident of a territory" means any person who, under the laws of that territory, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. However, in the case of a partnership or estate the term applies only to the extent that the income derived by such partnership or estate is subject to tax in that territory as the income of a resident, either in its hands or in the hands of its partners or beneficiaries.

2. A person is not a resident of a territory for the purposes of this Agreement if the person is liable to tax in that territory in respect only of income from sources in that territory, provided that this paragraph shall not apply to individuals who are residents of the territory referred to in sub-paragraph 1(b) of Article 2, as long as resident individuals are taxed only in respect of income from sources in that territory.

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

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

(b) if the territory in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either territory, he shall be deemed to be a resident only of the territory in which he has an habitual abode;

(c) if he has an habitual abode in both territories or in neither of them, the competent authorities of the territories shall endeavour to settle the question by mutual agreement.

4. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both territories, then it shall be deemed to be a resident only of the territory in which its place of incorporation is situated.

#### Article 5 Permanent establishment

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

2. The term "permanent establishment" includes especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;  
and
- (g) the furnishing of services, including consultancy services, in a territory by an enterprise of the other territory through employees or other personnel engaged by the enterprise for such purpose, but only where those activities (for the same or a connected project) within the first-mentioned territory continue for a period or periods aggregating more than 120 days within any twelve-month period.

3. A building site or a construction, assembly or installation project or supervisory activities in connection therewith constitutes a permanent establishment only if such site, project or activities continue for a period of more than nine months.

4. 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 delivery of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or 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, such as advertising or scientific research;

(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.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a territory an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that territory in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 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.

6. An enterprise of a territory shall not be deemed to have a permanent establishment in the other territory merely because it carries on business in that other territory 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.

7. The fact that a company which is a resident of a territory controls or is controlled by a company which is a resident of the other territory, or which carries on business in that other territory (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 territory from immovable property (including income from agriculture or forestry) situated in the other territory may be taxed in that other territory.

2. The term "immovable property" shall have the meaning which it has under the law of the territory 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, buildings, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to the income from immovable property used for the performance of independent personal services.

#### Article 7 Business profits

1. The profits of an enterprise of a territory shall be taxable only in that territory unless the enterprise carries on business in the other territory 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 territory 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 territory carries on business in the other territory through a permanent establishment situated therein, there shall in each territory be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment, including executive and general administrative expenses so incurred, whether in the territory in which the permanent establishment is situated or elsewhere.
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 territory from the operation of ships or aircraft in international traffic shall be taxable only in that territory.

2. For the purpose of this Article, profits from the operation of ships or aircraft in international traffic shall include:

- a. profits from the use, maintenance or rental of containers and related equipment;
- b. profits from the rental of ships or aircraft on a full time, voyage or bare boat basis;

if such use, maintenance or rental is incidental to the operation of ships or aircraft in international traffic.

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

4. Whenever companies have agreed to carry on an air transportation business together in the form of a consortium, the provisions of paragraphs 1, 2 and 3 shall apply only to such part of the profits of the consortium as relates to the participation held in that consortium by a company that is a resident of a territory.

#### Article 9 Associated enterprises

1. Where:

- (a) an enterprise of a territory participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a territory and an enterprise of the other territory,

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 territory includes in the profits of an enterprise of that territory - and taxes accordingly - profits on which an enterprise of the other territory has been charged to tax in that other territory and the profits so included are profits which would have accrued to the enterprise of the first-mentioned territory if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other territory 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 this Agreement and the competent authorities of the territories shall if necessary consult each other.

## Article 10 Dividends

1. Dividends paid by a company which is a resident of a territory to a resident of the other territory may be taxed in that other territory.
2. However, such dividends may also be taxed in the territory of which the company paying the dividends is a resident and according to the laws of that territory, but if the beneficial owner of the dividends is a resident of the other territory, the tax so charged shall not exceed 10 per cent of the gross amount of the dividends. The competent authorities of the territories may by mutual agreement settle the mode of application of this limitation.

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 territory 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 territory, carries on business in the other territory of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other territory 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 territory derives profits or income from the other territory, that other territory 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 territory 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 territory, 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 territory.

## Article 11 Interest

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



2. However, such interest may also be taxed in the territory in which it arises and according to the laws of that territory, but if the beneficial owner of the interest is a resident of the other territory, the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the territories may by mutual agreement settle the mode of application of this limitation.

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. Notwithstanding the provisions of paragraph 2, any such interest as is mentioned in paragraph 1 shall be taxable only in the territory of which the recipient is a resident if such recipient is the beneficial owner of the interest and if one of the following requirements is fulfilled:

a) the interest is paid in respect of a loan granted or guaranteed by:

i) in the case of the territory referred to in sub-paragraph 1 (a) of Article 2, Swedfund International AB or the Swedish Export Credit Corporation (SEK) or an organization which has replaced any of these organizations,

ii) in the case of the territory referred to in sub-paragraph 1 (b) of Article 2,

such agencies and instrumentalities of that territory as may be agreed from time to time between the competent authorities,

b) the interest is paid in respect of a bond, debenture or other similar obligation of a public entity of a territory, or of a subdivision or a local authority thereof,

c) the interest is paid to a public entity of the other territory or a subdivision or a local authority thereof, a central bank of that other territory or to any instrumentality (including a financial institution) controlled by that entity or subdivision or local authority thereof, or

d) the interest is paid between banks.

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

6. Interest shall be deemed to arise in a territory when the payer is a resident of that territory. Where, however, the person paying the interest, whether he is a resident of a territory or not, has in a territory 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 territory in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the 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 territory, due regard being had to the other provisions of this Agreement.

#### Article 12 Royalties

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

2. However, such royalties may also be taxed in the territory in which they arise and according to the laws of that territory, but if the beneficial owner of the royalties is a resident of the other territory, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties. The competent authorities of the territories may by mutual agreement settle the mode of application of this limitation.

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 and films or tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, 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 territory, carries on business in the other territory in which the royalties arise, through a permanent establishment situated therein, or performs in that other territory 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 territory when the payer is a resident of that territory. Where, however, the person paying the royalties, whether he is a resident of a territory or not, has in a territory a permanent establishment or a fixed base in connection with which the obligation to pay the royalties

was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the territory 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 territory, due regard being had to the other provisions of this Agreement.

#### Article 13 Capital gains

1. Gains derived by a resident of a territory from the alienation of immovable property referred to in Article 6 and situated in the other territory, or from the alienation of shares in a company the assets of which consist principally of such property, may be taxed in that other territory.

2. Gains from alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a territory has in the other territory or of movable property pertaining to a fixed base available to a resident of a territory in the other territory 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 territory.

3. Gains derived by a resident of a territory 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 territory. Whenever companies have agreed to carry on an air transportation business together in the form of an consortium, the provisions of this paragraph shall apply only to such part of the gains of the consortium as relates to the participation held in that consortium by a company that is a resident of a territory.

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

5. Notwithstanding the provisions of paragraph 4, gains from the alienation of shares or other corporate rights in a company resident in a territory, and gains from the alienation of any other securities which are subjected in that territory to the same taxation treatment as gains from the alienation of such shares or other corporate rights, derived by an individual who has been a resident of that territory and who has become a resident of the other territory, may be taxed in the first-mentioned territory if the alienation of

the shares, other corporate rights or securities occurs at any time during the ten years next following the date on which the individual has ceased to be a resident of the first-mentioned territory.

#### Article 14 Independent personal services

1. Income derived by an individual who is a resident of a territory in respect of professional services or other activities of an independent character shall be taxable only in that territory unless he has a fixed base regularly available to him in the other territory for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other territory but only so much thereof 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 territory in respect of an employment shall be taxable only in that territory unless the employment is exercised in the other territory. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other territory.

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

(a) the recipient is present in the other territory for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned; and

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

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

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 territory may be taxed in that territory. Where a resident of a territory derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by an air transport

consortium of which a company which is a resident of that territory is a partner, such remuneration shall be taxable only in that territory.

#### Article 16 Directors' fees

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

#### Article 17 Artistes and sportsmen

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

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

#### Article 18 Pensions, annuities and similar payments

1. Pensions and other similar remuneration, disbursements under the Social Security legislation and annuities arising in a territory and paid to a resident of the other territory may be taxed in the first-mentioned territory.

2. The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

#### Article 19 Public service

1. Salaries, wages and other similar remuneration, other than a pension, paid by an authority administering a territory or a subdivision of that territory or a local authority of that territory, to an individual in respect of services rendered to that authority, subdivision or local authority shall be taxable only in that territory. However, such salaries, wages, and other similar remuneration shall be taxable only in the other territory if the services are rendered in that other territory and the recipient is a resident of that other territory who:

- (i) is a national of that territory; or

(ii) did not become a resident of that territory solely for the purpose of rendering the services.

2. The provisions of Article 15, 16 and 17 shall apply to salaries, wages and other similar remuneration in respect of services rendered in connection with any trade or business carried on by an authority administering a territory or a subdivision or a local authority thereof.

#### Article 20 Students

Payments which a student or business apprentice who is or was immediately before visiting a territory a resident of the other territory and who is present in the first-mentioned territory 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 territory, provided that such payments arise from sources outside that territory.

#### Article 21 Other income

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

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 territory, carries on business in the other territory through a permanent establishment situated therein, or performs in that other territory 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 22 Methods of elimination of double taxation

Subject to the provisions of the law of a territory from time to time in force relating to the allowance of a credit against tax payable in that territory of tax paid outside that territory (which shall not affect the general principle of this Article), tax paid under the law of the other territory and in accordance with this Agreement, whether directly or by deduction, in respect of income derived by a person who is a resident of the first-mentioned territory from sources in the other territory shall be allowed as a credit against tax payable in the first-mentioned territory in respect of that income. The amount of the credit, however, shall not exceed the amount of the tax in the first-mentioned territory on that income computed in accordance with its taxation laws and regulations.

#### Article 23 Non-discrimination

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

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

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a territory to a resident of the other territory shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned territory.

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

5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

#### Article 24 Mutual agreement procedure

1. Where a person considers that the actions of one or both of the territories 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 territories, present his case to the competent authority of the territory of which he 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.

2. The competent authority shall endeavor, 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 territory, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the territories.

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

4. The competent authorities of the territories may communicate 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 territories shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the territories concerning taxes covered by the Agreement, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1. Any information received by the competent authority of a territory shall be treated as secret in the same manner as information obtained under the domestic laws of that territory 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. They may disclose the information in public court proceedings or in judicial decisions.

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

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other territory;
- (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 territory;
- (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 26 Limitation on benefits

Notwithstanding any other provisions of this Agreement, where

- (a) a company that is a resident of a territory derives its income primarily from outside that territory
  - (i) from activities such as banking, shipping, financing or insurance or



- (ii) from being the headquarters, co-ordination centre or similar entity providing administrative services or other support to a group of companies which carry on business primarily outside the first-mentioned territory; and
- (b) except for the application of the method of elimination of double taxation normally applied by that territory, such income would bear a significantly lower tax under the laws of that territory than income from similar activities carried out within that territory or from being the headquarters, co-ordination centre or similar entity providing administrative services or other support to a group of companies which carry on business in that territory, as the case may be, any provisions of this Agreement conferring an exemption or a reduction of tax shall not apply to the income of such company and to the dividends paid by such company.

#### Article 27 Entry into force

This Agreement shall enter into force on the date on which the Swedish Trade Council and the Taipei Mission in Sweden notify each other in writing that the last of such things has been done as is necessary to give this Agreement effect in the domestic law of the respective territories. This Agreement shall apply in both territories, in respect of:

- (a) withholding tax on income derived by a non-resident, in relation to income derived on or after the first day of January of the year next following the entry into force of this Agreement;
- (b) other taxes, in relation to tax years beginning on or after the first day of January in the calendar year next following that in which the Agreement enters into force.

#### Article 28 Termination

This Agreement shall continue in force indefinitely, but the Taipei Mission in Sweden and the Swedish Trade Council may give a written notice of termination to the other on or before 30 June in any calendar year and, in that event, the Agreement shall cease to be applied in both territories:

- (a) in respect of withholding tax on income derived by a non-resident, in relation to income derived on or after the first day of January of the year next following that in which the notice of termination is given;
- (b) in respect of other taxes, in relation to tax years beginning on or after the first day of January in the calendar year next following that in which the notice of termination is given.

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

DONE in duplicate at Stockholm on this 8th day of June 2001 in the English language.

James C. Y. Chu

Ulf Dinkelspiel

Representative

President

FOR THE TAIPEI MISSION IN  
SWEDEN

FOR THE SWEDISH TRADE  
COUNCIL

#### ANNEX

The Taipei Mission in Sweden and the Swedish Trade Council,

Having regard to the Agreement concerning the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed today at Stockholm (in this Annex called "the Agreement")

Have agreed as follows:

Visa fees, passport fees, legalization fees (of documents) and interests received by the Taipei Mission in Sweden and the Swedish Trade Council in Taipei or their successors carrying on activities promoting trade, investment and cultural exchange between the territories, shall be taxable only in the territory on whose behalf the activities are carried on.

In respect of Article 10

If in the relation between the territory referred to in sub-paragraph 1 (b) of Article 2 and a third territory, being a member of the European Union, the first-mentioned territory would exempt dividends from tax or reduce the rate of tax on dividends below 10 per cent, such exemption or reduced rate shall automatically apply as if it had been specified in the Agreement. This provision shall, however, only apply to dividends where the beneficial owner is a company (other than a partnership) which holds at least 10 per cent of the voting power of the company paying the dividends.

In respect of Article 11

It is understood that an instrumentality (including a financial institution) is controlled by an entity or subdivision or local authority thereof if that entity or subdivision or local authority thereof holds at least 50 per cent of the capital of that instrumentality.

In respect of Article 12

If in the relation between the territory referred to in sub-paragraph 1 (b) of Article 2 and a third territory, being a member of the European Union, the first-mentioned territory would exempt royalties from tax or reduce the rate of tax on royalties below 10 per cent, such exemption or reduced rate shall automatically apply as if it had been specified in the Agreement.

In respect of Article 19

Salaries, wages and other similar remuneration, other than a pension, paid by the Taipei Mission in Sweden and the Swedish Trade Council in Taipei for services rendered to that Mission or Council shall be deemed to be paid by and rendered to an authority administering a territory.

This Annex shall form an integral part of the Agreement.

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

DONE in duplicate at Stockholm on this 8th day of June 2001 in the English language.

James C. Y. Chu

Ulf Dinkelspiel

Representative

President

FOR THE TAIPEI MISSION IN  
SWEDEN

FOR THE SWEDISH TRADE  
COUNCIL

## 駐瑞典台北代表團與瑞典貿易委員會避免所得稅雙重課稅及防杜逃稅協定

駐瑞典台北代表團與瑞典貿易委員會，為維持及促進雙方之經濟及商業關係，爰同意致力於達成避免所得稅雙重課稅及防杜逃稅。

基於此，駐瑞典台北代表團與瑞典貿易委員會，咸認訂定關於租稅方面之規定以避免所得稅雙重課稅及防杜逃稅有其實益。

駐瑞典台北代表團與瑞典貿易委員會，咸欲依其各自領域內之法律規定，實施本協定，將致力於達成各項規定之適用，

爰經議定下列條款：

### 第一條 適用之人

本協定適用於具有一方或雙方領域居住者身分之人。

### 第二條 適用租稅

一、本協定所適用之現行租稅：

(一) 在瑞典國稅署主管之稅法所適用之領域：

- (1) 國家所得稅。
- (2) 股利所得扣繳稅。
- (3) 非居住者所得稅。
- (4) 非居住者演藝人員及運動員所得稅。
- (5) 地方所得稅。

(二) 在台北稅務當局主管之稅法所適用之領域：

營利事業所得稅及個人綜合所得稅。

二、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。雙方領域之主管機關對於其各自稅法之重大修訂，應通知對方。

### 第三條 一般定義

一、除上下文另有規定外，本協定稱：

- (一)「領域」，視上下文規定係指第二條第一項第一款或第二款所稱之領域。
- (二)「人」，包括個人、公司及其他任何人之集合體。
- (三)「公司」，係指法人或依稅法規定視同法人之任何實體。
- (四)「一方領域之企業」及「他方領域之企業」，分別係指由一方領域之居住者所經營之企業及他方領域之居住者所經營之企業。
- (五)「國際運輸」，係指一方領域之企業，以船舶或航空器經營運輸業務，但該船舶或航空器僅於他方領域境內經營者，不在此限。
- (六)「主管機關」，在台北稅務當局主管之稅法所適用之領域，係指賦稅署署長或其授權之代表；在瑞典國稅署主管稅法所適用之領域，係指國稅署或依本協定指定為主管機關之機關。

二、本協定於一方領域適用時，未於本協定界定之任何名詞，除上下文另有規定外，依本協定所稱租稅於協定適用當時之法律規定辦理，該領域稅法之規定應優先於該領域其他法律之規定。

### 第四條 居住者

一、本協定所稱一方領域居住者，係指依該領域法律規定，因住所、居

所、管理處所或其他類似標準，負有納稅義務之人。但在合夥組織或遺產情況而言，本名詞僅適用於該合夥組織或遺產所獲得之所得，被視為居住者之所得而於該領域課稅之範圍，不論該所得係交付予合夥組織或遺產，抑或交付予合夥人或受益人。

二、僅因有一方領域之來源所得而負該領域納稅義務之人，非為本協定所稱該領域之居住者。但第二條第一項第二款所稱領域，如僅對其居住者個人源自該領域之所得課稅者，該居住者個人不適用本項規定。

三、個人如依本條第一項規定同為雙方領域之居住者，其身分決定如下：

(一) 於一方領域內有永久住所，視其為該領域之居住者。如於雙方領域內均有永久住所，視其為與其個人及經濟利益較為密切之領域之居住者（主要利益中心）。

(二) 如主要利益中心所在地領域不能確定，或於雙方領域內均無永久住所，視其為有經常居所之領域之居住者。

(三) 如於雙方領域內均有或均無經常居所，雙方領域之主管機關應共同協議解決。

四、個人以外之人如依第一項規定同為雙方領域之居住者，視其為設立登記地領域之居住者。

## **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) 他方領域之企業透過其員工或僱用人員，於一方領域內提供服務，包括諮詢服務，但以該活動（為相同或相關工程）在該一方領域內於任何十二個月內持續或合計超過一百二十天者為限。

三、建築工地或營建、安裝或裝配工程或與上述工程有關之監工活動，若其存續期間超過九個月者，構成常設機構。

四、本條前述各項之「常設機構」，不包括下列各款：

- (一) 專為儲存、展示或運送屬於該企業之貨物或商品而使用設備。
- (二) 專為儲存、展示或運送而儲備屬於該企業之貨物或商品。
- (三) 專為供其他企業加工而儲備屬於該企業之貨物或商品。
- (四) 專為該企業採購貨物或商品或蒐集資訊而設置固定營業場所。
- (五) 專為該企業從事其他具有準備或輔助性質之活動，如廣告或科學研究，而設置固定營業場所。
- (六) 專為從事(一)至(五)款各項活動而設置固定營業場所，但以該固定營業場所之整體活動具有準備或輔助性質者為限。

五、代表一企業，有權以該企業名義於一方領域簽訂契約，並經常行使該項權力之人（非第六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，視該企業於該領域內有常設機構，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四項規定之活動者，該固定營業場所不視為常設機構。

六、一方領域之企業如僅透過經紀人、一般佣金代理商或其他具有獨立身分之代理人，以其通常之營業方式，於他方領域內從事營業者，不得視該企業於他方領域內有常設機構。

七、一方領域之居住者公司，控制或受控於他方領域之居住者公司或於他方領域內從事營業之公司（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。

#### **第六條 不動產所得**

一、一方領域之居住者取得他方領域內之不動產所得（包括農業或林業所得），他方領域得予課稅。

二、稱「不動產」，應具有財產所在地領域法律規定之含義，包括附著於不動產之財產、供農林業使用之牲畜及設備、適用一般法律規定之地產之權利、建築物、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、一方領域之企業，除經由其於他方領域內之常設機構從事營業外，其利潤僅由該一方領域課稅。該企業如經由其於他方領域內之常設機構從事營業，他方領域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，一方領域之企業經由其於他方領域內之常設機構從事營業，各領域歸屬該常設機構之利潤，應與該常設機構為一獨立之企業，於相同或類似條件下從事相同或類似活動，並以完全獨立之方式與該企業從事交易時，所應獲得之利潤相同。

三、於計算常設機構之利潤時，應准予減除為該常設機構營業目的而發生之費用，包括行政及一般管理費用，不論該費用係於常設機構所在地領域內或其他處所發生。

四、常設機構僅為該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利潤之歸屬，除有正當且充分理由者外，每年均應採用相同方法決定之。

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、一方領域之企業以船舶或航空器經營國際運輸業務之利潤，僅由該一方領域課稅。

二、本條文稱以船舶或航空器經營國際運輸業務之利潤，應包括下列項目，但以該使用、維護或出租係與以船舶或航空器經營國際運輸有附帶關係者為限：

(一) 使用、維護或出租貨櫃及相關設備之利潤。

(二) 以計時、計程或光船方式出租船舶或航空器之利潤。

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、公司間同意以國際財團方式聯合經營航空運輸業務，應僅就一方領域之居住者公司參與該國際財團所獲之財團利潤部分，適用第一項、第二項及第三項之規定。

#### **第九條 關係企業**

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

- (一) 一方領域之企業直接或間接參與他方領域企業之管理、控制或資本。
- (二) 相同之人直接或間接參與一方領域之企業及他方領域企業之管理、控制或資本。

- 二、一方領域將業經他方領域課稅之他方領域企業之利潤，列計為該一方領域企業之利潤而予以課稅，如該兩企業間所訂定之條件與互為獨立企業所訂定者相同，且該項列計之利潤應歸屬於該一方領域企業之利潤時，該他方領域之主管機關對該項利潤之課稅，應作適當之調整。在決定此項調整時，應考量本協定之其他規定，如有必要，雙方領域之主管機關應相互磋商。

#### **第十條 股利**

- 一、一方領域之居住者公司給付予他方領域居住者之股利，他方領域得予課稅。
- 二、前項給付股利之公司如係一方領域之居住者，該領域亦得依其法律規定，對該項股利課稅，股利之受益所有人如為他方領域之居住者，其課徵之稅額不得超過股利總額之百分之十。雙方領域之主管機關得共同協議決定此種限制之適用方式。

本項規定不影響對該公司用以發放股利之利潤所課徵之租稅。

- 三、本條所稱「股利」，係指自股份或其他非屬債權而得參與利潤分配之其他權利取得之所得，及依分配股利之公司為居住者之領域法律規定，與股利所得課徵相同租稅之公司其他權利取得之所得。
- 四、股利受益所有人如為一方領域之居住者，經由其於他方領域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領域之居住者，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、一方領域之居住者公司自他方領域取得利潤或所得，其所給付之股利或其未分配盈餘，即使全部或部分來自他方領域之利潤或所得，他方領域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領域之居住者，或該股份之持有與位於他方領域之常設機構或固定處所有實際關聯者，不在此限。

#### **第十一條 利息**

- 一、源自一方領域而給付他方領域居住者之利息，他方領域得予課稅。
- 二、前項利息來源地領域亦得依其法律規定，對該項利息課稅，但利息之受益所有人如為他方領域之居住者，其課徵之稅額不得超過利息總額之百分之十。雙方領域之主管機關得共同協議決定此種限制之適用方式。
- 三、本條所稱「利息」，係指由各種債權所孳生之所得，不論有無抵押

擔保及是否有權參與債務人利潤之分配，尤指政府債券之所得、及債券或信用債券之所得，包括附屬於上述各類債券之溢價收入或獎金在內。但延遲給付之違約金，不視為本條所稱之利息。

四、第一項規定之利息，若收受人為利息之受益所有人，且符合下列任一要件，應僅由該收受人為居住者之領域課稅，不受第二項規定之限制：

(一)由下列機構放款或擔保所給付之利息：

(1)在第二條第一項第一款所稱之領域：國際AB瑞典基金或瑞典出口信用公司（SEK）或替代上述機構之機關。

(2)在第二條第一項第二款所稱之領域：雙方主管機關視乎情況同意之機構或機關。

(二)由一方領域之公共實體、所屬機關或地方機關因債券、信用債券或其他類似債務所給付之利息。

(三)給付予他方領域公共實體、所屬機關、地方機關，或他方領域之中央銀行，或任何由該領域或所屬機關或地方機關所控制之機構（包括金融機構）之利息。

(四)銀行間所給付之利息。

五、利息受益所有人如為一方領域之居住者，經由其於利息來源地之他方領域內之常設機構從事營業或固定處所執行業務，且與給付利息有關之負債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。

六、由一方領域之居住者所給付之利息，視為源自該領域。利息給付人如於一方領域內有常設機構或固定處所，而給付利息債務之發生與該常設機構或固定處所有關聯，且該項利息由該常設機構或固定處所負擔者，不論該利息給付人是否為一方領域之居住者，此項利息視為源自該常設機構或固定處所所在地領域。

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

## 第十二條 權利金

- 一、源自一方領域而給付他方領域居住者之權利金，他方領域得予課稅。
- 二、前項權利金來源地領域亦得依其法律規定，對該項權利金課稅，但權利金之受益所有人如為他方領域之居住者，其課徵之稅額不得超過權利金總額之百分之十。雙方領域之主管機關得共同協議決定本項限制之適用方式。
- 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，包括電影及供廣播或電視播映用之影片或錄音帶之任何著作權，及專利權、商標權、設計或模型、計畫、秘密處方或方法，或有關工業、商業或科學經驗之資訊，所取得之任何方式之給付。
- 四、權利金受益所有人如為一方領域之居住者，經由其於權利金來源地之他方領域內常設機構從事營業或固定處所執行業務，且與權利金給付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、由一方領域居住者所給付之權利金，視為源自該領域。但權利金給付人如於一方領域內有常設機構或固定處所，而給付權利金義務之發生與該常設機構或固定處所有關聯，且該項權利金由該常設機構或固定處所負擔者，不論該權利金給付人是否為一方領域之居住者，此項權利金視為源自該常設機構或固定處所所在地領域。

六、權利金給付人與受益所有人間，或上述二者與其他人間有特殊關係，有關使用、權利或資訊之權利金給付數額，超過權利金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，各領域得考量本協定其他規定，依其稅法對此項超額給付課稅。

### 第十三條 財產交易所得

一、一方領域之居住者轉讓他方領域內之合於第六條所稱不動產，或轉讓主要以不動產為資產之公司股票，而取得之利得，他方領域得予課稅。

二、一方領域之企業轉讓其於他方領域內常設機構資產中之動產而取得之利得，或一方領域之居住者轉讓其於他方領域執行業務固定處所之動產而取得之利得，包括轉讓該常設機構（單獨或連同整個企業）或固定處所而取得之利得，他方領域得予課稅。

三、一方領域之居住者轉讓其經營國際運輸業務之船舶或航空器，或附屬於該等船舶或航空器營運之動產而取得之利得，應僅由該領域課稅。公司間同意以國際財團方式聯合經營航空運輸業務，應僅就一方領域之居住者公司參與該國際財團所獲之財團利得部分，適用本項之規定。

四、轉讓前三項以外之任何財產而取得之利得，應僅由該轉讓人為居住者之領域課稅。

五、曾為一方領域居住者，其後成為他方領域居住者之個人，轉讓該一

方領域居住者公司之股份或公司之其他權利，及轉讓與股份或公司之其他權利課徵相同租稅之任何其他債券而取得之利得，如該股份、公司之其他權利，或債券之轉讓，係於該個人終止為一方領域居住者之日後十年內為之，該一方領域得予課稅，不受第四項規定之限制。

#### **第十四條 執行業務**

- 一、一方領域之居住者個人，除經由其於他方領域內之固定處所從事個人活動外，其因執行業務或其他具有獨立性質活動而取得之所得，僅由該一方領域課稅。如該個人於他方領域內有固定處所，他方領域得就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。

#### **第十五條 個人受僱勞務**

- 一、除第十六條、第十八條、及第十九條規定外，一方領域之居住者因受僱而取得之工資、薪津及其他類似報酬，除該項勞務係於他方領域提供者外，應僅由該一方領域課稅。該項勞務如係於他方領域內提供，他方領域得對該項勞務取得之報酬課稅。
- 二、一方領域之居住者於他方領域提供勞務而取得之報酬，符合下列規定者，應僅由該一方領域課稅，不受第一項規定之限制：
  - (一) 該所得人於一會計年度之內開始或結束之任何十二個月期間內，於他方領域內居留合計不超過一百八十三天，且
  - (二) 該項報酬非由他方領域居住者之僱主所給付或代表僱主給付，且
  - (三) 該項報酬非由該僱主於他方領域內之常設機構或固定處所負擔。

- 三、受僱於經營國際運輸業務之一方領域之企業，於其船舶或航空器上提供勞務而取得之報酬，該一方領域得予課稅，不受本條前二項規定之限制。一方領域之居住者受僱於航空運輸國際財團經營國際運輸之航空器上提供勞務，且該一方領域之居住者公司為國際財團之合夥人，則其所獲得之報酬，應僅由該一方領域課稅。

#### **第十六條 董事報酬**

一方領域之居住者因擔任他方領域內居住者公司董事會之董事而取得之董事報酬及類似給付，他方領域得予課稅。

#### **第十七條 演藝人員與運動員**

- 一、一方領域之居住者為劇院、電影、廣播或電視之演藝人員或音樂家等表演人、或運動員，於他方領域內從事個人活動而取得之所得，他方領域得予課稅，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，如不歸屬該表演人或運動員本人而歸屬其他人者，該活動舉行地領域對該項所得得予課稅，不受第七條、第十四條及第十五條規定之限制。

#### **第十八條 養老金、年金與類似給付**

- 一、源自一方領域而給付予他方領域居住者之養老金及其他類似給付，依據社會安全法規規定之給付及年金，該一方領域得予課稅。
- 二、「年金」係指於終生或特定或可確定之期間內，基於支付金錢或等值金錢作為充分適當報酬之給付義務，依所定次數及金額而為之定期給付。

#### **第十九條 公共勞務**

- 一、一方領域之行政機關、所屬機關或地方機關給付予為該行政機關或所屬機關或地方機關提供勞務個人之薪津、工資或其他類似報酬



(退休金除外)，應僅由該領域課稅。如該勞務係由他方領域之居住者於他方領域提供，且該報酬之收受者係他方領域之國民，或非專為提供上述勞務而成為他方領域之居住者，該項報酬應僅由他方領域課稅。

二、為一方領域之行政機關、所屬機關或地方機關經營之事業提供勞務所取得之薪津、工資或其他類似報酬，應適用第十五條、第十六條、及第十七條規定。

#### **第二十條 學生**

學生或企業受訓人員專為教育或訓練目的而於一方領域停留，且於訪問該一方領域前係為他方領域之居住者，其為生活、教育或訓練目的而取得源自該一方領域以外之給付，該一方領域應予免稅。

#### **第二十一條 其他所得**

一、一方領域之居住者取得非屬本協定前述各條規定之所得，不論其來源為何，應僅由該領域課稅。

二、所得人如係一方領域之居住者，經由其於他方領域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固定處所有實際關聯時，除第六條第二項定義之不動產所得外，不適用第一項規定，而視情況適用第七條或第十四條規定。

#### **第二十二條 消除雙重課稅之方法**

除依一方領域實施中之法律，於該一方領域以外所繳納之稅捐，准

自該一方領域應納稅額中扣抵外（應不影響本條之一般原則），一方領域之居住者自他方領域所取得之所得，依他方領域法律及本協定規定繳納之稅捐，不論採直接扣抵或扣除，應准自該一方領域就該項所得之應納稅額中扣抵之。但扣抵之數額，不得超過該方領域依其稅法及細則規定對該所得課徵之稅額。

### 第二十三條 無差別待遇

- 一、一方領域之國民於他方領域內，不應較他方領域之國民於相同情況下，特別係指有關居住地，負擔不同或較重之任何租稅或相關之要求。
- 二、對一方領域之企業於他方領域內常設機構之課稅，不應較經營相同業務之他方領域之企業作更不利之課徵。本項規定不應解釋為一方領域基於國民身分或家庭責任而給予其居住者之個人免稅額或減免等課稅規定，同樣給予他方領域之居住者。
- 三、除適用第九條第一項、第十一條第七項或第十二條第六項規定外，一方領域之企業給付予他方領域居住者之利息、權利金及其他款項，於核定該企業之課稅利潤時，應與給付該一方領域之居住者之情況相同而准予減除。
- 四、一方領域之企業，其資本全部或部分由一個或一個以上之他方領域居住者直接或間接持有或控制者，該企業不應較該一方領域之其他類似企業，負擔不同或較重之任何租稅或相關之要求。
- 五、本條之規定適用於任何種類之租稅，不受第二條規定之限制。。

## 第二十四條 相互協議之程序

- 一、任何人認為一方或雙方領域之行為，對其發生或將發生不符合本協定規定之課稅，不論各該領域國內法之救濟規定，得向其本人為居住者所屬領域主管機關提出申訴。此項申訴應於首次接獲不符合本協定規定課稅之通知起三年內為之。
- 二、主管機關如認為該申訴有理，且其本身無法獲致適當之解決，該主管機關應致力與他方領域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，不受各該領域國內法之期間限制。
- 三、雙方領域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、雙方領域之主管機關為達成前述各項規定之協議，得直接相互聯繫。

## 第二十五條 資訊交換

- 一、雙方領域之主管機關為執行本協定或執行本協定適用租稅之國內法，在不違反本協定規定範圍內，應相互交換必要之資訊。該資訊交換之範圍不以於第一條規定為限。一方領域主管機關所獲之任何資訊應以密件處理，且僅能揭露予與本協定所指租稅之核定、徵收、執行、起訴或上訴之裁定有關人員或機關（包括法院及行政部門）。上述人員或機關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領域有下列義務：

- (一) 執行與一方或他方領域之法律或行政慣例不一致之行政措施。
- (二) 提供依一方或他方領域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、商業或專業之秘密或交易方法之資訊，或有違公共政策之資訊。

### **第二十六條 利益之限制**

(一) 一方領域之居住者公司之所得主要源自該一領域以外

(1) 從事銀行、海運、金融或保險等活動或

(2) 作為主要於前述領域外經營業務公司集團之總部、協調中心或類似之實體，提供行政協助或其他支援；且

(二) 是項所得除了適用該領域通常採用之消除雙重課稅之方法外，如依該領域之法律規定，其所負擔之租稅遠低於在該領域內經營類似活動之所得所負擔之租稅，或對該領域內經營業務之公司集團提供行政協助或其他支援之總部、協調中心或類似實體之所得所負擔之租稅，則本協定之任何免稅或減稅規定，視情況不適用於此類公司之所得及其所分配之股利，不受本協定其他規定之限制。

### **第二十七條 生效**

本協定於各領域完成使本協定生效之必要程序後，於駐瑞典台北代表團與瑞典貿易委員會以書面相互通知對方，以其後通知之日起生效，其適用：

(一) 非居住者取得之所得扣繳稅，為本協定生效日後之次年一月一日起。

(二) 其他稅款，為本協定生效日後之次一曆年度一月一日起課稅年度。

## 第二十八條 終止

本協定無限期繼續有效，但駐瑞典台北代表團與瑞典貿易委員會得於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) 非居住者取得之所得扣繳稅，為發出終止通知之日起次年之一月一日起。

(二) 其他稅款，為發出終止通知之日起次一曆年度之一月一日起之課稅年度。

為此，雙方代表業經合法授權於本協定簽字，以昭信守。

本協定以英文繕製兩份，中華民國九十年六月八日(公元二〇〇一年六月八日)於斯德哥爾摩簽署。

駐瑞典台北代表團代表

瑞典貿易委員會總裁

祝基溼

丁克史貝

## 附 件

駐瑞典台北代表團與瑞典貿易委員會，

於本日在斯德哥爾摩簽訂避免所得稅雙重課稅及防杜逃稅協定（於本附件稱「本協定」）；

爰經議定下列條款：

從事促進雙方領域間之貿易、投資及文化交流等活動之駐瑞典台北代表團與瑞典貿易委員會台北辦事處或其承續機關，所收取之簽證費、護照費、法律（文書）費及利息等收入，應僅由其所代表從事上述活動之領域課稅。

## 有關第十條

第二條第一項第二款所稱之領域與歐盟會員國中之第三國之間，若前述領域給予第三國股利免稅，或對股利之課稅低於10%，該免稅或較低稅率，應如同已於本協定特別規定，自動適用之。但此項規定應僅適用於股利受益所有人為公司（合夥除外），且至少持有該給付股利公司之10%投票權情況下所獲配之股利。

## 有關第十一條

如任一實體、所屬機關或地方機關持有一機構(包括金融機構)之資本達百分之五十，該機構即為任一實體、所屬機關或地方機關所控制。

## 有關第十二條

第二條第一項第二款所稱之領域與歐盟會員國中之第三國之間，若前述領域給予第三國權利金免稅，或對權利金之課稅低於10%，則該免稅或較低稅率，應如同已於本協定特別規定，自動適用之。

## 有關第十九條

駐瑞典台北代表團與瑞典貿易委員會台北辦事處給付予為其機關提供

勞務人員所獲得之薪津、工資或其他類似給付（退休金除外），應視同為一方領域行政機關提供勞務所為之給付。

本附件構成本協定之一部分。

為此，雙方代表業經合法授權於本附件簽字，以昭信守。

本附件以英文繕製兩份，中華民國九十年六月八日（公元二〇〇一年六月八日）簽署於斯德哥爾摩。

駐瑞典台北代表團

瑞典貿易委員會

祝基滢

丁克史貝