

**AGREEMENT
BETWEEN
THE TAIPEI MISSION IN KOREA
AND THE KOREAN MISSION IN TAIPEI
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME**

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The Taipei Mission in Korea and the Korean Mission in Taipei,

Desiring to further develop their economic relationship and to enhance their cooperation in tax matters,

Intending to conclude an Agreement for the avoidance of double taxation with respect to taxes on income without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third States),

Have agreed as follows:

Article 1

PERSONS COVERED

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

Article 2

TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of a territory 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, as well as taxes on capital appreciation.
3. The existing taxes to which the Agreement shall apply are in particular:
 - a) in the case of Taiwan:
 - (i) the profit-seeking enterprise income tax;
 - (ii) the individual consolidated income tax; and
 - (iii) the income basic tax;including the surcharges levied thereon (hereinafter referred to as "Taiwanese tax");
 - b) in the case of Korea:
 - (i) the income tax;
 - (ii) the corporation tax;
 - (iii) the special tax for rural development; and

(iv) the local income tax;

(hereinafter referred to as "Korean tax").

4. The Agreement shall apply also to any identical or substantially similar taxes that 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 that have been made in their taxation laws.

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:
- a) the terms "a territory" and "the other territory" mean the territory in which the taxation laws administered by the Ministry of Finance of Taiwan or the Ministry of Economy and Finance of Korea are applied, 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 "national or citizen", in relation to a territory, means:

- (i) any individual possessing the nationality or citizenship of that territory; and
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in that territory;
 - g) the term "competent authority" means:
 - (i) in the case of Taiwan, the Minister of Finance or the Minister's authorised representative;
 - (ii) in the case of Korea, the Minister of Economy and Finance or the Minister's authorised representative.
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 that person's domicile, residence, place of head or main office, place of incorporation, place of management or any other criterion of a similar nature, and also includes that territory and any political subdivision or local authority thereof.

2. A person is not a resident of a territory for the purposes of this Agreement if that person is liable to tax in that territory in respect only of income from sources in that territory. However, this provision shall not apply to individuals who are residents of Taiwan under the taxation laws of Taiwan, as long as they are liable to tax only in respect of income from sources in Taiwan, provided that they are not required to include their overseas income in the basic income in accordance with the Income Basic Tax Act of Taiwan.
3. Where by reason of the provisions of paragraphs 1 and 2 an individual is a resident of both territories, then the individual's status shall be determined as follows:
 - a) the individual shall be deemed to be a resident only of the territory in which the individual has a permanent home available to the individual; if the individual has a permanent home available to the individual in both territories, the individual shall be deemed to be a resident only of the territory with which the individual's personal and economic relations are closer (centre of vital interests);
 - b) if the territory in which the individual has the individual's centre of vital interests cannot be determined, or if the individual has not a permanent home available to the individual in either territory, the individual shall be deemed to be a resident only of the territory in which the individual has an habitual abode;
 - c) if the individual has an habitual abode in both territories or in neither of them, the individual shall be deemed to be a resident only of the territory of which the individual is a national or citizen;
 - d) if the individual is a national or citizen of both territories or of neither of them, the competent authorities of the territories shall settle the question by mutual agreement.

4. Where by reason of the provisions of paragraphs 1 and 2 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 effective management is situated. If its place of effective management cannot be determined, the competent authorities of the territories shall settle the question by mutual agreement.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
 - a) a place of management;
 - b) a branch;
 - c) an office;
 - d) a factory;
 - e) a workshop; and
 - f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. The term "permanent establishment" also encompasses:
 - a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities last more than six months; and

- b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel or persons engaged by the enterprise for such purpose, but only if activities of that nature continue (for the same or a connected project) within a territory for a period or periods aggregating more than 183 days in any twelve-month period.
4. For the purposes of determining the duration of activities under paragraph 3, the period during which activities are carried on in a territory by an enterprise associated with another enterprise shall be aggregated with the period during which activities are carried on by the enterprise with which it is associated if the first-mentioned activities are connected with the activities carried on in that territory by the last-mentioned enterprise, provided that any period during which two or more associated enterprises are carrying on concurrent activities is counted only once. An enterprise shall be deemed to be associated with another enterprise if one is controlled directly or indirectly by the other, or if both are controlled directly or indirectly by a third person or persons.
5. 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;
 - f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs 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.
6. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 7 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 5 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.
7. An enterprise shall not be deemed to have a permanent establishment in a territory merely because it carries on business in that 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.
8. 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, 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 and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

BUSINESS PROFITS

1. 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 determining 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 from the operation of ships or aircraft in international traffic carried on by an enterprise of a territory shall be taxable only in that territory.
2. For the purposes of this Article the terms "profits from the operation of ships or aircraft in international traffic" shall include profits from:

- a) the rental on a full (time or voyage) basis of ships or aircraft; and
 - b) the rental on a bareboat basis of ships or aircraft and the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise, where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.
3. The provisions of paragraphs 1 and 2 shall also apply to profits from the participation in a pool, a joint business or an international operating agency but only to so much of the profits so derived as is attributable to the participant in proportion to its share in the joint operation.

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.

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.
3. Notwithstanding the provisions of paragraph 2, interest arising in a territory and paid to a resident of the other territory shall be taxable only in that other territory if:

- a) the interest is beneficially owned by that other territory or any political subdivision or local authority thereof, or the Central Bank of that other territory; or
 - b) the interest is paid in respect of a loan, debt-claim or credit that is owed to, or made, provided, guaranteed or insured by any financial institution which aims at promoting export and is wholly owned or controlled by that other territory.
4. For the purpose of paragraph 3, the term “any financial institution which aims at promoting export and is wholly owned or controlled by that other territory” means:
- a) in the case of Taiwan:
the Export-Import Bank;
 - b) in the case of Korea:
 - (i) the Export-Import Bank of Korea; and
 - (ii) the Korea Trade Insurance Corporation;
 - c) such other financial institution as may be agreed upon in letters exchanged between the competent authorities of territories.
5. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

6. The provisions of paragraphs 1, 2 and 3 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.
7. 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 the person 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.
8. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each 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.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematograph films, or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 of this Article 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 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 the person is a resident of a territory or not, has in a territory 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 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 may be taxed in that other territory.
2. Gains from the 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 from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the territory of which the enterprise is a resident.
4. Gains derived by a resident of a territory from the alienation of shares deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other territory may be taxed in that other territory.

5. Gains, other than those to which paragraph 4 applies, derived by a resident of a territory from the alienation of shares of a company which is a resident of the other territory may be taxed in that other territory if the alienator, at any time during the twelve-month period preceding such alienation, held directly or indirectly at least 25 per cent of the capital of that company.
6. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3, 4 and 5, shall be taxable only in the territory of which the alienator is a resident.

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a territory in respect of professional services or other independent activities of an independent character shall be taxable only in that territory except in the following circumstances, when such income may also be taxed in the other territory:
 - a) if the individual has a fixed base regularly available to such individual in the other territory for the purpose of performing the individual's activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other territory; or
 - b) if the individual's stay in the other territory is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the calendar year concerned; in that case, only so much of the income as is derived from the individual's activities performed in that other territory may be taxed in that other territory.
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

INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 16, 18, 19 and 21, 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 taxable in that territory.

Article 16

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a territory in that person's 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

ENTERTAINERS AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a territory as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from that resident's 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 entertainer or a sportsperson acting as such accrues not to the entertainer or sportsperson 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 entertainer or sportsperson are exercised.
3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities performed in a territory by an entertainer or a sportsperson if the visit to that territory is wholly or mainly supported by public funds of one or both of the territories or political subdivisions or local authorities thereof. In such case, the income is taxable only in the territory in which the entertainer or the sportsperson is a resident.

Article 18

PENSIONS AND SOCIAL SECURITY PAYMENTS

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a territory in consideration of past employment shall be taxable only in that territory. However, such pensions and other similar remuneration may also be taxed in the other territory if they arise in that territory.
2. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under public schemes, which are parts of the social security system of a territory or a political subdivision or a local authority thereof, shall be taxable only in that territory.

Article 19

PUBLIC SERVICE

1.
 - a) Salaries, wages and other similar remuneration paid by a territory or a political subdivision or a local authority thereof to an individual in respect of services rendered to that territory or subdivision or authority shall be taxable only in that territory.
 - b) However, such salaries, wages and other similar remuneration shall be taxable only in the other territory if the services are rendered in that territory and the individual is a resident of that territory who:
 - (i) is a national or citizen of that territory; or
 - (ii) did not become a resident of that territory solely for the purpose of rendering the services.
2.
 - a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a territory or a political subdivision or a local authority thereof to an individual in respect of services rendered to that territory or subdivision or authority shall be taxable only in that territory.
 - b) However, such pensions and other similar remuneration shall be taxable only in the other territory if the individual is a resident of, and a national or citizen of, that territory.
3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages, pensions and other similar remuneration in respect of services rendered in connection with a business carried on by a territory or a political subdivision or a local authority thereof.

4. The provisions of paragraphs 1, 2 and 3 of this Article shall likewise apply in respect of salaries, wages and other similar remuneration paid by statutory bodies performing the functions of a public service in accordance with the laws of a territory where such bodies are established as may be specified and agreed upon in letters exchanged between the competent authorities of the territories.

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

Article 21

PROFESSORS, TEACHERS AND RESEARCHERS

1. An individual who visits a territory for the purpose of teaching or carrying out research at a university, college, school or other similar educational institution recognised as a non-profit organisation by the competent authority of that territory, and who is or was immediately before that visit a resident of the other territory, shall be exempted from taxation in the first-mentioned territory on any remuneration for such teaching or research for a period not exceeding two years from the date of the individual's first visit for that purpose.
2. The provisions of paragraph 1 shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

Article 22

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.
3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a territory not dealt with in the foregoing Articles of this Agreement and arising in the other territory may also be taxed in that other territory.
4. Where, by reason of a special relationship between the person referred to in paragraph 1 and some other person, or between both of them and some third person, the amount of income referred to in paragraph 1 exceeds the amount (if any) which would have been agreed upon between them in the absence of such a relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payment shall remain taxable according to the law of each territory, due regard being had to the other applicable provisions of this Agreement.

Article 23

ELIMINATION OF DOUBLE TAXATION

1. In the case of Taiwan, double taxation shall be avoided as follows:

Subject to the provisions of the tax laws of Taiwan, where a resident of Taiwan derives income from Korea, the amount of Korean tax paid on that income (but excluding, in the case of a dividend, tax paid in respect of the profits out of which the dividend is paid) and in accordance with the provisions of this Agreement, shall be credited against Taiwanese tax imposed on that resident. The amount of credit, however, shall not exceed that amount of Taiwanese tax on that income computed in accordance with its taxation laws and regulations.

2. In the case of Korea, double taxation shall be avoided as follows:

Subject to the provisions of the tax laws of Korea regarding the allowance as a credit against Korean tax of tax payable in any country other than Korea (which shall not affect the general principle hereof):

- a) where a resident of Korea derives income from Taiwan which may be taxed in Taiwan under the laws of Taiwan in accordance with the provisions of this Agreement, in respect of that income, the amount of Taiwanese tax payable shall be allowed as credit against Korean tax payable imposed on that resident. The amount of credit shall not, however, exceed that part of Korean tax as computed before the credit is given, which is appropriate to that income;
- b) where the income derived from Taiwan is dividends paid by a company which is a resident of Taiwan to a company which is a resident of Korea which owns at least 25 per cent of the voting shares issued by or the capital stock of the company paying the dividends, the credit shall take into account the Taiwanese tax payable by the company in respect of the profits out of which such dividends are paid.

Article 24

NON-DISCRIMINATION

1. Nationals or citizens 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 or citizens of that other territory in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the territories.
2. The taxation on a permanent establishment which an enterprise of a territory has in the other territory shall not be less favourably 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 and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
3. Except where the provisions of paragraph 1 of Article 9, paragraph 8 of Article 11, paragraph 6 of Article 12 or paragraph 4 of Article 22 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 subjected 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 apply to taxes which are the subject of this Agreement.

Article 25

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the territories result or will result for that person in taxation not in accordance with the provisions of this Agreement, that person may, irrespective of the remedies provided by the domestic law of those territories, present a case to the competent authority of the territory of which that person is a resident or, if that person's case comes under paragraph 1 of Article 24, to that of the territory of which that person is a national or citizen. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other 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 endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.
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 26

EXCHANGE OF INFORMATION

1. The competent authorities of the territories shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the territories, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.
2. Any information received under paragraph 1 by 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, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. 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.
3. In no case shall the provisions of paragraphs 1 and 2 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 (*ordre public*).

4. If information is requested by a territory in accordance with this Article, the other territory shall use its information gathering measures to obtain the requested information, even though that other territory may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a territory to decline to supply information solely because it has no domestic interest in such information.
5. In no case shall the provisions of paragraph 3 be construed to permit a territory to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because the information relates to ownership interests in a person.

Article 27

LIMITATION ON BENEFITS

1. Notwithstanding the other provisions of this Agreement, a benefit under this Agreement shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Agreement.
2. Nothing in this Article shall be construed as restricting, in any manner, the application of any provisions of the law of a territory which are designed to prevent the avoidance or evasion of taxes.

Article 28

ENTRY INTO FORCE

1. The Taipei Mission in Korea and the Korean Mission in Taipei shall notify each other in writing the completion of the procedures required for the entry into force of this Agreement in their respective territories.
2. The Agreement shall enter into force on the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect:
 - a) in respect of taxes withheld at source, for amounts payable on or after the first day of January in the first calendar year following that in which this Agreement enters into force;
 - b) in respect of other taxes, for the taxable year beginning on or after the first day of January in the first calendar year following that in which this Agreement enters into force; and
 - c) in respect of Article 26, for information that relates to taxable years beginning on or after the first day of January in the first calendar year following that in which this Agreement enters into force.

Article 29

TERMINATION

This Agreement shall remain in force until terminated by a territory. Either the Taipei Mission in Korea or the Korean Mission in Taipei may terminate the Agreement by giving written notice of termination at least six months before the end of any calendar year from the fifth year following that in which the Agreement entered into force. In such event, the Agreement shall cease to have effect:

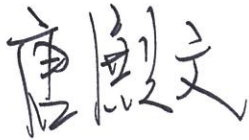
- a) in respect of taxes withheld at source, for amounts payable on or after the first day of January in the first calendar year following that in which the notice is given; and

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

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

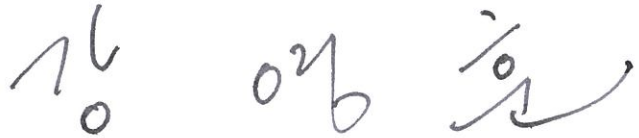
Signed in duplicate at Taipei and Seoul, on this 17th day of November 2021, in the Chinese, Korean, and English languages, all three texts being equally authentic. In the case of any divergence of interpretation, the English text shall prevail.

For the Taipei Mission in Korea



Representative

For the Korean Mission in Taipei



Representative

PROTOCOL

At the moment of signing the Agreement between the Taipei Mission in Korea and the Korean Mission in Taipei for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed upon the following provisions which shall be an integral part of the Agreement.

1. With respect to paragraph 1 of Article 25 of this Agreement:

It is understood that the competent authority of a territory shall implement a bilateral notification or consultation process with the competent authority of the other territory for cases in which the competent authority of the first-mentioned territory to which the mutual agreement procedure case was presented does not consider the taxpayer's objection to be justified.

2. With respect to Article 26 of this Agreement:

- a) The competent authority of the applicant territory shall provide the following information to the competent authority of the requested territory when making a request for information under the Agreement to demonstrate the foreseeable relevance of the information to the request:
 - (i) the identity of the person under examination or investigation;
 - (ii) a statement of the information sought including its nature and the form in which the applicant territory wishes to receive the information from the requested territory;
 - (iii) the tax purpose for which the information is sought;
 - (iv) grounds for believing that the information requested is held in the requested territory or is in the possession or control of a person within the jurisdiction of the requested territory;

- (v) to the extent known, the name and address of any person believed to be in possession of the requested information; and
- (vi) a statement that the applicant territory has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

b) It is understood that the exchange of information provided in Article 26 does not include measures which constitute "fishing expeditions".

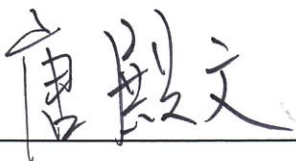
3. With respect to Assistance in the Collection of Taxes: If at any time after the date of signature of this Agreement, the domestic laws of Taiwan allow implementation of assistance in the collection of taxes, both territories shall enter into negotiations to include an assistance in the collection of taxes article in the present Agreement.

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

Signed in duplicate at Taipei and Seoul, on this 17th day of November 2021, in the Chinese, Korean, and English languages, all three texts being equally authentic. In the case of any divergence of interpretation, the English text shall prevail.

For the Taipei Mission in Korea

For the Korean Mission in Taipei



Representative

Representative