

ARRANGEMENT

BETWEEN

THE TAIPEI ECONOMIC AND CULTURAL OFFICE

IN CANADA

AND

THE CANADIAN TRADE OFFICE IN TAIPEI

FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION

OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

**THE TAIPEI ECONOMIC AND CULTURAL OFFICE IN CANADA AND THE
CANADIAN TRADE OFFICE IN TAIPEI,**

DESIRING to conclude an Arrangement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

HAVE reached the following Arrangement:

I. SCOPE OF THE ARRANGEMENT

SECTION 1

Persons Covered

This Arrangement will apply to persons who are residents of one or both of the territories, as defined in this Arrangement.

SECTION 2

Taxes Covered

1. The existing taxes to which the Arrangement will apply are:
 - (a) in the territory in which the income tax law administered by the Canada Revenue Agency is applied, the taxes imposed under the *Income Tax Act*; and
 - (b) in the territory in which the taxation law administered by the Taxation Administration, Ministry of Finance, Taiwan is applied:
 - (i) the profit seeking enterprise income tax;
 - (ii) the individual consolidated income tax; and
 - (iii) the income basic tax.
2. The Arrangement will apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Arrangement in addition to, or in place of, the existing taxes. The competent authorities of the territories will notify each other of any significant changes which have been made in the taxation laws of their respective territories.

II. DEFINITIONS

SECTION 3

General Definitions

1. For the purposes of this Arrangement, unless the context otherwise requires:
 - (a) the term “territory” refers to the geographic area over which the Canada Revenue Agency exercises jurisdiction, or the geographic area over which the Taxation Administration, Ministry of Finance, Taiwan exercises jurisdiction. As the context requires, “other territory” and “territories” will be construed accordingly;
 - (b) the term “person” includes an individual, a trust, a company and any other body of persons;
 - (c) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - (d) the term “enterprise” applies to the carrying on of any business;
 - (e) 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;
 - (f) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a territory, except when such transport is principally between places in the other territory;
 - (g) the term “competent authority” means:
 - (i) in the case of the territory in which the income tax law administered by the Canada Revenue Agency is applied, the Minister of National Revenue or the Minister’s authorized representative; and
 - (ii) in the case of the territory in which the taxation law administered by the Taxation Administration, Ministry of Finance, Taiwan is applied, the Minister or the Minister’s authorized representative.

2. As regards the application of the Arrangement at any time in a territory, any term not defined therein will, 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 Arrangement 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.

SECTION 4

Resident

1. For the purposes of this Arrangement, the term “resident of a territory” means:
 - (a) any person who, under the laws of that territory, is liable to tax therein by reason of the person’s domicile, residence, place of incorporation, place of management or any other criterion of a similar nature; and
 - (b) the government of that territory or of a subdivision or local authority thereof or any agency or instrumentality of any such government or local authority.
2. A person is not a resident of a territory for the purposes of this Arrangement if that person is liable to tax in that territory only in respect of income from sources in that territory. However, this paragraph will not apply to individuals who are residents of the territory referred to in paragraph 1 (b) of Section 2, as long as all resident individuals of that territory are liable to tax 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 the individual’s status will be determined as follows:
 - (a) the individual will be deemed to be a resident only of the territory in which the individual has a permanent home available and if the individual has a permanent home available in both territories, the individual will 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's centre of vital interests is situated cannot be determined, or if there is not a permanent home available to the individual in either territory, the individual will 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 competent authorities of the territories will 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, the competent authorities of the territories will by mutual agreement endeavour to settle the question, having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors, and to determine the mode of application of the Arrangement to such person. In the absence of mutual agreement, that person will not be entitled to claim any relief or exemption from tax provided by this Arrangement.

SECTION 5

Permanent Establishment

1. For the purposes of this Arrangement, 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 relating to the exploration for or the exploitation of natural resources.
3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than six months.

4. An enterprise of a territory will be deemed to have a permanent establishment in the other territory if:

- (a) it carries on supervisory activities within the other territory for more than six months in connection with a building site or construction or installation project which is being undertaken in the other territory;
- (b) it furnishes services, including consultancy services, through employees or other personnel or persons engaged by the enterprise for such purpose, but only where activities of that nature continue within that other territory, for the same or a connected project, for a period or periods aggregating more than 183 days within any twelve month period.

5. Notwithstanding the preceding provisions of this Section, the term “permanent establishment” will 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 on behalf of the enterprise, that enterprise will 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 will 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), will not of itself constitute either company a permanent establishment of the other.

III. TAXATION OF INCOME

SECTION 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” will have the meaning which it has for the purposes of the relevant tax law of the territory in which the property in question is situated. The term will in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships, boats and aircraft will not be regarded as immovable property.
3. The provisions of paragraph 1 will apply to income derived from the direct use, letting, or use in any other form of immovable property and to income from the alienation of such property.
4. The provisions of paragraphs 1 and 3 will 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.

SECTION 7

Business Profits

1. The profits of an enterprise of a territory will 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 will 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 and with all other persons.
3. In the determination of the profits of a permanent establishment, there will be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses, whether incurred in the territory in which the permanent establishment is situated or elsewhere.
4. No profits will 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 will 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 Sections of this Arrangement, then the provisions of those Sections will not be affected by the provisions of this Section.

SECTION 8

Shipping and Air Transport

1. Profits derived by an enterprise of a territory from the operation of ships or aircraft in international traffic will be taxable only in that territory.
2. Notwithstanding the provisions of paragraph 1 and Section 7, profits derived by an enterprise of a territory from a transport by a ship or aircraft, where such transport is principally between places in the other territory, may be taxed in that other territory. However, this paragraph will not apply to a transport between places in the other territory which is incidental or supplementary to international traffic.

3. For the purposes of this Section, profits from the operation of ships or aircraft in international traffic include:

- (a) profits from the rental on a full (time or voyage) basis or a bareboat basis of ships or aircraft; and
- (b) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise,

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

4. The provisions of paragraphs 1 and 2 will 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.

SECTION 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 that differ from those that 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 the government of 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 that would have accrued to the enterprise of the first-mentioned territory if the conditions made between the two enterprises had been those that would have been made between independent enterprises, then that the government of the other territory will make an appropriate adjustment to the amount of tax charged therein on those profits if the government of that other territory considers the adjustment is justified. In determining such adjustment, due regard will be had to the other provisions of this Arrangement and the competent authorities of the territories will if necessary consult each other.

3. The government of a territory will not change the income of an enterprise in the circumstances referred to in paragraph 1 after the expiry of the time limits provided in its domestic laws and, in any case, after eight years from the end of the year in which the income that would be subject to such change would, but for the conditions referred to in paragraph 1, have been attributed to that enterprise.

4. The provisions of paragraphs 2 and 3 will not apply in the case of fraud or wilful default.

SECTION 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 will not exceed:

- (a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company that holds directly or indirectly at least 20 per cent of the capital of the company paying the dividends; and
- (b) 15 per cent of the gross amount of the dividends, in all other cases.

This paragraph will 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 Section means income from shares, “jouissance” shares or “jouissance” rights, mining shares, founders’ shares or other rights, not being debt-claims, participating in profits, as well as income 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 will 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 Section 7 or Section 14 will apply.

5. Where a company that is a resident of a territory derives profits or income from the other territory, the government of 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.

6. Nothing in this Arrangement will be construed as preventing the government of a territory from imposing on the earnings of a company attributable to a permanent establishment in that territory, or the earnings attributable to the alienation of immovable property situated in that territory by a company carrying on a trade in immovable property, a tax in addition to the tax that would be chargeable on the earnings of a company that is a resident of that territory, except that any additional tax so imposed will not exceed 10 per cent of the amount of such earnings that have not been subjected to such additional tax in previous taxation years. For the purpose of this provision, the term “earnings” means the earnings attributable to the alienation of such immovable property situated in a territory as may be taxed by the government of that territory under the provisions of Section 6 or of paragraph 1 of Section 13, and the profits, including any gains, attributable to a permanent establishment in a territory in a year and previous years, after deducting therefrom all taxes, other than the additional tax referred to herein, imposed on such profits in that territory.

7. A resident of a territory is not entitled to any benefits provided under this Section in respect of a dividend if one of the main purposes of any person concerned with the creation, assignment or transfer of the dividend, or with the creation, assignment, acquisition or transfer of the shares or other rights in respect of which the dividend is paid, or with the establishment, acquisition or maintenance of the person that is the beneficial owner of the dividend, is for that resident to obtain the benefits of this Section.

SECTION 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 will not exceed 10 per cent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2:
 - (a) interest arising in the territory in which the taxation laws administered by the Taxation Administration, Ministry of Finance, Taiwan are applied and paid to a resident of the territory in which the income tax law administered by the Canada Revenue Agency is applied will be taxable only in the latter territory if it is paid in respect of a loan made, guaranteed or insured, or a credit extended, guaranteed or insured by Export Development Canada;
 - (b) interest arising in the territory in which the income tax law administered by the Canada Revenue Agency is applied and paid to a resident of the territory in which the taxation laws administered by the Taxation Administration, Ministry of Finance, Taiwan are applied will be taxable only in the latter territory if it is paid in respect of a loan made, guaranteed or insured, or a credit extended, guaranteed or insured by the instrumentalities which aim at promoting export and are approved by the Taxation Administration, Ministry of Finance, Taiwan; and

- (c) interest arising in a territory and paid to:
 - (i) the authority administering the other territory or a subdivision or local authority thereof,
 - (ii) the central bank of the other territory, or
 - (iii) an entity owned by the authority administering the other territory and mutually agreed upon by the competent authorities of the territories;

will be taxable only in that other territory.

4. The term “interest” as used in this Section means income from debt-claims of every kind, whether or not secured by mortgage, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as income which is subjected to the same taxation treatment as income from money lent by the laws of the territory in which the income arises. However, the term “interest” does not include income dealt with in Section 10.

5. The provisions of paragraphs 2 and 3 will 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 Section 7 or Section 14 will apply.

6. Interest will 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 payer 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 will 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 that would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Section will apply only to the last-mentioned amount. In such case, the excess part of the payments will remain taxable according to the laws of each territory, due regard being had to the other provisions of this Arrangement.

8. A resident of a territory is not entitled to any benefits provided under this Section in respect of interest if one of the main purposes of any person concerned with the creation, assignment or transfer of the interest, or with the creation, assignment, acquisition or transfer of the debt-claim or other rights in respect of which the interest is paid, or with the establishment, acquisition or maintenance of the person that is the beneficial owner of the interest, is for that resident to obtain the benefits of this Section.

SECTION 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 will not exceed 10 per cent of the gross amount of the royalties.

3. The term “royalties” as used in this Section means payments of any kind received as a consideration for the use of, or the right to use, any copyright, patent, trade mark, design or model, plan, secret formula or process or computer software, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience, and includes payments of any kind in respect of motion picture films and works on film, videotape or other means of reproduction for use in connection with television. However, the term “royalties” does not include income dealt with in Section 8.

4. The provisions of paragraph 2 will 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 Section 7 or Section 14 will apply.

5. Royalties will 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 payer 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 will 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 that would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Section will apply only to the last-mentioned amount. In such case, the excess part of the payments will remain taxable according to the laws of each territory, due regard being had to the other provisions of this Arrangement.

7. A resident of a territory is not entitled to any benefits provided under this Section in respect of a royalty if one of the main purposes of any person concerned with the creation, assignment or transfer of the royalty, or with the creation, assignment, acquisition or transfer of rights in respect of which the royalty is paid, or with the establishment, acquisition or maintenance of the person that is the beneficial owner of the royalty, is for that resident to obtain the benefits of this Section.

SECTION 13

Capital Gains

1. Gains derived by a resident of a territory from the alienation of immovable property referred to in Section 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 derived by an enterprise 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 will be taxable only in that territory.

4. Gains derived by a resident of a territory from the alienation of:
 - (a) shares, the value of which is derived principally from immovable property situated in the other territory; or
 - (b) an interest in a partnership, trust or other entity, the value of which is derived principally from immovable property situated in that other territory;may be taxed in that other territory.
5. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3 and 4, will be taxable only in the territory of which the alienator is a resident.
6. Notwithstanding paragraph 5, where an individual:
 - (a) ceases to be a resident of a territory and by reason thereof is treated for the purposes of taxation in that territory as having alienated a property and is taxed in that territory; and
 - (b) at any time thereafter becomes a resident of the other territory,

the government of the other territory may tax gains in respect of the property only to the extent that such gains had not accrued while the individual was a resident of the first-mentioned territory. However, this provision will not apply to property, any gain from which the government of the other territory could have taxed in accordance with the provisions of paragraphs 1 to 4 of this Section if the individual had realized the gain before becoming a resident of that other territory.

SECTION 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 will 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 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 is present in the other territory for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; in that case, only so much income as is derived from 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.

SECTION 15

Dependent Personal Services

1. Subject to the provisions of Sections 16, 18 and 19, salaries, wages and other remuneration derived by a resident of a territory in respect of an employment will 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 will 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 Section, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a territory will be taxable only in that territory unless the remuneration is derived by a resident of the other territory.

SECTION 16

Directors' Fees

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

SECTION 17

Artistes and Sportspersons

1. Notwithstanding the provisions of Sections 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 in that individual's capacity as such accrues not to the entertainer or sportsperson personally but to another person, that income may, notwithstanding the provisions of Sections 7, 14 and 15 be taxed in the territory in which the activities of the entertainer or sportsperson are exercised.

3. The provisions of paragraph 2 will not apply if it is established that neither the entertainer or the sportsperson nor persons related thereto participate directly or indirectly in the profits of the person referred to in that paragraph.

SECTION 18

Pensions and Annuities

1. Pensions and annuities arising in a territory and paid to a resident of the other territory may be taxed in that other territory, but the amount of any such payment that would be excluded from taxable income in the first-mentioned territory if the recipient were a resident thereof will be exempt from taxation in that other territory.
2. Pensions arising in a territory and paid to a resident of the other territory may also be taxed in the territory in which they arise and according to the law of that territory. However, in the case of periodic pension payments, the tax so charged will not exceed the lesser of:
 - (a) 15 per cent of the gross amount of the payment; and
 - (b) the amount of tax that the recipient of the payment would otherwise be required to pay for the year on the total amount of the periodic pension payments received by the individual in the year, if the individual were resident in the territory in which the payment arises.
3. Annuities arising in a territory and paid to a resident of the other territory may also be taxed in the territory in which they arise and according to the law of that territory, but the tax so charged will not exceed 15 per cent of the portion thereof that is subject to tax in that territory. However, this limitation does not apply to lump-sum payments arising on the surrender, cancellation, redemption, sale or other alienation of an annuity, or to payments of any kind under an annuity contract the cost of which was deductible, in whole or in part, in computing the income of any person who acquired the contract.
4. Notwithstanding anything in this Arrangement, alimony and other similar payments arising in a territory and paid to a resident of the other territory who is subject to tax therein in respect thereof will be taxable only in that other territory, but the amount taxable in that other territory will not exceed the amount that would be taxable in the first-mentioned territory if the recipient were a resident thereof.

SECTION 19

Government Service

1. (a) Salaries, wages and other similar remuneration, other than a pension, paid by the government of a territory or of a subdivision or a local authority thereof to an individual in respect of services rendered to any of such government or local authority will be taxable only in that territory.
 - (b) However, such salaries, wages and other similar remuneration will 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 citizen or 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 paragraph 1 will not apply to salaries, wages and other similar remuneration in respect of services rendered in connection with a business carried on by the government of a territory or of a subdivision or a local authority thereof.

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

SECTION 21

Other Income

1. Subject to the provisions of paragraph 2, items of income of a resident of a territory, wherever arising, not dealt with in the foregoing Sections of this Arrangement will be taxable only in that territory.
2. However, if such income is derived by a resident of a territory from sources in the other territory, such income may also be taxed in the territory in which it arises and according to the law of that territory. In the case of the territory in which the income tax law administered by the Canada Revenue Agency is applied, where such income is income from a trust, other than a trust to which contributions were deductible, the tax so charged will, if the income is taxable in the territory in which the beneficial owner is a resident, not exceed 15 per cent of the gross amount of the income.
3. The provisions of paragraph 1 will not apply to income, other than income from immovable property as defined in paragraph 2 of Section 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 Section 7 or Section 14 will apply.

IV. METHODS FOR ELIMINATION OF DOUBLE TAXATION

SECTION 22

Elimination of Double Taxation

1. In the case of the territory in which the income tax law administered by the Canada Revenue Agency is applied, double taxation will be avoided as follows:
 - (a) subject to the existing provisions of the law of the territory in which the income tax law administered by the Canada Revenue Agency is applied regarding the deduction from tax payable in that territory of tax paid outside that territory and to any subsequent modification of those provisions – which will not affect the general principle hereof – and unless a greater deduction or relief is provided under the laws of that territory, tax payable in the other territory on profits, income or gains arising in that other territory will be deducted from any tax payable in the first-mentioned territory in respect of such profits, income or gains; and
 - (b) where, in accordance with any provision of the Arrangement, income derived by a resident of the territory in which the income tax law administered by the Canada Revenue Agency is applied is exempt from tax in that territory, the government of that territory may nevertheless, in calculating the amount of tax on other income, take into account the exempted income.

2. In the case of the territory in which the taxation laws administered by the Taxation Administration, Ministry of Finance, Taiwan are applied, double taxation will be avoided as follows:

where a resident of the territory in which the taxation laws administered by the Taxation Administration, Ministry of Finance, Taiwan are applied derives income from the other territory (but excluding, in case of a dividend, tax paid in respect of the profits out of which the dividend is paid), the amount of tax on that income paid in the other territory and in accordance with the provisions of this Arrangement, will be credited against the tax levied in the first-mentioned territory imposed on that resident. The amount of credit, however, will not exceed the amount of the tax in the first-mentioned territory on that income computed in accordance with its taxation laws and regulations.

3. For the purposes of this Section, profits, income or gains of a resident of a territory that may be taxed in the other territory in accordance with this Arrangement will be deemed to arise from sources in that other territory.

V. SPECIAL PROVISIONS

SECTION 23

Non-Discrimination

1. The taxation on a permanent establishment which an enterprise of a territory has in the other territory will not be less favourably levied in that other territory than the taxation levied on enterprises of that other territory carrying on the same activities.
2. Nothing in this Section will be construed as obliging the government of 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. 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, will not be subjected in the first-mentioned territory to any taxation or any requirement connected therewith which is more burdensome than the taxation and connected requirements to which other similar enterprises which are residents of the first-mentioned territory, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more persons which are residents of neither territories, are or may be subjected.
4. In this Section, the term “taxation” means taxes that are the subject of this Arrangement.

SECTION 24

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the governments of the territories result or will result for that person in taxation not in accordance with the provisions of this Arrangement, that person may, irrespective of the remedies provided by the domestic law of those territories, address to the competent authority of the territory of which that person is a resident an application in writing stating the grounds for claiming the revision of such taxation. To be admissible, the said application must be submitted within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Arrangement.

2. The competent authority referred to in paragraph 1 will 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 not in accordance with the Arrangement. Any agreement reached will be implemented notwithstanding any time limits in the domestic law of the territories.

3. The government of a territory will not, after the expiry of the time limits provided in its domestic laws and, in any case, after eight years from the end of the taxable period to which the income concerned was attributed, increase the tax base of a resident of either of the territories by including therein items of income that have also been included in income in the other territory. This paragraph will not apply in the case of fraud or wilful default.

4. The competent authorities of the territories will endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Arrangement.

5. The competent authorities of the territories may consult together for the elimination of double taxation in cases not provided for in the Arrangement and may communicate with each other directly for the purpose of applying the Arrangement.

SECTION 25

Exchange of Information

1. The competent authorities of the territories will exchange such information as is foreseeably relevant for carrying out the provisions of this Arrangement or to the administration or enforcement of the domestic laws of the territories concerning taxes covered by this Arrangement, insofar as the taxation thereunder is not contrary to this Arrangement. The exchange of information is not restricted by Section 1.

2. Any information received under paragraph 1 by the government of a territory will be treated as secret in the same manner as information obtained under the domestic laws of that territory and will be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement in respect of, the determination of appeals in relation to taxes, or the oversight of the above. Such persons or authorities will use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

3. In no case will the provisions of paragraphs 1 and 2 be construed so as to impose on the government of 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 that is not obtainable under the laws or in the normal course of the administration of that or of the other territory; or
- (c) to supply information that 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 the government of a territory in accordance with this Section, the government of the other territory will 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 will 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 will the provisions of paragraph 3 be construed to permit the government of 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 fiduciary capacity or because the information relates to ownership interests in a person.

SECTION 26

Miscellaneous Rules

1. The provisions of this Arrangement will not be construed to restrict in any manner any exemption, allowance, credit or other deduction accorded by the laws of a territory in the determination of the tax imposed by the government of that territory.

2. Nothing in this Arrangement will be construed as preventing the government of a territory from imposing a tax on amounts included in the income of a resident of that territory with respect to a partnership, trust, company, or other entity in which that resident has an interest.
3. The Arrangement will not apply to any company, trust or other entity that is a resident of a territory and is beneficially owned or controlled, directly or indirectly, by one or more persons who are not residents of that territory, if the amount of the tax imposed on the income of the company, trust or other entity by the government of that territory is substantially lower than the amount that would be imposed by the government of that territory (after taking into account any reduction or offset of the amount of tax in any manner, including a refund, reimbursement, contribution, credit, or allowance to the company, trust or partnership, or to any other person) if all of the shares of the capital stock of the company or all of the interests in the trust or other entity, as the case may be, were beneficially owned by one or more individuals who were residents of that territory.
4. For the purposes of paragraph 3 of Article XXII (Consultation) of the *General Agreement on Trade in Services*, the governments of the territories agree that, notwithstanding that paragraph, any dispute between them as to whether a measure falls within the scope of this Arrangement may be brought before the Council for Trade in Services, as provided by that paragraph, only with the consent of the governments of both territories. Any doubt as to the interpretation of this paragraph will be resolved under paragraph 4 of Section 24 or, failing agreement under that procedure, pursuant to any other procedure agreed to by the governments of both territories.
5. Where under any provision of the Arrangement any income is relieved from tax in a territory and, under the law in force in the other territory a person, in respect of that income, is subject to tax by reference to the amount thereof that is remitted to or received in that other territory and not by reference to the full amount thereof, then the relief to be allowed under this Arrangement in the first-mentioned territory will apply only to so much of the income as is taxed in the other territory.

VI. FINAL PROVISIONS

SECTION 27

Entry into Effect

The Taipei Economic and Cultural Office in Canada and the Canadian Trade Office in Taipei will notify each other in writing of the completion of the procedures required in their respective territories for the coming into effect of this Arrangement. The provisions of this Arrangement will have effect:

- (a) in the territory in which the income tax law administered by the Canada Revenue Agency is applied:
 - (i) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of January in the calendar year following that which includes the date of the later notification; and
 - (ii) in respect of other tax, for taxation years beginning on or after the first day of January in the calendar year following that which includes the date of the later notification; and
- (b) in the territory in which the taxation law administered by the Taxation Administration, Ministry of Finance, Taiwan is applied:
 - (i) in respect of tax withheld at the source on amounts paid or payable to non-residents on or after the first day of January in the calendar year following that which includes the date of the later notification; and
 - (ii) in respect of other tax, for taxation years beginning on or after the first day of January in the calendar year following that which includes the date of the later notification;
- (c) in respect of Section 25 for information that relates to taxation years beginning on or after the first day of January in the calendar year following that which includes the date of the later notification.

SECTION 28

Termination

This Arrangement will continue to have effect indefinitely but either the Taipei Economic and Cultural Office in Canada or the Canadian Trade Office in Taipei may, on or before 30 June of any calendar year following the year which includes the date of the later notification referred to in Section 27, give to the other Office a notice of termination in writing. In such event, the Arrangement will cease to have effect:

- (a) in the territory in which the income tax law administered by the Canada Revenue Agency is applied:
 - (i) in respect of tax withheld at the source on amounts paid or credited to non-residents, after the end of that calendar year; and
 - (ii) in respect of other tax, for taxation years beginning after the end of that calendar year; and
- (b) in the territory in which the taxation law administered by the Taxation Administration, Ministry of Finance, Taiwan is applied:
 - (i) in respect of tax withheld at the source on amounts paid or payable to non-residents, after the end of that calendar year; and
 - (ii) in respect of other tax, for taxation years beginning after the end of that calendar year.

SIGNED in duplicate at Ottawa , on this 13th day of January 2016, and at Taipei , on this 15th day of January 2016, in the Chinese, English and French languages, each version being equally valid.

**FOR THE TAIPEI ECONOMIC
AND CULTURAL OFFICE
IN CANADA**

Rong-chuan Wu
Representative

**FOR THE CANADIAN TRADE
OFFICE IN TAIPEI**

Mario Ste-Marie
Executive Director

PROTOCOL OF UNDERSTANDING

At the time of signing of this Arrangement between *the Taipei Economic and Cultural Office in Canada and the Canadian Trade Office 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 will be an integral part of the Arrangement. It is understood that:

1. With reference to paragraph 1 of Section 4, the term “instrumentality” means any entity created or organized by the authority administering either territory or a subdivision thereof in order to carry out functions of a governmental nature.
2. With reference to paragraph 4 of Section 13, for greater certainty, the term “the value of which is derived” means whether such value is derived directly or indirectly.
3. With reference to paragraph 4 of Section 13, “principally” means more than 50 per cent.
4. With reference to paragraph 6 of Section 13, it is understood that the determination of the gain that accrued in a territory while an individual was a resident of that territory in respect of a property will be made by reference to the lesser of the fair market value of the property at the time that the individual ceased to be a resident of that territory or the proceeds of disposition realized at the time of the actual alienation of the property.
5. With reference to paragraph 1 of Section 14, where income derived by a resident of a territory in respect of professional services or other activities of an independent character may be taxed in the other territory, there will be allowed as deductions expenses which are incurred for the purposes of performing such services in determining taxable income.

6. With reference to Section 25, it is understood that its provisions do not require the territories to exchange information on an automatic or a spontaneous basis.

SIGNED in duplicate at Ottawa , on this 13th day of January 2016,
and at Taipei , on this 15th day of January 2016, in the
Chinese, English and French languages, each version being equally valid.

**FOR THE TAIPEI ECONOMIC
AND CULTURAL OFFICE
IN CANADA**

Rong-chuan Wu
Representative

**FOR THE CANADIAN TRADE
OFFICE IN TAIPEI**

Mario Ste-Marie
Executive Director