

AGREEMENT BETWEEN THE TAIPEI ECONOMIC AND TRADE OFFICE AND THE INDONESIAN ECONOMIC AND TRADE OFFICE TO TAIPEI FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Taipei Economic and Trade Office and The Indonesian Economic and Trade Office to Taipei desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

Article 1 PERSONAL SCOPE

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

Article 2 TAXES COVERED

1. The existing taxes to which the Agreement shall apply are:
 - (a) in the country represented by the Taipei Economic and Trade Office: the profit seeking enterprise income tax and the individual consolidated income tax;
 - (b) in the country represented by the Indonesian Economic and Trade Office to Taipei: the income tax imposed under the Undang-undang Pajak Penghasilan 1984 (Law No. 7 of 1983 as amended).

2. The Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of the agreement in addition to, or in place of, the existing taxes. At the end of each year, the competent authorities of the countries of the Contracting Parties shall notify each other of significant changes which have been made in their respective taxation laws.

Article 3 GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:
 - (a) (i) the term "the country represented by the Taipei Economic and Trade Office" comprises the territory of the said country and the territorial sea thereof as well as any area outside the territorial sea over which the said country has sovereignty, sovereign rights or jurisdiction in accordance with international law;
 - (ii) the term "the country represented by the Indonesian Economic and Trade Office to Taipei" comprises the territory of the said country and the adjacent areas over which the said country has sovereignty, sovereign rights or jurisdiction in accordance with

international law;

(b) the term "person" includes an individual, a company and any other body of persons;

(c) the term "company" means any body corporate or any entity which is treated as a body corporate for the tax purposes;

(d) the terms "enterprise of the country of a Contracting Party" and "enterprise of the country of the other Contracting Party, mean respectively an enterprise carried on by a resident of the country of a Contracting Party and an enterprise carried on by a resident of the country of the other Contracting Party;

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

(f) the term "competent authority" means:

(i) in the country represented by the Taipei Economic and Trade Office: the Director General, Department of Taxation, Ministry of Finance or his authorised representative;

(ii) in the country represented by the Indonesian Economic and Trade Office to Taipei: the Director General of Taxation, Ministry of Finance or his authorised representative;

(g) the term "national" means:

(i) any individual possessing the nationality of the country of a Contracting Parity;

(ii) any legal person, partnership and association deriving its status as such from the laws in force in the country of a Contracting Party;

(h) the terms "the country of a Contracting Party "and "the country of the other Contracting Party" mean the country represented by the Taipei Economic and Trade Office and the country represented by the Indonesian Economic and Trade Office to Taipei as the context required.

2. As regards the application of this Agreement, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of the country to which the Agreement applies.

Article 4 RESIDENT

1. For the purposes of this Agreement, the term "resident of the country of a Contracting Party" means any person who, under the laws of that country, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature.

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

- (a) he shall be deemed to be a resident of the country in which he has a permanent home available to him; if he has a permanent home available to him in both countries, he shall be deemed to be a resident of the country with which his personal and economic relations are closer (centre of vital interests);
- (b) if the country in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either country, he shall be deemed to be a resident of the country in which he has an habitual abode;
- (c) if he has an habitual abode in both countries or in neither of them, the competent authorities of both countries shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both countries of the Contracting Parties, then it shall be deemed to be a resident of the country in which its place of incorporation is situated.

Article 5 PERMANENT ESTABLISHMENT

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

2. The term "permanent establishment" includes especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a farm or plantation;
- (g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3 The term "permanent establishment" likewise encompasses:

- (a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site or project or activities continue in one of the countries of the Contracting Parties for a period of more than 6 months;
- (b) the furnishing of services, including consultancy services by an enterprise through employees or other personnel engaged by the

enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than 120 days within any twelve month period.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

- (a) the use of the facilities solely for the purpose of storage or display 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 or display;
- (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 advertising or for the supply of information;
- (f) 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;
- (g) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (f), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person--other than an agent of an independent status to whom paragraph 6 applies--is acting in the country of a Contracting Party on behalf of an enterprise of the country of the other Contracting Party, that enterprise shall be deemed to have a permanent establishment in the first-mentioned country in respect of any activities which that person undertakes for the enterprise, if such a person:

- (a) has and habitually exercises in that country an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or
- (b) has no such authority, but habitually maintains in the first-mentioned country a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

6. An enterprise of the country of a Contracting Party shall not be deemed

to have a permanent establishment in the country of the other Contracting Party merely because it carries on business in that other country through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

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

2. The term "Immovable property" shall have the meaning which it has under the law of the country of the Contracting Party in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall also 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. The profits of an enterprise of the country of a Contracting Party shall be taxable only in that country unless the enterprise carries on business in the country of the other Contracting Party through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other country but only so much of them as is attributable to (a) that permanent

establishment; (b) sales in that other country of goods or merchandise of the same or similar kind as those sold through that permanent establishment provided that the permanent establishment has contributed in any manner in those sales.

2. Subject to the provisions of paragraph 3, where an enterprise of the country of a Contracting Party carries on business in the country of the other Contracting Party through a permanent establishment situated therein, there shall in each country 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 country 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 purpose of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

6. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8 SHIPPING AND AIR TRANSPORT

1. Profits of an enterprise of the country of a Contracting Party from the operation of ships or aircraft in international traffic shall be taxable only in that country.

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

3. Profits that mentioned in this Article include all profits derived from the operation of ships and aircraft in international traffic, including profits from the rental of ships or aircraft on a full (time or voyage) basis and

profits from the rental of containers and related equipment which is incidental to the operation of ships and aircraft in international traffic.

Article 9 ASSOCIATED ENTERPRISES

1. Where

(a) an enterprise of the country of a Contracting Party participates directly or indirectly in the management, control or capital of an enterprise of the country of the other Contracting Party, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of the country of a Contracting Party and an enterprise of the country of the other Contracting Party,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where the country of a Contracting Party includes in the profits of an enterprise of that country--and taxes accordingly--profits on which an enterprise of the country of the other Contracting Party has been charged to tax in that other country and the profits so included are profits which would have accrued to the enterprise of the first-mentioned country if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other country 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 countries of the Contracting Parties shall if necessary consult each other.

Article 10 DIVIDENDS

1. Dividends paid by a company which is a resident of the country of a Contracting Party to a resident of the country of the other Contracting Party may be taxed in that other country.

2. However, such dividends may also be taxed in the country of the Contracting Party of which the company paying the dividends is a resident and according to the laws of that country, but if the recipient is the beneficial owner of the dividends 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 country 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 the country of a Contracting Party, carries on business in the country of the other Contracting Party of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other country 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 the country of a Contracting Party derives profits or income from the country of the other Contracting Party, that other country 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 country 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 country, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividend paid or the undistributed profits consist wholly or partly of profits or income arising in such other country.

6. Notwithstanding any other provisions of this Agreement where a company which is a resident of the country of a Contracting Party has a permanent establishment in the country of the other Contracting Party, the profits of the permanent establishment may be subjected to an additional tax in that other country in accordance with its law, but the additional tax so charged shall not exceed 5 per cent of the amount of such profits after deducting therefrom income tax and other taxes on income imposed thereon in that other country.

7. The rate of tax in paragraph 6 of this Article shall not affect the provisions contained in any production sharing contracts or any other similar contracts relating to oil and gas sector or other mining sector concluded by the country of a Contracting Party, its instrumentality, its relevant state oil and gas company or any other entity thereof with a person who is a resident of the country of the other Contracting Party.

Article 11 INTEREST

1. Interest arising in the country of a Contracting Party and paid to a resident of the country of the other Contracting Party may be taxed in that other country.
2. However, such interest may also be taxed in the country of the Contracting Party in which it arises and according to the laws of that country, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 per cent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2, interest arising in the country of a Contracting Party and derived by the authority of the country of the other Contracting Party including local authorities thereof, a political subdivision, the Central Bank or any financial institution controlled by that authority, the capital of which is wholly owned by the authority of the country of the other Contracting Party, as may be agreed upon from time to time between the competent authorities of the countries of the Contracting Parties, shall be exempt from tax in the first-mentioned country.
4. 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.
5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of the country of a Contracting Party, carries on business in the country of the other Contracting Party in which the interest arises, through a permanent establishment situated therein, or performs in that other country independent personal services from a fixed base situated there in, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.
6. Interest shall be deemed to arise in the country of a Contracting Party when the payer is the authority of the country of that Contracting Party itself, a local authority or a resident of that country. where, however, the person paying the interest, whether he is a resident of the country of a

Contracting Party or not, has in the country of a Contracting Party a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the country in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of the country of each Contracting Party, due regard being had to the other provisions of this Agreement.

Article 12 ROYALTIES

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

2. However, such royalties may also be taxed in the country of the Contracting Party in which they arise and according to the laws of that country, but if the recipient is the beneficial owner of the royalties, 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 the use of, or the right to use, industrial, commercial or scientific equipment or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of the country of a Contracting Party, carries on business in the country of the other Contracting Party in which the royalties arise, through a permanent establishment situated therein, or performs in that other country 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 the country of a Contracting Party when the payer is the authority of the country of that Contracting Party itself, a local authority or a resident of that country. Where, however, the person paying the royalties, whether he is a resident of the country of a Contracting Party or not, has in the country of a Contracting Party a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the country 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 country of the Contracting Party, due regard being had to the other provisions of this Agreement.

Article 13 CAPITAL GAINS

1. Gains derived by a resident of the country of a Contracting Party from the alienation of immovable property referred to in Article 6 and situated in the country of the other Contracting Party may be taxed in that other country.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of the country of a Contracting Party has in the country of the other Contracting Party or of movable property pertaining to a fixed base available to a resident of the country of a Contracting Party in the country of the other Contracting Party for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other country.

3. Gains derived by an enterprise of the country of a Contracting Party from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in that country.

4. Gains from the alienation of any property other than that referred to in the preceding paragraphs shall be taxable only in the country of the Contracting Party of which the alienator is a resident.

Article 14 INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of the country of a Contracting Party in respect of professional services or other activities of an independent character shall be taxable only in that country unless he has a fixed base regularly available to him in the country of the other Contracting Party for the purpose of performing his activities or he is present in that other country for a period or periods exceeding in the aggregate 120 days in the taxable year concerned. If he has such a fixed base or remains in that other country for the aforesaid period or periods, the income may be taxed in that other country but only so much of it as is attributable to that fixed base or is derived in that other country during the aforesaid period or periods.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, engineers, lawyers, dentists, architects and accountants.

Article 15 DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting Party in respect of an employment shall be taxable only in country unless the employment is exercised in the country of the other Contracting Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other country.

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

- (a) the recipient is present in the other country for a period or periods not exceeding in the aggregate 183 days in the taxable year concerned; and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other country; and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other country.

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 the country of a Contracting Party shall be taxable only in that country.

Article 16 DIRECTORS' FEES

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

2. The remuneration which a person to whom paragraph 1 applies derives from the company in respect of the discharge of day-to-day functions of a managerial or technical nature may be taxed in accordance with the provisions of Article 15.

Article 17 ARTISTES AND ATHLETES

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

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

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from activities referred to in paragraph 1 performed under a cultural agreement or arrangement between both authorities of the countries of the Contracting Parties shall be exempt from tax in the country of the Contracting Party in which the activities are exercised if the visit to that country is wholly or substantially supported by funds of one or both countries of the Contracting Parties, a local authority or public institution thereof.

Article 18 PENSIONS AND ANNUITIES

1. Subject to the provisions of paragraph 2 of Article 19, any pension and

other similar remuneration paid to a resident of the country of one of the Contracting Parties from a source in the country of the other Contracting Party in consideration of past employment or services in the country of that other Contracting Party and any annuity paid to such a resident from such a source may be taxed in that other country .

2. The term "annuity" as used in this Article means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time, under an obligation to make the payments in consideration of money paid.

Article 19 GOVERNMENT SERVICE

1. (a) Remuneration, other than a pension, paid by the country of a Contracting Party or a local authority thereof to an individual in respect of services rendered to that country or authority shall be taxable only in that country.

(b) However, such remuneration shall be taxable only in the country of the other Contracting Party if the services are rendered in that other country and the individual is a resident of that country who:

- (i) is a national of that country; or
- (ii) did not become a resident of that country solely for the purpose of rendering the services.

2. (a) Any pension paid by, or out of funds created by, the country of a Contracting Party or a local authority thereof to an individual in respect of services rendered to that country or authority shall be taxable only in that country.

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

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

Article 20 TEACHERS, RESEARCHERS AND STUDENTS

1. An individual, who visits the country of a Contracting Party at the invitation of that country or of a university, college, school, museum or other cultural institution of that country or under an official program of cultural exchange for a period not exceeding two years solely for the purpose of teaching, giving lectures or carrying out research at such institution and who is, or was immediately before that visit, a resident of

the country of the other Contracting Party shall be exempt from tax in the first-mentioned country on his remuneration for such activity, provided that such remuneration is derived by him from outside that country.

2. Payments which a student, apprentice or business trainee who is or was immediately before visiting the country of a Contracting Party, a resident of the country of the other Contracting Party and who is present in the first-mentioned country solely for the purpose of his full-time education or training receives for the purpose of his maintenance, education or training shall not be taxed in that first-mentioned country, provided that such payments arise from sources outside that first-mentioned country.

Article 21 OTHER INCOME

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

Article 22 ELIMINATION OF DOUBLE TAXATION

Where a resident of the country of a Contracting Party derives income from the country of the other Contracting Party, the amount of tax on that income payable in that other country in accordance with the provisions of this Agreement, may be credited against the tax levied in the first-mentioned country imposed on that resident. The amount of credit, however, shall not exceed the amount of the tax on the first-mentioned country on that income computed in accordance with its taxation laws and regulations.

Article 23 NON-DISCRIMINATION

1. Nationals of the country of a Contracting Party shall not be subjected in the country of the other Contracting Party to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other country in the same circumstances are or may be subjected.

2. The taxation on a permanent establishment which an enterprise of the country of a Contracting Party has in the country of the other Contracting Party shall not be less favorably levied in that other country than the taxation levied on enterprises of that other country carrying on the same activities. This provision shall not be construed as obliging the country of a Contracting Party to grant to residents of the country of the other Contracting Party 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 7 of Article 11, or paragraph 6 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of the country of a Contracting Party to a resident of the country of the other Contracting Party 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 country.

4. Enterprises of the country of a Contracting Party, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the country of the other Contracting Party, shall not be subjected in the first-mentioned country 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 country are or may be subjected

5. In this article the term "taxation" means taxes which are the subject of this Agreement.

Article 24 MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the authorities of the countries of the Contracting Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those countries, present his case to the competent authority of the country of which he is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall 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 country of the other Contracting Party, with a view to the avoidance of taxation which is not in accordance with the Agreement.

3. The competent authorities of the Countries of the Contracting Parties 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 countries of the Contracting Parties may

communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. The competent authorities, through consultations, shall develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this Article.

Article 25 EXCHANGE OF INFORMATION

1. The competent authorities of the countries of the Contracting Parties shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the countries of the Contracting Parties concerning taxes covered by the Agreement, insofar as the taxation thereunder is not contrary to the Agreement, in particular for the prevention of fraud or evasion of such taxes. Any information received by the competent authority of the country of a Contracting Party shall be treated as secret in the same manner as information obtained under the domestic laws of that country. However, if the information is originally regarded as secret in the transmitting country it shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of the agreement. Such persons or authorities shall use the information only for such purposes but may disclose the information in public court proceedings or in judicial decisions.

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

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other country ;
- (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 country;
- (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).

Article 26 ENTRY INTO FORCE

1. This Agreement shall enter into force on the later of the dates on which the respective Contracting parties may notify each other in writing that the formalities required in their respective countries have been complied with.

2. This Agreement shall have effect:

(a) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of the second month following the date on which the Agreement enters into force; and

(b) in respect of other taxes on income, for taxable years beginning on or after 1 January in the year next following that in which the Agreement enters into force.

Article 27 TERMINATION

This agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may terminate the Agreement, by giving written notice of termination on or before the thirtieth day of June of any calendar year following after the period of five years from the year in which the Agreement enters into force.

In such case, the Agreement shall cease to have effect:

(a) in respect of taxes withheld at source, for amounts paid or credited on or after 1 January in the year next following that in which the notice of termination is given; and

(b) in respect of other taxes on income, for taxable years beginning on or after 1 January in the year next following that in which the notice of termination is given.

In witness whereof the undersigned, being duly authorized thereto, have signed this Agreement.

DONE in duplicate at Taipei on this 1st day of March 1995 in the Chinese, Indonesian and English Languages, the three texts being equally authentic. In case of any divergency of interpretation, the English text shall prevail.

Dr. Pao-Sun Lu

J. B. OETORO

Representative
FOR THE TAIPEI ECONOMIC
AND TRADE OFFICE

Representative
FOR THE INDONESIAN
ECONOMIC AND TRADE