

**AGREEMENT
BETWEEN
THE TAIPEI ECONOMIC AND CULTURAL OFFICE IN WARSAW
AND THE WARSAW 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 Warsaw and the Warsaw Trade Office in Taipei, desiring to promote their mutual economic relations through the conclusion of 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
Persons Covered**

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

**ARTICLE 2
Taxes Covered**

1. This Agreement shall apply to taxes on income imposed in either of territories irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises as well as taxes on capital appreciation.
3. The existing taxes to which this Agreement shall apply are in particular:
 - a) in the territory in which the taxation law administered by the Polish Ministry of Finance is applied:
 - (i) the personal income tax, and
 - (ii) the corporate income tax;

- b) in the territory in which the taxation law administered by the 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.
- 4. This Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the territories shall notify each other of any significant changes that have been made in the taxation laws of the respective territories.

ARTICLE 3

General Definitions

- 1. For the purposes of this Agreement, unless the context otherwise requires:
 - a) the term "territory" means the territory referred to in paragraph 3 a) of Article 2 or in paragraph 3 b) of Article 2 of this Agreement, as the case requires, and "other territory" and "territories" shall be construed accordingly;
 - 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 tax purposes;
 - d) the terms "enterprise of a territory" and "enterprise of the other territory" mean respectively an enterprise carried on by a resident of a territory and an enterprise carried on by a resident of the other territory;
 - e) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a territory, except when the ship or aircraft is operated solely between places in the other territory;
 - f) the term "competent authority" means:
 - (i) in the case of the territory in which the taxation law administered by the Polish Ministry of Finance - the Minister of Finance or his authorized representatives, and
 - (ii) in the case of the territory in which the taxation law administered by the Ministry of Finance, Taiwan is applied, the Minister of Finance or his authorized representatives.

2. As regards the application of this Agreement at any time by a territory, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the laws of that territory for the purposes of the taxes to which this Agreement applies, any meaning under the applicable tax laws of that territory prevailing over a meaning given to the term under other laws of that territory.

ARTICLE 4

Resident

1. For the purposes of this Agreement, the term “resident of a territory” means any person who, under the laws of that territory, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes territories referred to in paragraphs 3 a) and b) of Article 2 and any political subdivision or local authority thereof.
2. A person is not a resident of a territory for the purposes of this Agreement if that person is liable to tax in that territory in respect only of income from sources in that territory. However, this provision shall not apply to individuals who are residents of the territory referred to in paragraph 3 b) of Article 2, as long as resident individuals are liable to tax only in respect of income from sources in that territory.
3. Where by reason of the provisions of paragraphs 1 and 2 an individual is a resident of both territories, then his status shall be determined as follows:
 - a) he shall be deemed to be a resident only of the territory in which he has a permanent home available to him; if he has a permanent home available to him in both territories, he shall be deemed to be a resident only of the territory with which his personal and economic relations are closer (centre of vital interests);
 - b) if the territory in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either territory, he shall be deemed to be a resident only of the territory in which he has an habitual abode;
 - c) if he has an habitual abode in both territories or in neither of them, the competent authorities of the territories shall settle the question by mutual agreement.
4. Where by reason of the provisions of paragraphs 1 and 2, a person other than an individual is a resident of both territories, the competent authorities of the

territories shall endeavour to determine by mutual agreement the territory of which such person shall be deemed to be a resident for the purposes of the Agreement, having regard to its place of effective management.

ARTICLE 5

Permanent Establishment

1. For the purposes of this Agreement, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term “permanent establishment” includes especially:
 - a) a place of management;
 - b) a branch;
 - c) an office;
 - d) a factory;
 - e) a workshop;
 - f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. A building site, construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.
4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:
 - a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
 - b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
 - f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e) of this paragraph, provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
5. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 6 applies – is acting on behalf of an enterprise and has, and habitually exercises, in a territory an authority to conclude contracts on behalf of the enterprise, that enterprise shall be deemed to have a permanent establishment in that territory in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.
6. An enterprise shall not be deemed to have a permanent establishment in a territory merely because it carries on business in that territory through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.
7. The fact that a company which is a resident of a territory controls or is controlled by a company which is a resident of the other territory, or which carries on business in that other territory (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 6

Income from Immovable Property

1. Income derived by a resident of a territory from immovable property (including income from agriculture or forestry) situated in the other territory may be taxed in that other territory.
2. The term “immovable property” shall have the meaning which it has under the law of the territory in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or

the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

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

ARTICLE 7

Business Profits

1. The profits of an enterprise of a territory shall be taxable only in that territory unless the enterprise carries on business in the other territory through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other territory but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a territory carries on business in the other territory through a permanent establishment situated therein, there shall in each territory be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the territory in which the permanent establishment is situated or elsewhere.
4. Insofar as it has been customary in a territory to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that territory from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. 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.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8

Shipping and Air Transport

1. Profits of an enterprise of a territory from the operation of ships or aircraft in international traffic shall be taxable only in that territory.
2. For the purposes of this Article, and notwithstanding the provisions of Article 12, profits from the operation of ships or aircraft in international traffic shall include:
 - a) profits from the rental on a full (time or voyage) basis or a bareboat basis of ships, boats 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.
3. The provisions of paragraphs 1 and 2 shall also apply to profits from the participation in a pool, a joint business or an international operating agency, but only to so much of the profits so derived as is attributable to the participant in proportion to its share in the joint operation.

ARTICLE 9

Associated Enterprises

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

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

2. Where a territory includes in the profits of an enterprise of that territory, and taxes accordingly, profits on which an enterprise of the other territory has been charged to tax in that other territory, and the other territory agrees that 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 other territory shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of both territories shall if necessary consult each other.

ARTICLE 10

Dividends

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

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the territory of which the company making the distribution is a resident.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a territory, carries on business in the other territory of which the company paying the dividends is a resident through a permanent establishment situated therein or performs in that other territory

independent personal services from a fixed base situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a territory derives profits or income from the other territory, that other territory may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other territory or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other territory, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other territory.

ARTICLE 11

Interest

1. Interest arising in a territory and paid to a resident of the other territory may be taxed in that other territory.
2. However, such interest may also be taxed in the territory in which it arises and according to the laws of that territory, but if the beneficial owner of the interest is a resident of the other territory, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraphs 1 and 2, interest arising in a territory shall be exempt from tax in that territory if it is paid:
 - a) to the other territory, a political subdivision or local authority or the Central Bank thereof or any financial institution wholly owned or controlled by the other territory; or
 - b) in respect of a loan granted, guaranteed or insured or a credit extended, guaranteed or insured by an approved Export-Import Bank of the other territory which aims at promoting export.
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. However, the term "interest" shall not include for the purpose of this Article

penalty charges for late payment and any item which is treated as a dividend under the provisions of Article 10.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a territory, carries on business in the other territory in which the interest arises, through a permanent establishment situated therein, or performs in that other territory independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
6. Interest shall be deemed to arise in a territory when the payer is a resident of that territory. Where, however, the person paying the interest, whether he is a resident of a territory or not, has in a territory a permanent establishment or fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the territory in which the permanent establishment or fixed base is situated.
7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each territory, due regard being had to the other provisions of this Agreement.

ARTICLE 12

Royalties

1. Royalties arising in a territory and paid to a resident of the other territory may be taxed in that other territory.
2. However, such royalties may also be taxed in the territory in which they arise and according to the laws in force of that territory, but if the beneficial owner of the royalties is a resident of the other territory, the tax so charged shall not exceed:
 - a) 3 per cent of the gross amount of the royalties paid as a consideration for the use of, or the right to use, industrial, commercial, or scientific equipment, and
 - b) 10 per cent of the gross amount of the royalties in all other cases.

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 including copyright of literary, artistic or scientific work (including cinematograph films and films or tapes for television or radio broadcasting), any patent, trademark, design or model, plan, secret formula or process, or for the use of, or the right to use any industrial, commercial, or scientific equipment or for information concerning industrial, commercial or scientific experience (know-how).
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a territory, carries on business in the other territory in which the royalties arise, through a permanent establishment situated therein, or performs in that other territory independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a territory when the payer is a resident of that territory. Where, however, the person paying the royalties, whether he is a resident of a territory or not, has in a territory a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the territory in which the permanent establishment or fixed base is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each territory, due regard being had to the other provisions of this Agreement.

ARTICLE 13

Capital Gains

1. Gains derived by a resident of a territory from the alienation of immovable property referred to in paragraph 2 of Article 6 and situated in the other territory may be taxed in that other territory.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a territory has in the other territory, or of movable property pertaining to a fixed base available to a resident of a territory in the other territory for the purposes 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, shall be taxable only in that territory.
4. Gains derived by a resident of a territory from the alienation of shares deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other territory may be taxed in that other territory.
5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4 shall be taxable only in the territory of which the alienator is a resident.

ARTICLE 14

Independent Personal Services

1. Income derived by a resident of a territory in respect of professional services or other independent activities of an independent character shall be taxable only in that territory except in the following circumstances, when such income may also be taxed in the other territory:
 - a) if he has a fixed base regularly available to him in the other territory for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that territory; or
 - b) if his stay in the other territory is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the calendar year concerned; in that case, only so much of the income as is derived from his activities performed in the other territory may be taxed in that territory.
2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

ARTICLE 15

Income from Employment

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a territory in respect of an employment shall be taxable only in that territory unless the employment is exercised in the other territory. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other territory.
2. Notwithstanding the provisions of paragraph 1, salaries, wages and other similar remuneration derived by a resident of a territory in respect of an employment exercised in the other territory shall be taxable only in the first-mentioned territory if:
 - a) the recipient is present in the other territory for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned, and
 - b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other territory, and
 - c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other territory.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the territory of which the enterprise is a resident.

ARTICLE 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 of the supervisory board or of any other similar organ of a company which is a resident of the other territory may be taxed in that other territory.

ARTICLE 17

Artistes and Sportsmen

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a territory as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal

activities as such exercised in the other territory, may be taxed in that other territory.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the territory in which the activities of the entertainer or sportsman are exercised.
3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a territory by an entertainer or a sportsman if the visit to that territory is at least in 50 per cent supported by public funds of one or both of the territories and any political subdivision or local authority thereof. In such case, the income is taxable only in the territory of which the entertainer or sportsman is a resident.

ARTICLE 18

Pensions and Social Security Payments

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a territory in consideration of past employment shall be taxable only in that territory.
2. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under a public scheme which is part of the social security system of a territory or a political subdivision or a local authority thereof shall be taxable only in that territory.

ARTICLE 19

Government Service

1. a) Salaries, wages and other similar remuneration paid by a territory or a political subdivision or a local authority thereof to an individual in respect of services rendered to that territory or subdivision or authority shall be taxable only in that territory, subject to sub-paragraph b) of this paragraph.
- b) However, such salaries, wages and other similar remuneration shall be taxable only in the other territory if the services are rendered in that territory and the individual is a resident of that territory who:
 - (i) is a national of that territory; or
 - (ii) did not become a resident of that territory solely for the purpose of rendering the services.

2. a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a territory or a political subdivision or a local authority thereof to an individual in respect of services rendered to that territory or subdivision or authority shall be taxable only in that territory.
- b) However, such pensions and other similar remuneration shall be taxable only in the other territory if the individual is a resident of, and a national of that territory.
3. The provisions of Articles 15, 16, 17 and 18, shall apply to salaries, wages, pensions and other similar remuneration in respect of services rendered in connection with a business carried on by a territory or a political subdivision or a local authority thereof.

ARTICLE 20

Students

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

ARTICLE 21

Other Income

1. Items of income of a resident of a territory, wherever arising, not dealt with in the foregoing Articles shall be taxable only in that territory.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a territory, carries on business in the other territory through a permanent establishment situated therein, or performs in that other territory independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or 14, as the case may be, shall apply.
3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a territory not dealt with in the foregoing Articles of this Agreement and arising in the other territory may also be taxed in that other territory.

ARTICLE 22

Elimination of Double Taxation

1. Subject to the provisions of the law of the territory referred to in paragraph 3 a) of Article 2, double taxation shall be avoided as follows:

- a) where a resident of the territory referred to in paragraph 3 a) of Article 2, derives income which, in accordance with the provisions of this Agreement may be taxed in the territory referred to in paragraph 3 b) of Article 2, the first-mentioned territory shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in the last-mentioned territory. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such income derived from that other territory;
- b) where in accordance with any provision of this Agreement, income derived by a resident of the territory referred to in paragraph 3 a) of Article 2, is exempt from tax in that territory, this territory may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

2. Subject to the provisions of the law of the territory referred to in paragraph 3 b) of Article 2, double taxation shall be avoided as follows:

where a resident of the territory referred to in paragraph 3 b) of Article 2 derives income from the other territory, the amount of tax on that income paid in the other territory (but excluding, in the case of a dividend, tax paid in respect of the profits out of which the dividend is paid) and in accordance with the provisions of this Agreement, shall be credited against the tax levied in the first-mentioned territory imposed on that resident. The amount of credit, however, shall not exceed that amount of the tax in the first-mentioned territory on that income computed in accordance with its taxation laws and regulations.

ARTICLE 23

Limitation on Benefits

1. Notwithstanding the provisions of any other Article of this Agreement, a resident of a territory shall not receive any benefit provided for in the Agreement if the main purpose or one of the main purposes of such resident or a person connected with such resident was to obtain the benefits of this Agreement.

2. Nothing in this Article shall be construed as restricting, in any manner, the application of any provisions of the law of a territory which are designed to prevent the avoidance or evasion of taxes.

ARTICLE 24

Non-discrimination

1. Nationals of a territory shall not be subjected in the other territory to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other territory in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the territories.
2. The taxation on a permanent establishment which an enterprise of a territory has in the other territory shall not be less favourably levied in that other territory than the taxation levied on enterprises of that other territory carrying on the same activities.
3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, paragraph 6 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a territory to a resident of the other territory shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned territory.
4. Enterprises of a territory, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other territory, shall not be subjected in the first-mentioned territory to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned territory are or may be subjected.
5. Nothing contained in this Article shall be construed as obliging either territory to grant to residents of the other territory any of the allowances, reliefs and reductions for tax purposes which are granted to its own residents.
6. The provisions of this Article shall apply to taxes which are the subject of this Agreement.

ARTICLE 25

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the territories result or will result for that person in taxation not in accordance with the provisions of this Agreement, that person may, irrespective of the remedies provided by the domestic law of those territories, present the case to the competent authority of the territory of which that person is a resident or, if his case comes under paragraph 1 of Article 24, to that of the territory of which he is a national under the laws in force of that territory. 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 this Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other territory, with a view to the avoidance of taxation which is not in accordance with this Agreement.
3. The competent authorities of the territories shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.
4. The competent authorities of the territories may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

ARTICLE 26

Exchange of Information

1. The competent authorities of the territories shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes covered by this Agreement imposed on behalf of the territories, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Agreement. The exchange of information is not restricted by Article 1.
2. Any information received under paragraph 1 by a territory shall be treated as secret in the same manner as information obtained under the domestic laws of that territory and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the

above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a territory the obligation:
 - a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other territory;
 - b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other territory;
 - c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).
4. If information is requested by a territory in accordance with this Article, the other territory shall use its information gathering measures to obtain the requested information, even though that other territory may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a territory to decline to supply information solely because it has no domestic interest in such information.
5. In no case shall the provisions of paragraph 3 be construed to permit a territory to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

ARTICLE 27

Entry into Force

1. The Taipei Economic and Cultural Office in Warsaw and the Warsaw Trade Office in Taipei will notify each other in writing when internal procedures necessary to implement this Agreement in their respective territories are completed. The Agreement shall enter into force on the date of the latter of these notifications.
2. This Agreement shall have effect:
 - a) in respect of taxes withheld at source, on income derived on or after 1 January in the calendar year next following the year in which this Agreement entered into force, and

- b) in respect of other taxes, on income derived in any tax year beginning on or after 1 January in the calendar year next following the year in which this Agreement entered into force.

ARTICLE 28

Termination

This Agreement shall remain in force until terminated by one of the competent authorities. Either competent authority may terminate this Agreement by giving a written notice of termination at least six months before the end of any calendar year beginning after the expiry of five years from the date of entry into force of this Agreement. In such event, this Agreement shall cease to have effect:

- a) in respect of taxes withheld at source, on income derived on or after 1 January in the calendar year next following the year in which the notice is given, and
- b) in respect of other taxes, on income derived in any tax year beginning on or after 1 January in the calendar year next following the year in which the notice is given.

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

Done in duplicate, in the English language.

**For the Taipei Economic and
Cultural Office in Warsaw**

**For the Warsaw Trade Office in
Taipei**

Ming-Jeng CHEN

Head of Office

Maciej GACA

Head of Office

Date: _____

Place: _____

Date: _____

Place: _____

PROTOCOL

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

On the signing of the Agreement between the Taipei Economic and Cultural Office in Warsaw and the Warsaw Trade Office in Taipei for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (hereinafter referred to as "Agreement") the signatories have in addition agreed that the following provisions shall form an integral part of the Agreement:

1. With reference to Article 2:

With respect to paragraph 3 a) of Article 2 of the Agreement it is understood that the term "personal income tax" includes the lump sum tax on certain revenues derived by natural persons and the term "corporate income tax" includes the tonnage tax.

2. With reference to Article 4:

With respect to paragraph 2 of Article 4 of the Agreement it is understood that resident individuals of the territory referred to in paragraph 3 b) of Article 2 are liable to tax only in respect of income from sources in that territory in accordance with the Income Tax Act provided that such residents need not include their overseas income in the basic income in accordance with the Income Basic Tax Act.

3. With reference to Article 26:

With respect to paragraph 1 of Article 26 of the Agreement it is understood that although it does not restrict the possible methods for exchanging information, it shall not commit a competent authority to exchange information on an automatic or spontaneous basis.

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

Done in duplicate, in the English language.

**For the Taipei Economic and
Cultural Office in Warsaw**

**For the Warsaw Trade Office in
Taipei**

Ming-Jeng CHEN

Head of Office

Maciej GACA

Head of Office

Date: _____

Date: _____

Place: _____

Place: _____