

TAIWAN (Treaty of 13.10.2004)

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Agreement

Between the Belgian Office, Taipei and the Taipei Representative Office in Belgium for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income

THE BELGIAN OFFICE, TAIPEI AND THE TAIPEI REPRESENTATIVE OFFICE IN BELGIUM,

DESIRING to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income for the purpose of further friendship, cooperation and investment,

HAVE agreed as follows :

CHAPTER I. Scope Of The Agreement

Article 1 Persons Covered

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

Article 2 Taxes Covered

1. This Agreement shall apply to taxes on income imposed in either of the 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 the Agreement shall apply are in particular :

a) in the territory in which the taxation law administered by the Taxation Agency, Ministry of Finance, Taipei or fiscal authorities of political subdivisions, is applied :

1° the profit-seeking enterprise income tax; and

2° the individual consolidated income tax,

including the surcharges levied thereon;

b) in the territory in which the taxation law administered by the Belgian Federal Public Service Finance is applied :

1° the individual income tax;

2° the corporate income tax;

3° the income tax on legal entities;

4° the income tax on non-residents; and

5° the supplementary crisis contribution,

including the prepayments and the surcharges on these taxes and prepayments.

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

CHAPTER II. Definitions

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) or 3 b) of Article 2, as the case may be;

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

c) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes in the territory of which it is a resident;

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 that has its place of effective management in a territory, except when the ship or aircraft is operated solely between places in the other territory;

f) the term "competent authority" means :

1° in the case of the territory in which the taxation law administered by the Taxation Agency, Ministry of Finance, Taipei is applied, the Director General of the Taxation Agency or his

authorised representative, and

2° in the case of the territory in which the taxation law administered by the Belgian Federal Public Service Finance is applied, the Minister of Finance or his authorised representative.

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

Article 4 Resident

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

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, provided that this paragraph shall not apply to individuals who are residents of the territory referred to in paragraph 3 a) of Article 2, as long as resident individuals are taxed only in respect of income from sources in that territory.

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

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

of vital interests);

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

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

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

f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site or construction, assembly or installation project constitutes a permanent establishment only if it lasts more than six months.

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

a) it carries on supervisory activities in that other territory for more than six months in connection with a building site or construction, assembly or installation project which is being undertaken in that 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 six months within any twelve month period.

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

a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise

belonging to the enterprise;

b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

6. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 7 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a territory an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that territory in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 5 d) which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

7. An enterprise shall not be deemed to have a permanent establishment in a territory merely because it carries on business in that territory through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

8. The fact that a company which is a resident of a territory controls or is controlled by a company which is a resident of the other territory, or which carries on business in that other territory (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

CHAPTER III. Taxation Of Income

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 in force in 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, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to 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.

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 from the operation of ships or aircraft in international traffic shall be taxable only in the territory in which the place of effective management of the enterprise is situated.

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

a) profits derived from the lease by the enterprise of ships or aircraft on charter fully equipped, manned and supplied, used in international traffic;

b) profits derived from the lease by the enterprise on a bare boat charter basis of ships or aircraft used in international traffic, when such lease is an occasional source of income for such enterprise;

c) profits derived from the lease of containers and related equipment by the enterprise, when such lease is supplementary or incidental to its operations in international traffic.

3. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the territory in which the home harbour of the ship is situated, or, if there is no such home harbour, in the territory of which the operator of the ship is a resident.

4. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency, but only to so much of the profits so derived as is attributable to the participant in proportion to its share in the joint operation.

Article 9 Associated Enterprises

1. Where

a) an enterprise of a territory participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or

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

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

2. Where a territory includes in the profits of an enterprise of that territory - and taxes accordingly - profits on which an enterprise of the other territory has been charged to tax in that other territory and the profits so included are profits which would have accrued to the enterprise of the first-mentioned territory if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other territory shall make such an adjustment as it considers appropriate to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the territories shall if necessary consult each other.

Article 10 Dividends

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

2. However, such dividends may also be taxed in the territory of which the company paying the dividends is a resident and according to the laws in force in 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, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debtclaims, participating in profits, as well as income - even paid in the form of interest - which is subjected to the same taxation treatment as income from shares by the tax legislation in force in the territory of which the paying company is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a territory, carries on business in the other territory of which the company paying the dividends is a resident through a permanent establishment situated therein, or performs in that other territory independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a territory derives profits or income from the other territory, that other territory may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other territory or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that

other territory, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other territory.

Article 11 Interest

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

2. However, such interest may also be taxed in the territory in which it arises and according to the laws in force in that territory, but if the beneficial owner of the interest is a resident of the other territory, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest shall be exempted from tax in the territory in which it arises if it is :

a) interest paid in respect of a loan granted, guaranteed or insured or a credit extended, guaranteed or insured by an approved instrumentality of the other territory which aims at promoting export, or under a scheme organised by an authority administering a territory or a subdivision thereof or by a local authority in order to promote the export;

b) interest paid on loans made between banks;

c) interest paid to a public entity of a territory or a central bank of that territory.

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, interest on commercial debt-claims resulting from deferred payments for goods, merchandise or services supplied by an enterprise or interest regarded as dividends under paragraph 3 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 a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the territory in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws in force in 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 in that territory, but if the beneficial owner of the royalties is a resident of the other territory, the tax so charged shall not exceed 10 percent 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 and films or tapes for television or radio broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a territory, carries on business in the other territory in which the royalties arise through a permanent establishment situated therein, or performs in that other territory independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a territory when the payer is a resident of that territory. Where, however, the person paying the royalties, whether he is a resident of a territory or not, has in a territory a permanent establishment or a fixed base in connection with which the 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 in force in each territory, due regard being had to the other provisions of this Agreement.

Article 13 Capital Gains

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

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

3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the territory in which the place of effective management of the enterprise is situated.

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

Article 14 Independent Personal Services

1. Income derived by a resident of a territory in respect of professional services or other 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 other territory; or

b) if he is present in the other territory for a period or periods amounting to or exceeding in the

aggregate 183 days in the fiscal year concerned; in that case, only so much income as is derived from his activities performed in that other territory may be taxed in that other territory.

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

Article 15 Dependent Personal Services

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

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

a) the recipient is present in the other territory for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the taxable period 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 in which the place of effective management of the enterprise is situated.

Article 16 Directors' Fees

1. Directors' fees and other similar payments derived by a resident of a territory in his 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.

The preceding provision shall also apply to payments derived in respect of the discharge of functions which, under the laws in force in the territory of which the company is a resident, are regarded as functions of a similar nature as those exercised by a person referred to in the said provision.

2. Remuneration derived by a person referred to in paragraph 1 from a company which is a resident of a territory in respect of the discharge of day-to-day functions of a managerial or technical, commercial or financial nature and remuneration received by a resident of a territory in respect of his day-to-day activity as a partner of a company, other than a company with share capital, which is a resident of a territory, may be taxed in accordance with the provisions of Article 15, as if such remuneration were remuneration derived by an employee in respect of an employment and as if references to the "employer" were references to the company.

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.

Article 18 Pensions And Annuities

1. Pensions and other similar remuneration paid to a resident of a territory in consideration of past employment, may be taxed in the territory in which they arise. This provision shall also apply to annuities and to pensions and other similar remuneration paid by an entity of a territory under social security legislation in force in that territory or under a public scheme organised by that territory in order to supplement the benefits of that social security legislation.

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

Article 19 Government Service

1. Salaries, wages and other similar remuneration, other than a pension, paid by an authority administering a territory or a subdivision thereof or by a local authority of that territory to an individual in respect of services rendered to that authority in the discharge of public or administrative functions shall be taxable only in that territory.

However, such salaries, wages and other similar remuneration shall be taxable only in the other territory if the services are rendered in that territory and the individual is a resident of that territory who :

1° is a citizen or national of that territory; or

2° did not become a resident of that territory solely for the purpose of rendering the services.

2. The provisions of Articles 15, 16 and 17 shall apply to salaries, wages and other similar remuneration, in respect of services rendered in connection with a business carried on by an authority referred to in paragraph 1.

Article 20 Students

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

Article 21 Other Income

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

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a territory, carries on business in the other territory through a permanent establishment situated therein, or performs in that other territory independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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 the Agreement and arising in the other territory may also be taxed in that other territory.

CHAPTER IV. Methods for Elimination of Double Taxation

Article 22 Elimination of Double Taxation

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

Where a resident of the territory referred to in paragraph 3 a) of Article 2 derives income from the other territory, the amount of tax on that income paid in that 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 the amount of the tax in the first-mentioned territory on that income computed in accordance with its taxation laws and regulations.

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

a) Where a resident of the territory referred to in paragraph 3 b) of Article 2 derives elements of income, not being dividends, interest or royalties, which may be taxed in the other territory in accordance with the provisions of the Agreement, and which are taxed there, such elements of income shall be exempt from tax but, in calculating the amount of tax on the remaining income of that resident, the rate of tax which would have been applicable if such income had not been exempted shall apply.

b) Dividends derived by a company which is a resident of the territory referred to in paragraph 3 b) of Article 2 from a company which is a resident of the other territory shall be exempt from the corporate income tax in the first-mentioned territory under the conditions and within the limits provided for in the laws in force in that first-mentioned territory.

c) Subject to the provisions of the law in force in the territory referred to in paragraph 3 b) of Article 2 regarding the deduction of taxes paid abroad, where a resident of that territory derives items of income which are included in his aggregate income taxable in that territory and which are interest or royalties, the tax levied in the other territory on that income shall be allowed as a credit against the tax of the first-mentioned territory relating to such income.

d) Where, in accordance with the law in force in the territory referred to in paragraph 3 b) of Article 2, losses incurred by an enterprise carried on by a resident of that territory through a permanent establishment situated in the other territory, have been effectively deducted from the profits of that enterprise for its taxation in the first-mentioned territory, the exemption provided for in subparagraph a) shall not apply in the first-mentioned territory to the profits of other taxable periods attributable to that permanent establishment to the extent that those profits have also been exempted from tax in the other territory by reason of compensation for the said losses.

CHAPTER V. Special Provisions

Article 23 Non-Discrimination

1. Nationals of a territory shall not be subjected in the other territory to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other territory in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the territories.

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

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

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

5. The provisions of this Article shall apply to taxes which are the subject of this Agreement.

Article 24 Mutual Agreement Procedure

1. Where a person considers that the actions in one or both of the territories result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law in force in those territories, present his case to the competent authority of the territory of which he is a resident, or if his case comes under paragraph 1 of Article 23, to that of the territory of which he is considered to be a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself

able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other territory, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law in force in the territories.

3. The competent authorities of the territories shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.

4. The competent authorities of the territories shall agree on administrative measures necessary to carry out the provisions of the Agreement and particularly on the proofs to be furnished by residents of either territory in order to benefit in the other territory from the exemptions or reductions of tax provided for in the Agreement.

5. The competent authorities of the territories shall communicate directly with each other for the application of the Agreement.

Article 25 Exchange of Information

1. The competent authorities of the territories shall exchange such information as is useful for carrying out the provisions of this Agreement or of the domestic laws in force in the territories concerning taxes of every kind and description imposed on behalf of the territories, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2. Any information received by a competent authority of a territory shall be treated as secret in the same manner as information obtained under the domestic laws in force in that territory and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to the taxes referred to in the first sentence. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on the competent authority of

a territory the obligation :

a) to carry out administrative measures at variance with the laws in force in and the administrative practice of that or the other territory;

b) to supply information which is not obtainable under the laws in force in either territory or in the normal course of the administration of either 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).

Article 26 Aid in Recovery

1. Each of the territories shall endeavor to collect, as if it were its own tax, any tax referred to in Article 2, which has been imposed by the other territory and the collection of which is necessary to ensure that any exemption or reduction of tax granted under this Agreement by that other territory shall not be enjoyed by persons not entitled to such benefits.

2. The provisions of this Article shall in no case be construed so as to impose on the requested territory the obligation to apply any means of enforcement which are not authorized by the laws in force in that or in the other territory or to take measures which would be contrary to public policy (ordre public).

Article 27 Limitation on Benefits

Notwithstanding the provisions of any other Article of this Agreement, a resident of a territory shall not receive the benefit of any reduction in or exemption from tax provided for in the Agreement by the other territory 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.

CHAPTER VI. Final Provisions

Article 28 Entry Into Force

1. The Belgian Office, Taipei and the Taipei Representative Office in Belgium shall notify each other in writing about the completion of the procedures required for the entry into force of this Agreement in their respective territories. The Agreement shall enter into force from the date on which the later of these written notifications is received.

2. The provisions of the Agreement shall have effect :

a) in respect of taxes due or withheld at source on income credited or payable on or after January 1 of the year next following the year in which the Agreement enters into force;

b) in respect of other taxes charged on income of taxable periods beginning on or after January 1 of the year next following the year in which the Agreement enters into force.

Article 29 Termination

This Agreement shall remain in force indefinitely, but the Belgian Office, Taipei and the Taipei Representative Office in Belgium may terminate the Agreement, by giving written notice of termination not later than the 30th June of any calendar year from the fifth year following that in which the Agreement enters into force. In such event, the Agreement shall cease to have effect :

a) in respect of taxes due or withheld at source on income credited or payable on or after January 1 of the year next following the year in which the notice of termination is given;

b) in respect of other taxes charged on income of taxable periods beginning on or after January 1 of the year next following the year in which the notice of termination is given.

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

DONE in duplicate at Brussels, this 13th day of October 2004, in the English language.

For The Belgian Office, Taipei :

Hugues MIGNOT,

Director

For The Taipei Representative Office In Belgium :

C.J. CHEN,

Director

PROTOCOL

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

1. Ad Article 5, paragraph 4 and Article 7 :

It is understood that where activities are deemed to be a permanent establishment under paragraph 4 of Article 5, only profits attributable to the activities performed through employees or other personnel or persons present in that other territory may be taxed in that other territory.

2. Ad Article 11, paragraph 3 :

It is understood that the provision of subparagraph a) shall apply,

a) in the case of the territory in which the taxation law is administered by the Belgian Federal Public Service Finance :

- to interest of a loan or a credit for which a financial support is granted after advice of the Committee for financial support to export ("Finexpo");

- to interest of a loan or a credit granted by the Association for the coordination of

mediumterm financing of Belgian export ("Creditexport");

- to interest of a loan or a credit insured by the National Office of Del Credere;

b) in the case of the territory in which the taxation law is administered by the Taxation Agency, Ministry of Finance, Taipei, to interest received by the instrumentalities which aim at promoting export and are approved by that Agency.

3. Ad Article 15, paragraph 1 :

It is understood that an employment is exercised in a territory when the activity in respect of which the salaries, wages and other remuneration are paid, is effectively carried on in that territory, this means when the employee is physically present in that territory for carrying on this activity there.

4. Ad Article 22, paragraph 2, a) :

Elements of income received by a resident of the territory in which the taxation law administered by the Belgian Federal Public Service Finance is applied, shall not be deemed to be taxed in the other territory when such income is not included in the basis on which tax is due in that other territory. Consequently elements of income which are not taxable or are exempted in virtue of the legislation in force in that other territory, shall not be considered to be taxed.

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

DONE in duplicate at Brussels, this 13th day of October 2004, in the English language.

FOR THE BELGIAN OFFICE, TAIPEI :

Hugues MIGNOT,

Director

FOR THE TAIPEI REPRESENTATIVE OFFICE IN BELGIUM :

C.J. CHEN,

Director