

# **Act (1982:707) on the double taxation treaty between Sweden and the Republic of Korea**

**SFS** : 1982:707 **Ministry / Authority** : Ministry of Finance S3 **Issued** : 1982-06-30 **Modified** SFS 2011:1310 **Other text** : Only the Swedish text is included in the Annex. **Amendment Record** : [SFSR \(Lagrummet\)](#) **Source** : Cabinet Office / Lagrummet

**1 §** The agreement to avoid double taxation and prevent fiscal evasion with respect to income Sweden and the Republic of Korea signed the May 27, 1981 and the Protocol annexed to the Agreement, together with the agreement on the application of the Agreement concluded by letter on 15 May and the June 7, 1991 repealed that law in this country.

Agreement and the Protocol are contained in Annex 1 to this Act and the Agreement as Annex 2. *Act (1991:1884)* .

**2 §** The agreement applies only to the extent interfere with the liberty of the charge in Sweden that would otherwise exist.

**3 §** Repealed by *Act (2011:1310)* .

**§ 4** has been repealed by *Act (1991:1884)* .

## **Appendix 1**

### **Agreement between Korea and the Kingdom of Sweden to avoid double taxation and prevent fiscal evasion regarding income**

The Government of the Kingdom of Sweden, desiring to conclude an agreement to avoid double taxation and prevent tax evasion, have agreed as follows:

#### **ARTICLE 1**

##### **Persons to whom this Agreement applies**

This Agreement shall apply to persons who are residents of a Contracting State or in both states.

#### **ARTICLE 2**

## Taxes covered by the Agreement

1. The taxes covered by this Agreement are:

a) Concerning Korea:

- 1) income tax;
- 2) the corporation tax; and
- 3) invånarskatten

(Hereinafter called "Korean tax").

b) The case of Sweden:

- 1) the state income tax, sailor tax and coupon tax;
- 2) compensation tax and the distribution tax;
- 3) bevillingsavgiften public entertainers; and
- 4) the tax

(Hereinafter referred to as "Swedish tax").

second This Agreement shall also apply to any identical or substantially similar taxes imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any substantial changes made in their respective taxation laws.

## ARTICLE 3

### General Definitions

1. Unless the context otherwise requires, the purposes of this Agreement, the following terms as defined below:

- a) "Korea" means the Republic of Korea's territory and includes any area located adjacent to the Republic of Korea's territorial waters, which, in conformity with international law, in the Republic of Korea's legislation designated or later will be designated as an area within which the Republic of Korea may exercise its sovereign rights with respect to the seabed and subsoil and their natural resources;
- b) the term "Sweden" means the Kingdom of Sweden and includes any area outside the territorial sea of Sweden, in which Sweden under Swedish law and in conformity with international law, the rights with respect to the exploration and exploitation of natural resources in the seabed or the subsoil thereof;
- c) the terms "a Contracting State" and "the other Contracting State" mean Korea or Sweden as the context requires;
- d) "tax" means Korean tax or Swedish tax, as the context requires;
- e) the term "person" includes an individual, corporation or association;
- f) the term "company" means any body corporate or any entity which for tax purposes is treated as a body corporate;
- g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

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

i) the term "competent authority" means:

1) in Korea, the Minister of Finance or his befullmäktige representative;

2) in Sweden, the Financial Secretary or his representative befullmäktige.

2nd Where a Contracting State shall apply this Agreement shall, unless the context otherwise requires, any term not defined therein shall have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

#### **ARTICLE 4**

##### **Resident**

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who under the law of that State, is liable to tax therein by reason of his domicile, residence, place of head office or corporate or other similar circumstances. The term does not include any person who is liable to tax in that State in respect only of income from sources in that State.

2nd Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status as follows:

a) He shall be deemed to be a resident of the State in which he has a permanent home available to him. If he has a permanent home available in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (center of vital interests).

b) If it can not be determined State in which he has his center of vital interests or if he is not in either State has a permanent home available to him, he is deemed to be a resident of the State where he usually resides.

c) if he has an habitual abode in both States or if he does not reside permanently in any of them, he shall be deemed to be a resident of the state where he is a national.

d) if he is a national of both States or if he is not a citizen of any of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

third Where by reason of the provisions of paragraph 1 a person other than a natural person, a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management. In doubtful cases, the competent authorities of the Contracting States shall settle the question by mutual agreement.

#### **ARTICLE 5**

##### **Permanent establishment**

1. For the purposes of this Convention, the term "permanent establishment" means a

fixed place of business through which an enterprise is wholly or partly carried on.

2nd The term "permanent establishment" includes especially:

- a) a place of management;
- b) 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.

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

4th Enterprises of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on supervisory activities in that other State for more than six months in connection with building, construction or installation work going on in that other State.

5th Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall not include:

- a) the use of facilities solely for the storage, display or delivery of goods or merchandise belonging;
- b) the maintenance of a company belonging to the inventory exclusively for storage, display or delivery;
- c) the maintenance of one belonging to the enterprise solely for the inventory of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purchase of merchandise or of collecting information for the enterprise;
- e) the maintenance of a fixed place of business solely 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) - e), provided that all the activities of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

6 . If the person who is not an independent status to whom paragraph 7 applies, works for a company and of a Contracting State has, and habitually exercises an authority to conclude contracts in the name, this is regarded companies - Notwithstanding the provisions of paragraphs 1 and 2 - have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise. This does not apply, unless the activities of such person are limited to those mentioned in paragraph 5 which - if carried out through a fixed place of business - would not make this fixed place of business a permanent establishment under the provisions of that paragraph .

7. Companies are considered to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of independent status, where such persons are

acting in the ordinary course of business.

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

## **ARTICLE 6**

Income from immovable property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2nd The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property is located. The term includes 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 immovable property.

third The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or other use of real property.

4th The provisions of paragraphs 1 and 3 shall also apply to income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

## **ARTICLE 7**

Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the company carries on business as aforesaid, the enterprise may be taxed in that other State but only so much of them as is attributable to that permanent establishment.

2nd An enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, provision, unless the provisions of paragraph 3 to the contrary, in each Contracting State to that permanent establishment the profits which it can be assumed that the establishment would have acquired 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.

third In determining the permanent establishment shall be allowed as deductions

expenses which are incurred for the permanent establishment, including costs for executive and general administrative expenses, whether incurred in the State in which the permanent establishment is situated or elsewhere.

4th No profits shall be attributed to a permanent establishment by reason that the goods purchased by that permanent establishment or merchandise for the enterprise.

5th Included in capital operating income which are dealt with separately in other Articles of this Convention, then the provisions in these articles are not the rules of the present Article.

## **ARTICLE 8**

### **Sea and air transport**

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

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

## **ARTICLE 9**

### **Associated Enterprises**

#### **Where**

a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or takes part in this company's capital, or

b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, or takes part in both their capital, observed the following. Between the two enterprises in their commercial or financial relations made or imposed conditions 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, not so accrued, may be included in that enterprise and taxed accordingly.

## **ARTICLE 10**

### **Dividends**

1. Dividends paid by a company resident in a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2nd Dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient of the dividends the tax so charged shall not exceed:

a) 10 percent of the gross dividends if the beneficial owner of the dividends is a company (other than a partnership) which holds directly at least 25 percent of the company making the payment;

b) 15 per cent of the gross amount of other cases.

This paragraph shall not affect the company's taxable profits out of which dividends are paid.

third The term "dividends" as used in this Article means income from shares, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights in a company, which under the laws of the state where the distributing company domiciled for tax purposes, be treated the same as income from shares.

4th Notwithstanding the provisions of paragraph 1 shall be paid by companies resident in Korea to companies resident in Sweden shall be exempt from taxation in Sweden to the extent the dividends would have been exempt under Swedish law if both companies had been Swedish companies. This exemption applies only if the profits out of which dividends are paid have been subject to the normal corporate tax rate in Korea in effect at the time of signing of this Agreement or comparable corporate tax. However, relief applies even where such profits have not been subject to such corporation due to special tax relief provisions of a temporary nature in particular Korean legislation on investment promotion tax benefits applied.

5th The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends is a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State 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.

6. Where a company which is a resident of a Contracting State derives income from the other Contracting State, that other State may not tax the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State 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 State, nor subject the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of income arising in such other State.

## **ARTICLE 11**

### **Interest**

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

2nd Such interest may also be taxed in the Contracting State in which it arises and

according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed:

- a) 10 percent of the gross amount if the recipient is a bank and the loan over a period of more than seven years;
- b) 15 per cent of the gross amount of all other cases.

third Notwithstanding the provisions of paragraph 2:

a) Interest arising in a Contracting State and that received by the other Contracting State Government, a political subdivision or local authority or central bank of that other Contracting State shall be taxable only in that other Contracting State.

b) Interest arising in a Contracting State and relates to loans or credits which are provided or guaranteed by,

- in the case of Korea, the Korea Export and Import Bank,
- the case of Sweden, EKN,

and paid to a resident of the other Contracting State taxable only in that other State.

4th The term "interest" as used in this Article means income from securities issued by the state, and income from bonds or debentures, whether issued secured by a mortgage or not and whether they carry the right to participate in profits or not. Uttycket refers also capital of any other claims and all other income under the tax laws of the State in which the income is derived assimilated to income from pre-stretch.

5th The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs independent personal services in that other State from which the fixed base situated therein, and the debt for 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.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. If the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid, and such interest is borne by such permanent establishment or fixed base, considered such interest arise in the State in which the permanent establishment or fixed base is situated.

7. Where, owing to 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 for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial the interest of such relationship is made, the provisions of this Article shall apply only to the last mentioned amount. In such case, the excess amount under the laws of each Contracting State, due to the other provisions of this Agreement.

## **ARTICLE 12**

### **Royalty**

1. Royalty arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2nd Royalties may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient of the royalties the tax so charged shall not exceed:

a) 15 percent of the gross amount of such royalties referred to in paragraph 3 a); and  
b) 10 per cent of the gross amount of such royalties referred to in paragraph 3 b).

third The term "royalties" in this Article means payments of any kind received as a consideration for the use of, or the right to use:

a) any copyright of literary, artistic or scientific work including cinematograph films included herein; and

b) patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use industrial, commercial or scientific equipment or for information concerning industrial, commercial or scientific experience.

4th The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties is a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State where 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.

5th Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. If the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base on whose behalf the right or property giving rise to the royalties, and such royalties are borne by such permanent establishment or fixed base, be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where, owing to a special relationship between the payer and the beneficial owner of the royalties, 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 between payer and the beneficial owner of the royalties, if such relationship existed, the provisions of this Article shall apply only to the last mentioned amount. In such case, the excess amount under the laws of each Contracting State, due to the other provisions of this Agreement.

## **ARTICLE 13**

## Capital gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State, and gains from the alienation of shares or similar interests in a company whose principal assets comprise of immovable property may be taxed in that other State.

2nd Gains from the alienation of movable property forming part of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base for the exercise of independent professional activity, as a resident of a Contracting State has in the other Contracting State may be taxed in that other State. The same applies to profits from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base.

third Gains derived by an enterprise of a Contracting State 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 State.

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

## **ARTICLE 14**

### Independent personal

1. Income derived by a resident of a Contracting State from the performance of professional services or other independent activities shall be taxable only in that State unless he in the other Contracting State has a fixed base regularly available to him in order to pursue the activity. If he has such a fixed base, the income may be taxed in that other State but only so much of them as is attributable to that fixed base.

2nd 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 practicing.

## **ARTICLE 15**

### Individual business

1. Subject to the provisions of Articles 16, 18, 19 and 20, salaries, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of employment only in that State unless the employment is exercised in the other Contracting State . If services are rendered in that other State, such remuneration as is derived therefrom may be taxed there.

2nd Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State, only in the first-mentioned State if:

- a) the recipient is present in the other State for a period or periods exceeding in the aggregate 183 days 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 State; and
- c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

third Notwithstanding the preceding provisions of this Article, the following applies:

- a) compensation for work performed on vessels operated in international traffic by an enterprise of a Contracting State may be taxed in that State;
- b) the remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard an aircraft in international traffic shall be taxable only in that State.

## **ARTICLE 16**

### **Directors' fees**

Directors' fees and other similar remuneration derived by a resident of a Contracting State in his capacity as a director of a company resident in the other Contracting State may be taxed in that other State.

## **ARTICLE 17**

### **Artistes and Athletes**

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State from his personal activities in the other Contracting State as an entertainer, such as theater, motion picture, radio or television artiste, or a musician or as an athlete taxed in that other State.

2nd Where income by operating an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of artiklaran 7, 14 and 15, be taxed in the Contracting State of which the entertainer or athlete are exercised.

third Notwithstanding the provisions of paragraph 1, income as an artist or athlete acquires from his personal activities of a Contracting State shall be taxable only in the other Contracting State if his stay in the first State mainly funded by public funds of that other State or by its political subdivisions or local authorities.

4th Where income by operating an entertainer or an athlete in his capacity of a Contracting State accrues not to the entertainer or athlete himself but to another person, taxable income, notwithstanding the provisions of paragraph 2, only in the other Contracting State if the person mainly supported by public funds of that other State or of a political subdivision or a local authority or if this person is an organization in that other State whose activities are not conducted for profit.

## **ARTICLE 18**

### Pensioner

1. Subject to the provisions of Article 19, paragraph 2, salaries, taxable pensions and other similar remuneration in consideration of past employment shall be paid to a resident of a Contracting State, only in that State.

2nd Notwithstanding the provisions of paragraph 1, pensions and other benefits that utbetals under the social security legislation of a Contracting State may be taxed in that State.

## **ARTICLE 19**

### Government service

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

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

1) is a citizen of this State, or

2) is not a resident of that State solely for the work.

2nd a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or political subdivision or local authority shall be taxable only in that State .

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

third The provisions of Articles 15, 16 and 18 shall apply to remuneration of pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or local authority.

## **ARTICLE 20**

### Students and trainees

1. Students, affärspraktiant or technical intern, resident of a Contracting State for their education or training and who is or was immediately before visiting this State a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State in respect of:

a) amounts paid to him by persons residing outside that State, for the purposes of his maintenance, education or training; and

b) compensation for work performed in that State, provided that the compensation is not for any taxable year exceeds 10 000 Swedish kronor or its equivalent in Korean currency.

Exemption granted under paragraph b) shall extend only for the time reasonably or customarily required for the completion of their studies or training in question, but shall in no case exceed a period of five consecutive years.

2nd An individual who is a resident of a Contracting State immediately before visiting the other Contracting State and who is temporarily present in that other Contracting State for a period not exceeding five years from the date of his first arrival in that other Contracting State in connection with this stay is - provided he staying there for study, research or training solely as a recipient of a grant, contribution or reward from the Government of either Contracting State or from the educational institution or scientific or religious organization or charitable organization or under a technical assistance programs in which the Government of either Contracting State participates - exempt from tax for the following payments:

a) the amount of such scholarship or grant or reward;

b) The sums paid to him by persons residing outside that State for his maintenance, education or training; and

c) the remuneration for work performed in that other State, provided that the compensation does not exceed 10 000 Swedish kronor or its equivalent in Korean currency for any taxable year, and the work done in connection with studies, research or education or in comparison, appears to be temporary.

3 . An individual who is a resident of a Contracting State immediately before visiting the other Contracting State and who is temporarily present in that other Contracting State solely as an employee of or under contract with the government or enterprises of the first-mentioned Contracting State and only to acquire technological , professional or business experience over a period less than one year from the date of his first arrival in that other Contracting State in connection with this stay, is exempt from tax in that other Contracting State for the following payments:

a) compensation from abroad for his maintenance, education or training; and

b) compensation for work performed in that other Contracting State, provided that the consideration for such period not exceeding 30 000 Swedish kronor or its equivalent in Korean currency and the work is done in the context of training or in comparison, appears temporarily.

## **ARTICLE 21**

### **Other income**

1. Income derived by a resident of a Contracting State not dealt with in the foregoing Articles of this Convention shall be taxable only in that State, regardless of where the income arises.

2nd The provisions of paragraph 1 shall not apply to income, other than income from

immovable property as defined in Article 6, paragraph 2, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base, 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.

## **ARTICLE 22**

Avoidance of double taxation

1. In Korea avoided double follows:

According to the Korean tax law regarding credit against Korean tax of tax payable in any country other than Korea, the Swedish tax (in the case of dividends, except for the tax on the profits out of which dividends are paid), which according to Swedish law and in accordance with this contracts are paid, either directly or by deduction, on income from sources in Sweden, settled against Korean tax on income. Such deduction shall not exceed the proportion of Korean tax as income from sources in Sweden constitute the whole of the income taxed in Korea.

2nd In Sweden, avoids double taxation as follows:

Where a resident of Sweden derives income which under the provisions of this Agreement may be taxed in Korea shall, unless the provisions of paragraph 3 of this Article and paragraph 4 of Article 10 to the contrary, Sweden from that person, income tax, an amount equal to the tax on the income paid in Korea.

Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Korea.

third Where a resident of a Contracting State derives income which, under the provisions of this Agreement shall be taxable only in the other Contracting State, the first-mentioned Contracting State shall include such income in the tax base, but shall from the tax on such income the portion of income tax attributable to the income which acquired from the other Contracting State.

4th In applying the provisions of paragraph 2 of this Article, the term "tax on income paid in Korea" is considered to amount to 20 per cent of the gross amount of the income as referred to in Article 10, paragraph 2, Article 11 paragraph 2 and Article 12 paragraph 2. Provisions of this paragraph applies only to the first ten years during which this Agreement applies. The competent authorities shall consult each other to determine whether this period should be extended.

## **ARTICLE 23**

## Prohibition of discrimination

1. Nationals of a Contracting State shall not in the other Contracting State 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 State in the same circumstances are or may be subjected. Notwithstanding the provisions of Article 1 shall apply this provision also apply to persons who are not domiciled in a Contracting State or in both states.

2nd The term "national" means:

- a) any individual possessing the nationality of a Contracting State;
- b) any legal person, partnership and association deriving the laws in force in a Contracting State.

third Taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall, in that other State may not be less favorable than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, exemptions or reductions on account of civil status or family responsibilities which it grants to residents of their own state.

4th Except where the provisions of Article 9, Article 11, paragraph 7 of Article 12, paragraph 6 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State deductible in determining taxable income for such an undertaking on the same terms as paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State deductible in determining the taxable capital of such an undertaking on the same terms as contracted to a resident of the first-mentioned State.

5th Enterprises of a Contracting State, the capital wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not in the first-mentioned State 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 State are or may be subjected.

6. Notwithstanding the provisions of Article 2, the provisions of this article to taxes of every kind and description.

## **ARTICLE 24**

### Mutual Agreement Procedure

1. If a person claims that a Contracting State or both states have taken measures to him result or will result in a the provisions of this Agreement warring taxation, he may - without prejudice to his right to avail themselves of the remedies provided in these States' domestic legal order - bring the matter to the competent authority of the

Contracting State of which he is a resident or, if his case comes under Article 23, paragraph 1, of the Contracting State of which he is a national. The case must be presented within three years from the time the person first notification of the action resulting in taxation not in accordance with the provisions of this Agreement.

2nd If the competent authority finds the complaint 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 Contracting State for the purpose of avoiding taxation contrary to this agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic laws of the Contracting States.

third The competent authorities of the Contracting States shall 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 covered by this Agreement.

4th The competent authorities of the Contracting States may communicate directly with each other in order to reach an agreement in the sense of the preceding paragraphs. If oral exchanges of facilitating an agreement, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

## **ARTICLE 25**

### Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary to implement the provisions of this Agreement or of the Contracting States' domestic laws concerning taxes covered by this Agreement, insofar as the taxation because of this legislation is not contrary to Agreement or to prevent fraud or to implement constitutional provisions against lawful avoidance of the taxes covered by the Agreement. The exchange of information is not restricted by Article 1. Notices received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and have disclosed only to persons or authorities (including courts and administrative bodies) sets, or collection of the taxes covered by this Agreement or prosecution or complaint regarding these taxes. 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.

2nd The provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal administrative practice of that or of the other Contracting State;

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**

### **Diplomatic agents and consular officers**

The provisions of this Agreement will not affect with the privileges of tax treatment as under international law or under the provisions of special agreements diplomatic agents or consular officers.

## **ARTICLE 27**

### **Entry into force**

1. This Agreement shall be ratified and the instruments of ratification shall be exchanged at Stockholm as soon as possible. The Agreement shall enter into force thirty days after the exchange of instruments of ratification.

2nd This Agreement shall apply:

- a) in respect of taxes withheld at source, for amounts paid or credited to a resident abroad January in the year in which the agreement is signed or later.
- b) in respect of other taxes, for taxable years beginning January 1 of the year in which the contract is signed or later.

## **ARTICLE 28**

### **Cessation**

This Agreement shall remain in force indefinitely but either of the Contracting States may - 30 June in any calendar year from the fifth year following the date of the exchange of instruments of ratification took place - the diplomatic channel written notice of termination agreement of the other Contracting State. In such event, the Agreement shall cease to have effect:

- a) in respect of taxes withheld at source, for amounts paid or credited to a resident abroad January 1 of the calendar year next following the year in which the termination occurred or higher;
- b) in respect of other taxes, for taxable years beginning January 1 of the calendar year next following the year in which the termination occurred or later.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Seoul May 27, 1981 in duplicate in the English language.

### **Minutes**

At the signing of the Agreement between the Government of the Kingdom of Sweden for the avoidance of double taxation and prevention of tax evasion regarding income, the undersigned have agreed that the following provisions shall form an integral part thereof.

**On Article 2**

The Parties understand that Article 2, paragraph 3 a) of the Agreement include Korea's defense tax, then it is taken out of income tax or corporation tax base.

**On Article 8**

The provisions of Article 8, paragraph 1 shall apply to profits derived by the air transport consortium Scandinavian Airlines System (SAS), but only in respect of the portion of income that corresponds to the participation held in that consortium by AB Aero Transport (ABA), the Swedish partner of Scandinavian Airlines System (SAS).

**Re Article 19**

The provisions of Article 19, paragraphs 1 and 2 shall also apply in respect of remuneration or pensions paid by the Bank of Korea, the Korea Export and Import Bank of Korea Company for Promoting Trade and other similar Korean establishments carrying on business of state character.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

DONE at Seoul May 27, 1981 in duplicate in the English language.