1993 Income and Capital Tax Convention

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CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KOREA AND THE GOVERNMENT OF ROMANIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Government of the Republic of Korea and the Government of Romania, Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital and to further develop and facilitate their economic relationship, Have agreed as follows:

Article 1 Personal Scope

This Convention shall apply to persons who are residents of one or both of the Contracting States.

Article 2 Taxes Covered

1. This Convention shall apply to taxes on income and on capital imposed by each of the Contracting States or by its local authorities or administrative-territorial units, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.
3. The taxes to which this Convention shall apply are:
a) In the case of Korea:
(i) the income tax;
(ii) the corporation tax; and
(iii) the inhabitant tax,
(hereinafter referred to as "Korean tax");
b) In the case of Romania:
(i) the tax on income derived by individuals;
(ii) the tax on the profits of bodies and legal persons;
(iii) the tax on salaries, wages and other similar remunerations;
(iv) the tax on income realised from agricultural activities; and
(v) the tax on dividends,
(hereinafter referred to as "Romanian tax")
4. The Convention shall apply also to any identical or substantially similar taxes which are 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 which have been made in their respective taxation laws.

Article 3 General Definitions

1. For the purposes of this Convention, unless the context otherwise requires:
a) the term "Korea" means the territory of the Republic of Korea including any area adjacent to the territorial sea of the Republic of Korea which, in accordance with international law, has been or may hereafter be designated under the laws of the Republic of Korea as an area within which the sovereign rights of the Republic of Korea with respect to the sea-bed and subsoil and their natural resources may be exercised.
b) the term "Romania" means Romania and, used in a geographical sense, indicates the territory of Romania including its territorial sea as well as the exclusive economic zone and the continental shelf over which Romania exercises sovereign rights, in accordance with its internal law and with the international law, concerning the exploration and the exploitation of the natural, biological and mineral resources existing in the sea waters, sea-bed and subsoil of these waters;
c) the terms "a Contracting State" and "the other Contracting State" mean Korea or Romania, as the context requires;
d) the term "tax" means Korean tax or Romanian tax, as the context requires;

e) the term “person” includes an individual, a company and any other body of persons;
f) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;
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 “nationals” means:
(i) all individuals possessing the Korean nationality in the case of Korea or the Romanian citizenship in the case of Romania;
(ii) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State;
i) the term “international traffic” means any transport by a ship, boat, aircraft, railway or road vehicle operated by an enterprise of a Contracting State, except when such transport is operated solely between places in the other Contracting State;
j) the term “competent authority” means:
(i) in the case of Korea, the Minister of Finance or his authorized representative;
(ii) in the case of Romania, the Minister of Finance or his authorized representative.
2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, 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 laws of that State, is liable to tax therein by reason of his domicile, residence, place of head office, place of management or any other criterion of a similar nature.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows;
a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting States with which his personal and economic relations are closer (centre of vital interests);
b) if the Contracting State 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
d) if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

Article 5 Permanent Establishment

1. For the purposes of this Convention, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term “permanent establishment” includes especially;
a) a place of management;
b) a branch;
c) an office;
d) a factory;
e) a workshop;
f) a farm, a plantation, an orchard or a vineyard; and
g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. The term “permanent establishment” likewise encompasses a building site, a construction, assembly or installation project or supervisory or advisory activities performed through the employees of the enterprise which is the contractor of the site or project, in connection therewith, but only where such site, project or activities continue for a period of more than 12 months.
4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:

a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
d) the sale of goods or merchandise belonging to the enterprise displayed in the frame of an occasional temporary fair or exhibition after the closing of the said fair or exhibition;
e) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
f) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
g) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to f), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
5. Notwithstanding the provisions of paragraphs 1, 2 and 3, where a person-other than an agent of independent status to whom paragraph 6 applies-is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contract in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.
6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.
7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6 Income From Immovable Property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State 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, aircraft, railway and road vehicles 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 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 enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State 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 Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
4. Insofar as it has been customary in a Contracting State 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 Contracting State 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 Convention, then the provisions of these Articles shall not be affected by the provisions of this Article.

Article 8 International Traffic

1. Profits from the operation of ships, boats, aircraft, railway or road vehicles in international traffic shall be taxable only in the Contracting State in which the place of head office or the place of effective management of the enterprise is situated.
2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.
3. The provisions of paragraph 1 shall also apply to profits derived from the participation in a pool, a joint business or an international operating agency.

Article 9 Associated Enterprises

1. 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
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, 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 Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall consult each other.

Article 10 Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such 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 is the beneficial owner of the dividends the tax so charged shall not exceed:
a) 7 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;
b) 10 per cent of the gross amount of the dividends in all other cases.
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, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a 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 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 15, as the case may be, shall apply.
5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State 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 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 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 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.
2. However, 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 10 per cent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2:
a) interest arising in a Contracting State and derived by the Government of the other Contracting State including local authorities thereof and administrative-territorial units thereof, the Central Bank of that other Contracting State or any financial institution performing functions of a governmental nature, or by any resident of the other Contracting State with respect to debtclaims guaranteed or indirectly financed by the Government of that other Contracting State including local authorities thereof and administrative-territorial units thereof, the Central Bank of that other Contracting State or any financial institution performing functions of a governmental nature, shall be exempt from tax in the first-mentioned Contracting State;
b) interest paid in connection with the sale on credit of any industrial or scientific equipment, shall be taxable only in the Contracting State of which beneficiary is a resident.
4. For the purposes of paragraph 3, the terms “the Central Bank and financial institution performing functions of a governmental nature” mean:
a) in the case of Korea;
(i) the Bank of Korea;
(ii) the Korea Export-Import Bank;
(iii) the Korea Development Bank;
(iv) such other financial institution performing functions of a governmental nature as may be specified and agreed upon in letters exchanged between the competent authorities of the Contracting States;
b) in the case of Romania;
(i) the National Bank of Romania;
(ii) the Romanian Bank for Foreign Trade;
(iii) Eximbank;
(iv) the Romanian Bank for Development;
(v) such other financial institution performing functions of a governmental nature as may be specified and agreed upon in letters exchanged between the competent authorities of the Contracting States.
5. The term “interest” as used in this Article means income from debtclaims 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.
6. The provisions of paragraphs 1 to 4 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 in that other State 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 15, as the case may be shall apply.
7. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority, an administrative-territorial unit or a resident of that State. Where, however, 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 was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.
8. 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 is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12 Commission

1. Commission arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such commission 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 commission, the tax so charged shall not exceed 10 per cent of the gross amount of the commission.
3. The term “commission” as used in this Article means a payment made to a broker, a general commission agent or to any other person assimilated to a broker or agent by the taxation law of the Contracting State in which such payment arises.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the commission, being a resident of a Contracting State, has in the other Contracting State in which the commission arises, a permanent establishment or a fixed base with which the activity giving rise to the commission is effectively connected. In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.
5. Commission shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority, an administrative-territorial unit or a resident of that State. Where, however, the person paying the commission, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the activities for which the payment is made was incurred, and such commission is borne by such permanent establishment, then such commission shall be deemed to arise in the Contracting State in which the permanent establishment 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 commission, having regard to the activities for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13 Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed:
a) 7 per cent of the gross amount of the royalties for the use of or the right to use any patent, trade mark, design or model plan, secret formula or process, or for the use of, or the right to use industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience;
b) 10 per cent of the gross amount of the royalties in all other cases.
3. The term “royalties” as used in this Article means payments of any kind received as a consideration for the use of, or the right to use any copyright of literary, artistic or scientific work, including cinematograph films, and films or tapes for radio or television broadcasting, satellite or cable

transmission for broadcasting to the general public through any form of electronic media, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of 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 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 15, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority, an administrative-territorial unit or a resident of that State. Where, however, 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 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 Contracting State in which the permanent establishment or fixed base is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 14 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 may be taxed in that other State.
2. Gains from the alienation of movable property forming part of the business property 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 available to a resident of a Contracting State in the other Contracting State 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 State.
3. Gains from the alienation of ships, boats, aircraft, railway or road vehicles operated in international traffic or movable property pertaining to the operation of such means of transport shall be taxable only in the Contracting State where, pursuant to the provisions of Article 8, the profits from such activities are taxable.
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 Contracting State of the alienator is a resident.

Article 15 Independent Personal Services

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to the fixed base.
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 16 Dependent Personal Services

1. Subject to the provisions of Article 17, 19, 20, 21 and 22, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived there from may be taxed in that other State.
2. Notwithstanding the provisions of paragraphs 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

a) the recipient is present in the other State for a period or periods not 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.
3. Notwithstanding the preceding provisions of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship, boat, aircraft, railway or road vehicle operated in international traffic shall be taxable only in the Contracting State where, pursuant to provisions of Article 8, the profits from such in international traffic are taxable.

Article 17 Directors' Fees

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

Article 18 Artistes and Sportsmen

1. Notwithstanding the provisions of Article 15 and 16, income derived by a resident of a Contracting State 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 Contracting State, may be taxed in that other State.
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, 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.
3. Notwithstanding the provisions of paragraphs 1 and 2, the income derived from the activities performed within the framework of cultural exchanges established under cultural agreements concluded between the two Contracting States, shall be exempt from tax.

Article 19 Pensions

Subject to the provisions of paragraph 2 of Article 20, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 20 Government Service

1. a) Remuneration, other than a pension, paid by a Contracting State or a local authority thereof or an administrative-territorial unit thereof to an individual in respect of services rendered to that State or authority or unit 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 who:
(i) is a national of that State; or
(ii) did not become a resident of that State solely for the purpose of rendering the services.
2. a) Any pension paid by, or out of funds created by, a Contracting State or a local authority there of or an administrative-territorial unit thereof to an individual in respect of services rendered to that State or authority or unit 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 of, and a national of, that State.
3. The provisions of Articles 16, 17 and 19 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a local authority thereof or an administrative-territorial unit thereof.
4. The provisions of paragraphs 1 and 2 of this Article shall likewise apply in respect of remuneration or pensions paid by:
a) in the case of Korea:
the Bank of Korea, the Korea Export-Import Bank, the Korea Development Bank, the Korea Trade Promotion Corporation and other institutions performing functions of a governmental nature as may be specified and agreed upon in letters exchanged between the competent authorities of the Contracting States;
b) in the case of Romania:
the National Bank of Romania, the Romanian Bank for Foreign Trade, Eximbank, the Romanian Bank for Development, the Romanian Agency for Development and other institutions performing functions of a governmental nature as may be specified and agreed upon in letters exchanged between the competent authorities of the Contracting States.

Article 21 Students and Apprentices

1. Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State 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 State for a period not exceeding six years, provided that such payments arise from sources outside that State.
2. In respect of grants, scholarships and remuneration from employment not covered by paragraph 1, a student or business apprentice described in paragraph 1 shall, in addition, be entitled during such education or training to the same exemptions, reliefs or reductions in respect of taxes available to residents of the State which he is visiting.

Article 22 Teachers and Researchers

1. An individual who is or was a resident of a Contracting State immediately before making a visit to the other Contracting state and who, at the invitation of any university, college school or other similar educational institution, which is recognized as non-profitable by the Government of that other Contracting State, is present in that other Contracting State for a period not exceeding two years from the date of his first arrival in that other Contracting State, solely for the purpose of teaching or research or both at such educational institution shall be exempt from tax in that other Contracting State on his remuneration for such teaching or research.
2. The provisions of paragraph 1 of this Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

Article 23 Other Income

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.
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 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 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 15, as the case may be, shall apply.

Article 24 Taxation of Capital

1. Capital represented by immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.
2. Capital represented by movable property forming party of the business property of a permanent establishment of an enterprise or by movable property pertaining to a fixed base used for the performance of independent personal services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.
3. Ships, boats, aircraft, railway or road vehicles operated in international traffic, and movable property pertaining to the operation of such means of transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 25 Methods for the Elimination of Double Taxation

1. In the case of a resident of Korea, double taxation shall be avoided as follows:
Subject to the provisions of Korean tax law regarding the allowance as a credit against Korean tax of tax payable in any country other than Korea (Which shall not affect the general principle hereof), the Romanian tax payable (excluding, in the case of dividends, tax payable in respect of the profits out of which the dividends are paid) under the laws of Romania and in accordance with this Convention, whether directly or by deduction, in respect of income from sources within Romania shall be allowed as a credit against Korean tax payable in respect of that income. The credit shall not, however, exceed that proportion of Korean tax which the income from sources within Romania bears to the entire income subject to Korean tax.
2. In the case of a resident of Romania, double taxation shall be avoided as follows:
Taxes paid by a Romanian resident in respect of income or capital taxable in Korea in accordance with the provisions of this Convention, shall be deducted from Romanian taxes due according to the Romanian fiscal laws. Such deduction shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable to the income or the capital which may be taxed in Korea.

Article 26 Non-Discrimination

1. Nationals of a Contracting State shall not be subjected 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. The provisions shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
2. A Contracting State shall not adjust any assessment of a resident of the other Contracting State by including items of income already taxed in the other Contracting State after the expiry of the time limits provided for in its domestic law.
3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. The provisions of this Article shall not be construed as obligating a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
4. Except where the provisions of Article 9, paragraph 8 of Article 11, or paragraph 6 of Articles 12 and 13, apply, interest, commission, royalties, and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State 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 firstmentioned State.
5. Enterprise of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected there with 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. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 27 Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 26, to that of the Contracting State of which he is 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 Convention.
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 Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a commission consisting of representatives of the competent authorities of the Contracting States.

Article 28 Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information 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 shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention.

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 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 course of the administration 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 29 Diplomatic Agents and Consular Officers

Nothing in this Convention shall effect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

Article 30 Entry Into Force

This Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible. The Convention shall enter into force on the thirtieth day after the date of exchange of the instruments of ratification. In such event, this Convention shall have effect in both Contracting States:
a) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of January of the calendar year next following that in which the exchange of instruments of ratification takes place; and
b) in respect of other taxes for taxation years beginning on or after the first day of January of the calendar year next following that in which the exchange of instruments of ratification takes place.

Article 31 Termination

This Convention shall remain in force indefinitely but either of the Contracting States may, on or before the thirtieth day of June in any calendar year from the fifth year following that in which the Convention entered into force, give to the other Contracting State, through diplomatic channels, written notice of termination. In such event, this Convention shall cease to have effect in both Contracting States:
a) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of January of the calendar year next following that in which the notice is given; and
b) in respect of other taxes for taxation years beginning on or after the first day of January of the calendar year next following that in which the notice is given.
IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Convention.
DONE in duplicate at Seoul this 11th day of October of the year one thousand nine hundred and ninety-three in the Korean, Romanian and English languages, all texts being equally authentic. In case of any divergency of interpretation, the English text shall prevail.
FOR THE GOVERNMENT OF THE REPUBLIC OF KOREA
FOR THE GOVERNMENT OF ROMANIA