

Convention between
the Republic of Korea and the United Mexican States
for the Avoidance of Double Taxation and the Prevention
of Fiscal Evasion with Respect to Taxes on Income

Signed at Mexico City October 6, 1994

Entered into force February 11, 1995

The Government of the Republic of Korea and the Government of the United Mexican States,
Desiring to conclude a Convention for the avoidance of double taxation
and the prevention of fiscal evasion with respect to taxes on income, which shall hereafter be
referred to as the "Convention",

Have agreed as follows:

Article 1. **【Personal Scope】** [1995.02.11]

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

Article 2. **【Taxes Covered】** [1995.02.11]

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which the Convention shall apply are in particular:

a) in Korea:

)the income tax;

)the corporation tax; and

)the inhabitant tax,

(hereinafter referred to as "Korean tax");

b)in Mexico:

)the income tax (el impuesto sobre la renta); and

) IETU(Impuesto Empresarial a Unica): Business Flat Rate Tax (2008.1.1)

(hereinafter referred to as "Mexican 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】** [1995.02.11]

1. For the purposes of this Convention, unless the context otherwise requires:

a) the term "Korea" means the Republic of Korea; when used in a geographical sense, it 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 sub-soil and their natural resources may be exercised;

b) the term "Mexico" means the United Mexican States; when used in a geographical sense, it means Mexico as defined in the Federal Fiscal Code;

c) the terms "a Contracting State" and "the other Contracting State" mean Korea or Mexico, as the context requires;

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

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

f) 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;

g) 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;

h) the term "national" means:

)any individual possessing the nationality of a Contracting State;

)any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;

i)the term "competent authority" means:

-)in Korea, the Minister of Finance or his authorized representative;
-)in Mexico, the Ministry of Finance and Public Credit.

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. **【ResPermanent Establishmenident】** [1995.02.11]

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 or main office, place of management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.

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

b) if the 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 State, he shall be deemed to be a resident of the State in which he has an habitual abode;

c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;

d) in any other case, 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 State in which its place of effective management is situated.

Article 5. **【Permanent Establishment】** [1995.02.11]

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; and

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

3. The term "permanent establishment" shall also include a building site, a construction, assembly or installation project, or supervisory activities in connection therewith, but only if such building site, construction, project or activities last more than six months.

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

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

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

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

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

e) the maintenance of a fixed place of business solely for the purpose of advertising, supplying information, scientific research or for preparation in relation to the placement of loans, or for similar activities which have a preparatory or auxiliary character, for the enterprise;

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

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 7 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts 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. Notwithstanding the foregoing provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to reinsurance, be deemed to have a permanent establishment in the other Contracting State, if it collects premiums in the territory of that other State or insures risks situated therein through an agent other than an agent of an independent status to whom paragraph 7 applies.

7. 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.

8. 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】** [1995.02.11]

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 and aircraft shall not be regarded as immovable property.

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

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

personal services.

Article 7. **【Business Profits】** [1995.02.11]

1. The profits of an enterprise of a Contracting State shall be taxable only in that State, unless the enterprise carries or has carried on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries or has carried 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 or has carried 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. However, no such deduction shall be allowed in respect of such amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment.

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 those Articles shall not be affected by the provisions of this Article.

Article 8. **【Business Profits】** [1995.02.11]

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

2. Profits referred to in paragraph 1 shall not include profits from the provision of accommodation or transportation other than from the operation of ships or aircraft in international traffic.

3. Profits of an enterprise of a Contracting State from the use or rental of containers (including trailers, barges and related equipment for the transport of containers) used in international traffic shall be taxable only in that State.

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

Article 9. **【Associated Enterprises】** [1995.02.11]

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 reasons of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

Article 10. **【Dividends】** [1995.02.11]

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) 0 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 10 per cent of the capital of the company paying the dividends;

b) 15 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, "jouissance" shares or "jouissance" rights, 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 14, as the case may be, shall apply.

5. A Contracting State may not impose any tax on the dividends paid by a company which is not a resident of that State, except insofar as the dividends are paid to a resident of that 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 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 State.

Article 11. **【Interest】** [1995.02.11]

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:

a) 5 per cent of the gross amount of the interest in the case of banks;

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

3. Notwithstanding the provisions of paragraph 2, during a period of five years from the date on which the provisions of this Article have effect, the rate of 10 per cent shall apply instead of the rate provided in subparagraph a) of paragraph 2.

4. Notwithstanding the provisions of paragraph 2, interest referred to in paragraph 1 shall be taxable only in the Contracting State in which the beneficial owner is a resident if:

a) the beneficial owner is a Contracting State, a political subdivision, a local authority or the Central Bank of that State;

b) the interest is paid by any entity mentioned in subparagraph a);

c) the beneficial owner is a recognized pension or retirement fund, provided that its income is generally exempt from tax in that State;

d) the interest arises in Korea and is paid in respect of a loan for a period of not less than three years made, guaranteed or insured, or a credit for such period extended, guaranteed or insured, by Banco Nacional de Comercio Exterior, S.N.C., Nacional Financiera, S.N.C. or Banco Nacional de Obras y Servicios, S.N.C.; or

e) the interest arises in Mexico and is paid in respect of a loan for a period of not less than three years made, guaranteed or insured, or a credit for such period extended, guaranteed or insured, by the Korea Export-Import Bank or the Korea Development Bank.

5. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as all other income that is treated as income from money lent by the taxation law of the Contracting State in which the income arises.

6. 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 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 14, 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 political subdivision, a local authority 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, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the 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 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.

9. The provisions of this Article shall not apply if the competent authorities agree that the debt-claim in respect of which the interest is paid was created or assigned with the main purpose of taking advantage of this Article. In that case the provisions of the domestic law of the Contracting State, in which the interest arises, shall apply.

Article 12. **【Royalties】** [1995.02.11]

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 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 10 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use any copyright of literary, artistic or scientific work including cinematograph films, and films or tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience. The term "royalties" also includes gains derived from the alienation of any such right or property which are contingent on the productivity, use or disposition thereof.

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 14, 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 political subdivision, a local authority 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, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the 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.

7. The provisions of this Article shall not apply if the competent authorities agree that the rights, use or information in respect of which the royalties are paid were created or assigned with the main purpose of taking advantage of this Article. In that case, the provisions of the domestic law of the Contracting State, in which the royalties arise, shall apply.

Article 13. **【Capital Gains】** [1995.02.11]

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 shares or other rights of a company the assets of which consist principally, directly or indirectly, of immovable property situated in a Contracting State or any other right pertaining to such immovable property, may be taxed in that State. For the purposes of this paragraph, immovable property used by a company in its industrial, commercial or agricultural activities or in the conduct of professional services shall not be taken into account.

3. Gains from the alienation of shares that represent a participation of more than 25 per cent of the stock of a company resident of a Contracting State, may be taxed in that State.

4. 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.

5. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the enterprise is a resident.

6. Gains from the alienation of any property other than that referred to in Article 12 or in the preceding paragraphs of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14. **【Independent Personal Services】** [1995.02.11]

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. However, such income may also be taxed in the other Contracting State, if:

a) the resident, being an individual, is present in the other State for a period or periods exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; or

b) the resident has a fixed base regularly available to him in that other State for the purpose of performing its activities,
but only so much of the income as is attributable to services performed in that other State.

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

Article 15. **【Dependent Personal Services】** [1995.02.11]

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21, 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 therefrom may be taxed in that other State.

2. 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 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 any twelve month period commencing or ending in the fiscal year concerned, and

b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other 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 in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State, may be taxed in that State.

Article 16. **【Directors' Fees】** [1995.02.11]

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 or as a statutory auditor and, in the case of Mexico, in his capacity as an "administrador" or a "comisario" of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17. **【Artistes and Sportsmen】** [1995.02.11]

1. Notwithstanding the provisions of Articles 14 and 15, 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. Income referred to in this paragraph shall include income derived from any personal activities performed by such resident in the other Contracting State relating to his reputation as an entertainer or sportsman.

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

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, income derived by a resident of a Contracting State as an entertainer or sportsman shall be exempt from tax in the other Contracting State, if the visit to that other State is substantially supported by public funds of the first-mentioned State or a political subdivision or local authority thereof.

Article 18. **【Pensions】** [1995.02.11]

Subject to the provisions of paragraph 2 of Article 19, 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 19. **【Government Service】** [1995.02.11]

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 subdivision or 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 who:

) is a national of that State; or

) 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 political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or 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 of, and a national of, that State.

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

Banco de Mexico, Banco Nacional de Comercio Exterior, S.N.C., Nacional Financiera, S.N.C., or Banco Nacional de Obras y Servicios, S.N.C., 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 20. **【Students】** [1995.02.11]

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, provided that such payments arise from sources outside that State.

Article 21. **【Teachers and Researchers】** [1995.02.11]

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 State, visits that other State for a period not exceeding two years from the date of his first arrival in that other State, solely for the purpose of teaching or research or both at such educational institution, shall be exempt from tax in that other State on his remuneration for such teaching or research.

Article 22. **【Other Income】** [1995.02.11]

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention may be taxed 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 14, as the case may be, shall apply.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention and having their sources in the other Contracting State may also be taxed in that other State, but the tax so charged shall not exceed 15 per cent of the gross amount of such income.

Article 23. **【Elimination of Double Taxation】** [1995.02.11]

1. In the case 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 Mexican tax

payable (excluding in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) under the laws of Mexico and in accordance with this Convention, whether directly or by deduction, in respect of income from sources within Mexico, 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 Mexico bears to the entire income subject to Korean tax.

2. For the purpose of paragraph 1, if Mexico does not impose a tax on dividends paid by companies resident of Mexico or exempts those dividends from tax, a tax of 15 per cent in respect of such dividends shall be deemed to have been paid in Mexico.

3. In accordance with the provisions and subject to the limitations of the laws of Mexico (as may be amended from time to time without changing the general principle hereof), Mexico shall allow its residents as a credit against the Mexican income tax:

a) the income tax paid to Korea by or on behalf of such resident; and

b) in the case of a company owning at least 10 per cent of the voting stock of a company which is a resident of Korea and from which the first-mentioned company receives dividends, the income tax paid to Korea by or on behalf of the distributing company with respect to the profits out of which the dividends are paid.

4. The Mexican asset tax shall be considered as an income tax for the purposes of this Article.

Article 24. **【Non-Discrimination】** [1995.02.11]

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, in particular with respect to residence, are or may be subjected.

This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. 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. This provision shall not be construed as obliging 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.

3. Except where the provisions of Article 9, paragraph 8 of Article 11, or paragraph 6 of Article

12, apply, interest, 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 first-mentioned State.

4. Enterprises 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 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.

5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description

Article 25. **【Mutual Agreement Procedure】** [1995.02.11]

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 24, to that of the Contracting State of which he is a national.

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, provided that the competent authority of the other Contracting State is notified of the case within four and a half years from the due date or the date of filing the return in that other State, whichever is later. In such case, any agreement reached shall be implemented within ten years from the due date or the date of filing the return in that other State, whichever is later, or a longer period if permitted under the domestic law of that other State.

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 regarding 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 26. **【Exchange of Information】** [1995.02.11]

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 imposed on behalf of that State. Such persons or authorities shall use the information only for tax 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 to:

a) carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

b) 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) 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 27. **【Diplomatic Agents and Consular Officers】** [1995.02.11]

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

Article 28. **【Entry into Force】** [1995.02.11]

1. The Contracting States shall notify each other in writing, through diplomatic channels, that the procedures required by its legislation for the entry into force of this Convention have been satisfied. The Convention shall enter into force on the thirtieth day after the date of receipt of the last notification.

2. The Convention shall have effect:

a) in respect of taxes withheld at the source, on or after the first day of January in the year following that in which this Convention enters into force; and

b) in respect of other taxes, for the taxable year beginning on or after the first day of January in the year following that in which this Convention enters into force.

Article 29. **【Termination】** [1995.02.11]

1. This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the expiration of a period of five years from the date of its entry into force.

2. The Convention shall cease to have effect:

a) in respect of taxes withheld at the source on or after the first day of January in the year following that in which the notice of termination is given; and

b) in respect of other taxes, for the taxable year beginning on or after the first day of January in the year following that in which the notice of termination is given.

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

DONE in duplicate at Mexico City this 6th day of October, 1994, in the Korean, Spanish and English languages, all texts being equally authentic. In case of any divergency of interpretation or application, the English text shall prevail.

FOR THE GOVERNMENT OF THE REPUBLIC OF KOREA

FOR THE GOVERNMENT OF THE UNITED MEXICAN STATES

/Sgd./ /Sgd./

Lee Sang-jin Manuel Tello

[1995.02.11]

PROTOCOL

At the moment of signing the Convention for the avoidance of double taxation and the prevention of fiscal evasion with

respect to taxes on income, this day concluded between the Republic of Korea and the United Mexican States, the undersigned have agreed that the following provisions shall form an integral

part of the Convention.

1. With reference to paragraph 7 of Article 5.

It is understood that the term "ordinary course of their business" shall be interpreted according with the criteria established under paragraphs 37 and 38 of the commentary on Article 5 of the Model Tax Convention on Income and on Capital of the Organization for Economic Cooperation and Development, as of 1st September, 1992.

2. With reference to paragraph 1 of Article 7.

Where an enterprise of a Contracting State sells goods or merchandise of the same or substantially similar kind as the goods or merchandise sold through its permanent establishment in the other Contracting State, the profits of the enterprise attributable to such sales may be taxed in that other State. However, the profits derived from such sales shall not be taxable in that other State, if such sales have been carried out for reasons other than obtaining a benefit under this Convention.

3. With reference to Article 12.

For the purpose of determining the asset tax liability in Mexico of a resident of Korea, Mexico shall grant a credit against the tax on the assets referred to in paragraph 3 of Article 12 that are furnished by a resident of Korea to a resident of Mexico, in an amount equal to the income tax that would have been imposed on the royalties paid (if any) applying the rate of tax provided in the Mexican Income Tax Law instead of the rate provided in Article 12.

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

DONE in duplicate at Mexico City this 6th day of October, 1994 in the Korean, Spanish and English languages, all texts being equally authentic. In case of any divergency of interpretation or application, the English text shall prevail.

FOR THE GOVERNMENT OF THE REPUBLIC OF KOREA
FOR THE GOVERNMENT OF THE UNITED MEXICAN STATES

/Sgd./ /Sgd./
Lee Sang-jin Manuel Tello
