

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

Signed at Seoul 20 May, 2002
Entered into force 16 June, 2003

The Government of the Republic of Korea and the Government of the Republic of Belarus,
Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal
evasion with respect to taxes on income,

Have agreed as follows :

Article 1. **【PERSONS COVERED】** [2003.06.17]

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

Article 2. **【TAXES COVERED】** [2003.06.17]

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of
its 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.

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

a) in Korea:

- () the income tax;
- () the corporation tax;
- () the special tax for rural development; and
- () the inhabitant tax;

(hereinafter referred to as "Korean taxes");

b) in Belarus:

- () the tax on income and profits;
- () the income tax on individuals; and
- () the tax on immovable property;

(hereinafter referred to as "Belarusian taxes").

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】** [2003.06.17]

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

a) the term "Korea" means the Republic of Korea and, when used in a geographical sense, means the territory of the Republic of Korea including its territorial sea, and 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 or jurisdiction of the Republic of Korea with respect to the waters, the sea-bed and sub-soil, and their natural resources may be exercised;

b) the term "Belarus" means the Republic of Belarus and, when used in a geographical sense, means the territory over which the Republic of Belarus exercises under the laws of Belarus and in accordance with international law sovereign rights and jurisdiction;

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

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

i) 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;

j) the term "competent authority" means:

() in Korea, the Minister of Finance and Economy or his authorized representative;

() in Belarus, the Ministry of Taxes and Duties or its authorized representative.

2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has at that

time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4. **【RESIDENT】** [2003.06.17]

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 registration, place of head or main office, place of management or any other criterion of a similar nature, and also includes that State and any local authority thereof. This term, however, 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 only 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 only 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 only 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 only of the State of which he is a national;

d) if each State treats him as its national under its law or if he is a national 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 only of the State in which its place of effective management is situated. In case of doubts, the competent authorities of the Contracting States shall settle the question by mutual agreement.

Article 5. **【PERMANENT ESTABLISHMENT】** [2003.06.17]

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

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts 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 maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

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

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

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person-other than an agent of an independent status to whom paragraph 6 applies-is acting on behalf of an enterprise and has, and habitually exercises, in a 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. 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】** [2003.06.17]

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. Ships and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7. **【BUSINESS PROFITS】** [2003.06.17]

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. 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.
5. 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.

6. 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. **【SHIPPING AND AIR TRANSPORT】** [2003.06.17]

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. 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】** [2003.06.17]

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 if necessary consult each other.

Article 10. **【DIVIDENDS】** [2003.06.17]

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 beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:

a) 5 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) 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 or other rights, not being debt-claims, participating in profits, as well as income from other 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. 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】** [2003.06.17]

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 beneficial owner of the interest is a resident of the other Contracting State, 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, the Central Bank of that other State or any financial institution performing functions of a governmental nature or by any resident of the other Contracting State with respect to a debt-claim guaranteed or indirectly financed by the Government of that other State including local authorities thereof, the Central Bank of that other 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, commercial 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:

() the Bank of Korea;

() the Korea Export-Import Bank;

() the Korea Development Bank; and

() 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 Belarus:

() the National Bank of the Republic of Belarus.

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. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

6. The provisions of paragraphs 1 and 2 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 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

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.

Article 12. **【ROYALTIES】** [2003.06.17]

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 beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 5 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, 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 transport vehicles, 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 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is 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 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 13. **【CAPITAL GAINS】** [2003.06.17]

(GAINS FROM THE ALIENATION OF PROPERTY)

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 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 of which the enterprise is a resident.

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 which the alienator is a resident.

Article 14. **【INDEPENDENT PERSONAL SERVICES】** [2003.06.17]

1. Income derived by an individual who is 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 activities exercised from that 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 15. **【DEPENDENT PERSONAL SERVICES】** [2003.06.17]

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21, salaries, wages and other similar remuneration derived by an individual who is 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 an individual who is 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;

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 shall be taxable only in that State.

Article 16. **【DIRECTORS' FEES】** [2003.06.17]

Directors' fees and other similar payments derived by an individual who is 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 17. **【ARTISTES AND SPORTSMEN】** [2003.06.17]

1. Notwithstanding the provisions of Articles 14 and 15, income derived by an individual who is 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, 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 entertainers or sportsmen who are residents of a Contracting State from the activities exercised in the other Contracting State under a special programme of cultural exchange agreed upon between the governments of both Contracting States, shall be exempt from tax in that other State.

Article 18. **【PENSIONS】** [2003.06.17]

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

2. Notwithstanding the provisions of paragraph 1, payments received by an individual being a resident of a Contracting State under the social security legislation of the other Contracting State shall be taxable only in that other State.

Article 19. **【GOVERNMENT SERVICE】** [2003.06.17]

1. a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a local authority thereof to an individual in respect of services rendered to that State or authority shall be taxable only in that State.

b) However, such salaries, wages and other similar 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 local authority thereof to an individual in respect of services rendered to that State 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, 17 and 18 shall apply to salaries, wages and other similar remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a local authority thereof.

4. The provisions of paragraphs 1 and 2 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 Export

Insurance Corporation, the Korea Trade-Investment Promotion Agency and other government-owned institutions performing functions of a governmental nature.

b) in the case of Belarus:

the National Bank of the Republic of Belarus.

Article 20. **【STUDENTS】** [2003.06.17]

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. **【PROFESSORS AND TEACHERS】** [2003.06.17]

An individual who is or was a resident of a Contracting State immediately before making a visit to the other Contracting State, 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】** [2003.06.17]

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 14, as the case may be, shall apply.

Article 23. **【ELIMINATION OF DOUBLE TAXATION】** [2003.06.17]

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 Belarusian tax payable (excluding, in the case of dividends, tax payable in respect of

profits out of which the dividends are paid) under the laws of Belarus and in accordance with this Convention, whether directly or by deduction, in respect of income from sources within Belarus 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 Belarus bears to the entire income subject to Korean tax.

2. In the case of Belarus, double taxation shall be eliminated as follows:

Where a resident of Belarus derives income (profits) or owns property which, in accordance with the provisions of this Convention, may be taxed in Korea, Belarus shall allow:

a) as a deduction from the tax on the income (profits) of that resident, an amount equal to the income(profits) tax paid in Korea;

b) as a deduction from the tax on the immovable property of that resident, an amount equal to the tax on immovable property paid in Korea.

Such deduction in either case shall not, however, exceed that part of the income (profits) tax or property tax, as computed before the deduction is given, which is attributable, as the case may be, to the income (profits) or the property which may be taxed in Korea.

Article 24. **【NON-DISCRIMINATION】** [2003.06.17]

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 paragraph 1 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】** [2003.06.17]

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. 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. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

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 26. **【EXCHANGE OF INFORMATION】** [2003.06.17]

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) concerned with 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.

Article 27. 【MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS】 [2003.06.17]

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

Article 28. 【ENTRY INTO FORCE】 [2003.06.17]

This Convention shall enter into force on the fifteenth day after the later of the dates on which each Contracting State notifies the other Contracting State that all the necessary domestic procedures have been complied with, and shall thereupon have effect:

- a) in Korea:
 - () in respect of taxes withheld at source on or after the first day of January in the calendar year following that in which this Convention enters into force;
 - () in respect of other taxes for the taxable year beginning on or after the first day of January in the calendar year following that in which this Convention enters into force.
 - b) in Belarus:
 - () in respect of taxes withheld at source, on income derived on or after the first day of January in the calendar year following the year in which the Convention enters into force;
 - () in respect of other taxes, for taxes chargeable for any tax period beginning on or after the first day of January in the calendar year following the year in which the Convention enters into force.
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Article 29. 【TERMINATION】 [2003.06.17]

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

In such event, the Convention shall cease to have effect:

a) in Korea:

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

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

b) in Belarus:

() in respect of taxes withheld at source, on income derived on or after the first day of January in the calendar year following the year in which the notice is given;

() in respect of other taxes, for taxes chargeable for any tax period beginning on or after the first day of January in the calendar year following the year 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 20th day of May 2002 in the Korean, Belarusian and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF FOR THE GOVERNMENT OF
THE REPUBLIC OF KOREA THE REPUBLIC OF BELARUS

[2003.06.17]

PROTOCOL

At the moment of signing the Convention between the Government of the Republic of Korea and the Government of the Republic of Belarus for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, the undersigned have agreed that the following provisions shall form an integral part of the Convention:

1. Ad Article 3:

It is understood that, in the case of Belarus, the term "company" means any legal person or any entity which is treated as a separate entity for tax purposes, such as joint stock companies, limited liability companies and additional liability companies.

2. Ad Article 4:

It is understood that when establishing the "place of effective management" as used in paragraph 3 of Article 4, circumstances which may, inter-alia, be taken into account are the place where a company is actually managed and controlled, the place where the decision making at the highest level on important policies essential for the management of a company takes place and the place that plays a leading part in the management of a company from an economic and functional point of view.

3. Ad Article 8:

It is understood that, in respect of operation of ships or aircraft in international traffic, an enterprise which is a resident of a contracting State shall be exempt from the value added tax in the other Contracting State.

4. Ad Article 14:

It is understood that the term "fixed base" means a fixed place such as an office or a room through which the activity of an individual performing independent personal services is wholly or partly carried on.

In witness whereof, the undersigned, being duly authorised thereto by their respective Government, have signed the present Protocol.

Done in duplicate at Seoul this 20th day of May 2002 in the Korean, Belarusian and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF THE REPUBLIC OF KOREA
FOR THE GOVERNMENT OF THE REPUBLIC OF BELARUS
