

**Convention between
the Government of the Republic of Korea and
the Government of the Grand Duchy of Luxembourg
for the Avoidance of Double Taxation and the Prevention of Fiscal
Evasion with respect to Taxes on Income and on Capital**

Signed at Luxembourg November 7, 1984

Entered into force December 26, 1986

The Government of the Republic of Korea and the Government of the Grand Duchy of Luxembourg,

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. 【Personal Scope】

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

Article 2. 【Taxes Covered】

1. The taxes to which this Convention shall apply are:

- (a) In the case of Korea:
 - (i) the income tax;

- (ii) the corporation tax; and
 - (iii) the inhabitant tax
- (hereinafter referred to as "Korean Tax").]

(b) In the case of Luxembourg:

- (i) the income tax on individuals;
 - (ii) the corporation tax;
 - (iii) the tax on fees of directors of companies; and
 - (iv) the capital tax
- (hereinafter referred to as "Luxembourg tax").]

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

Article 3. **【General Definitions】**

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

- (a) the term "Korea" means the territory of the Republic of Korea including any area adjacent to the territorial sea of the Republic of Korea which, in accordance with international law, has been or may hereafter be designated under the laws of the Republic of Korea as an area within which the sovereign rights of the Republic of Korea with respect to the sea-bed and sub-soil and their natural resources may be exercised;
- (b) the term "Luxembourg" means the territory of the Grand Duchy of Luxembourg;
- (c) the terms "a Contracting State" and "the other Contracting State" mean Korea or Luxembourg, as the context requires;
- (d) the term "tax" means Korean tax or Luxembourg 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 "national" means:
 - (i) all individuals possessing the nationality of a Contracting State;
 - (ii) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State;
 - (i) the term "international traffic" means any transport by a ship 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;
 - (j) the term "competent authority" means:
 - (i) in the case of Korea, the Minister of Finance or his authorized representative, and
 - (ii) in the case of Luxembourg, the Minister of Finance or his authorized representative.
2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

Article 4. **【Resident】**

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of head 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 or capital situated therein.

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 center 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) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the 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】**

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" include 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" likewise includes:
 - (a) A building site or construction or assembly or installation project if it lasts more than twelve months;
 - (b) Supervisory activities in connection with a building site or constructing or assembly or installation project, where such activity continues for a period of 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 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】**

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 and aircraft

shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7. **【Business Profits】**

1. The profits of an enterprise of a 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. 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】**

1. Profits of an enterprise of 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 derived from the participation in a pool, a joint business or an international operating agency.

Article 9. **【Associated Enterprises】**

Where

- (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State; or
- (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.

Article 10. **【Dividends】**

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:
 - (a) 10 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, "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 of fixed base. In such case the provisions of Article 7 or Article 13, as the case may be, shall apply.
5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except

insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11. **【Interest】**

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 percent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2,
 - (a) Interest arising in a Contracting State and received by the Government of the other Contracting State including a political subdivision or a local authority thereof or the central bank of that other Contracting State shall be taxable only in that other Contracting State.
 - (b) Interest arising in a Contracting State in respect of loans or credits made or guaranteed,
 - in the case of Korea, by the Export Import Bank of Korea;
 - in the case of Luxembourg, by the Societe Nationale de Credit et d'Investissement;and paid to a resident of the other Contracting State shall be taxable only in that other State.
4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities,

bonds or debentures.

5. 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 13, as the case may be, shall apply.
6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. 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.
7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12. **【Royalties】**

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed:
 - (a) 10 per cent of the gross amount of such royalties which are paid for the use of, or the right to use industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience; and
 - (b) 15 per cent of the gross amount of such royalties in all other cases.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 13, 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

or a permanent establishment or 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. **【Independent Personal Services】**

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State. However, in the following circumstances such income may be taxed in the other Contracting State:
 - (a) if he has such a fixed base regularly available to him in the other Contracting State for the purposes of performing his activities
 - (b) if his stay in the other State is for a period or periods amounting to or exceeding in the aggregate 183 days within any 12 month period.
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 14. **【Dependent Personal Services】**

1. Subject to the provisions of Articles 15, 17, 18, 19 and 20, 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 within any 12 month period; and
 - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
 - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft operated in international traffic shall be taxable only in that State.

Article 15. **【Dependent Personal Services】**

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

Article 16. **【Artistes and Athletes】**

1. Notwithstanding the provisions of Articles 13 and 14, 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 an athlete, 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 an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 13 and 14, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.
3. Notwithstanding the provisions of paragraph 1, income derived by an entertainer or an athlete from his personal activities as such in a Contracting State shall be taxable only in the other Contracting State if his visit to the first-mentioned State is supported substantially from the public funds of that other State or of one of its political subdivisions or local authorities.
4. Notwithstanding the provisions of paragraph 2, where income in respect of personal activities as such of an entertainer or an athlete in a Contracting State accrues not to that entertainer or athlete himself but to another person, that income shall be taxable only in the other Contracting State if this person is supported substantially from the public funds of that other State or of one of its political subdivisions or local authorities, or if this person is a non-profit organization of that other State.

Article 17. **【Pensions】**

1. Subject to the provisions of paragraph 2 of Article 18, 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.
2. Notwithstanding the provisions of paragraph 1, pensions and other payments made under the compulsory social security legislation of a Contracting State shall be taxable only in that State.

Article 18. **【Government Service】**

1. (a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or 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:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2. (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or 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 14, 15 and 17 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, in the case of Korea, by the Bank of Korea, the Export-Import Bank of Korea, the Korea Exchange Bank, the Korea Trade Promotion Corporation and other government owned institution performing functions of a governmental nature.

Article 19. **【Students and Apprentices】**

An individual 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 as a student at a recognized university, college, school or other similar recognized educational institution in the first-mentioned State or as a business or technical apprentice therein, for a

period not exceeding five consecutive years from the date of his first arrival in the first-mentioned State in connection with that visit, shall be exempt from tax in that first-mentioned State on :

- (a) all remittances from abroad for the purposes of his maintenance, education or training; and
- (b) any remuneration for personal services rendered in the first- mentioned State, provided that the remuneration constitutes earning necessary for his maintenance.

Article 20. **【Teachers】**

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

Article 21. **【Other Income】**

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State , carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case

the provisions of Article 7 or Article 13, as the case may be, shall apply.

Article 22. 【Capital】

1. Capital represented by immovable property as defined in paragraph 2 of Article 6 may be taxed in the Contracting State in which such property is situated.
2. Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise or by movable property pertaining to a fixed base available for the purpose of performing independent personal services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.
3. Ships and aircraft operated in international traffic by an enterprise of a Contracting State and movable property pertaining to the operation of such ships and aircraft, shall be taxable only in that Contracting State.

Article 23. 【Relief from Double Taxation】

1. In the case of a resident of Korea, double taxation shall be avoided as follows:

Subject to the provisions of Korean tax law regarding the allowance as a credit against Korean tax of tax payable in any country other than Korea (which shall not affect the general principle hereof), the Luxembourg 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 Luxembourg and in accordance with this Convention, whether directly or by deduction, in respect of income from sources within Luxembourg 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 Luxembourg bears to the entire income subject to

Korean tax. For the purpose of this paragraph the term "Luxembourg tax" shall not include the capital tax.

2. In the case of Luxembourg, double taxation shall be avoided as follows:

- (a) Where a resident of Luxembourg derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Korea, Luxembourg shall, subject to the provisions of sub-paragraphs (b), (c), (d) and (e), exempt such income or capital from tax.
- (b) Where a resident of Luxembourg derives items of income which, in accordance with the provisions of Articles 10, 11 and 12 may be taxed in Korea, Luxembourg shall allow as a credit against the tax on the income of that resident an amount equal to the tax paid in Korea. Such credit shall not, however exceed that part of the tax, as computed before the credit is given, which is attributable to such items of income derived from Korea.
- (c) Where a company which is a resident of Luxembourg derives dividends from Korean sources, Luxembourg shall exempt such dividends from tax, provided that the company which is a resident of Luxembourg holds directly at least 25 per cent of the capital of the company paying the dividends.
- (d) Where in accordance with any provision of the Convention income derived or capital owned by a resident of Luxembourg is exempt from tax in Korea, Luxembourg may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.
- (e) For the purposes of subparagraph (b) of paragraph 2, the term "tax paid in Korea" shall be deemed to include the amount of Korean tax which would have been payable in accordance with Korean tax laws but for the exemption or reduction of Korean tax in accordance with the Korean laws relating to incentives for the promotion of economic development in Korea which were in force on the date of signature of this Convention or any other provisions which may subsequently be introduced in Korea in modification of, or in addition to, those laws so far as they are agreed by the competent authorities of the Contracting State to be of a substantially similar character: Provided that the amount of the tax referred to in this paragraph shall not, however, exceed:
 - (i) in the case of dividends and royalties an amount of 20 per cent of the gross amount of such dividends and royalties;

(ii) in the case of interest an amount of 15 per cent of the gross amount of such interest.

The provisions of subparagraph (b) of paragraph 2 shall apply accordingly.

Article 24. [Non-Discrimination]

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. 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 favorably 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 7 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. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted 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】**

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 endeavor, 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 endeavor to

resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purposes 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】**

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceeding 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 (order public).

Article 27. [Diplomatic Agents and Consular Officers]

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. [Exclusion of Certain Companies]

This Convention shall not apply to holding companies (societies holding) within the meaning of special Luxembourg laws, currently the Act (loi) of 31 July 1929 and the Decree (arrete grand-ducal) of 17 December 1938 or any similar law enacted by Luxembourg after the signature of the Convention. Neither shall it apply to income derived from such holding companies by a resident of Korea nor to shares or other rights in such companies owned by such a person.

Article 29. [Entry into Force]

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at as soon as possible.

The Convention shall enter into force thirty days after the date of the exchange of instruments of ratification.

2. The Convention shall have effect:

- (a) in respect of tax withheld at the source on amounts paid or credited on or after the first day of January of the year in which the Convention is signed; and
- (b) in respect of other taxes for taxation years beginning on or after the first day of January of the year in which the Convention is signed.

Article 30. **【Termination】**

This Convention shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Convention, through diplomatic channels, by giving 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 respect of tax withheld at the source on amounts paid or credited on or after the first day of January in the calendar year next following that in which the notice is given; and
- (b) in respect of other taxes for taxation years beginning on or after the first day of January in the calendar year next following that in which the notice is given.

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

Done at Luxembourg this seventh day of November 1984, in two original copies in the English language

FOR THE GOVERNMENT OF
THE REPUBLIC OF KOREA

FOR THE GOVERNMENT OF
THE GRAND DUCHY OF LUXEMBOURG

[1986.12.26]

PROTOCOL

At the moment of signing the Convention between the Government of the Republic of Korea and the Government of the Grand Duchy of Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, the undersigned have agreed that the following provisions shall form an integral part of the Convention.

1. In respect of article 2, it is understood that the Convention shall also apply to the Korean defense tax where charged by reference to the income tax or the corporation tax.
2. In respect of Article 7, this convention shall not apply to profits of an enterprise from carrying on a business of any form of insurance.
3. Notwithstanding the provisions of Article 21, this convention shall not apply to a tax on gains from the alienation of any property.
4. In respect of paragraph 1 of Article 23, if subsequently to the signature of the Convention Korea introduces a tax equivalent to the capital tax of Luxembourg, it is understood that the term "Luxembourg tax" referred to in that paragraph of Article 23 shall include the capital tax.

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

Done at Luxembourg this Seventh day of November 1984, in two origination in the English language.

FOR THE GOVERNMENT OF
THE REPUBLIC OF KOREA

FOR THE GOVERNMENT OF
THE GRAND DUCHY OF LUXEMBOURG

**PROTOCOL AMENDING THE CONVENTION
BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KOREA AND
THE GOVERNMENT OF THE GRAND DUCHY OF LUXEMBOURG
FOR THE AVOIDANCE OF DOUBLE TAXATION AND
THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES
ON INCOME AND ON CAPITAL
SIGNED AT LUXEMBOURG ON 7 NOVEMBER 1984**

Signed at Seoul May 29, 2012

Entered into force September 4, 2013

The Government of the Republic of Korea and the Government of the Grand Duchy of Luxembourg (hereinafter referred to as "the Contracting States"),

Desiring to conclude a Protocol amending the Convention between the Government of the Republic of Korea and the Government of the Grand Duchy of Luxembourg for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital signed at Luxembourg on 7 November 1984 (hereinafter referred to as "the Convention"),

Have agreed as follows:

ARTICLE I

Sub-paragraphs 1. a) and b) of Article 2 (TAXES COVERED) of the Convention shall be deleted and replaced by the following:

- "a) in the case of Korea:
 - (i) the income tax;
 - (ii) the corporation tax;
 - (iii) the special tax for rural development; and
 - (iv) the local income tax;(hereinafter referred to as "Korean tax");
- b) in the case of Luxembourg:
 - (i) the income tax on individuals;
 - (ii) the corporation tax;

- (iii) the communal trade tax; and
 - (iv) the capital tax;
- (hereinafter referred to as "Luxembourg tax")."

ARTICLE II

1. Sub-paragraph 1. a) of Article 3 (GENERAL DEFINITIONS) of the Convention shall be deleted and replaced by the following:

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

2. Sub-subparagraph 1. j) (i) of Article 3 (GENERAL DEFINITIONS) of the Convention shall be deleted and replaced by the following:

"(i) in the case of Korea, the Minister of Strategy and Finance or his authorised representative, and"

ARTICLE III

The existing paragraph of Article 9 (ASSOCIATED ENTERPRISES) of the Convention shall be numbered as paragraph 1 and the following new paragraph 2 shall be added:

"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 IV

Sub-paragraph 2. a) of Article 10 (DIVIDENDS) of the Convention shall be deleted and replaced by the following:

"a) 10 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;"

ARTICLE V

Paragraph 2 of Article 11 (INTEREST) of the Convention shall be deleted and replaced by the following:

"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 if the interest is paid to a bank;
- b) 10 per cent of the gross amount of the interest in other cases."

ARTICLE VI

Sub-paragraphs 2. a) and b) of Article 12 (ROYALTIES) of the Convention shall be deleted and replaced by the following:

- "a) 5 per cent of the gross amount of such royalties which are paid for the use of, or the right to use industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience;
- b) 10 per cent of the gross amount of such royalties in all other cases."

ARTICLE VII

Article 17 (PENSIONS) of the Convention shall be deleted and replaced by the following:

"Article 17 PENSIONS

1. Pensions and other similar payments or annuities paid to a resident of a Contracting State shall be taxed only in the Contracting State in which they originate.
2. The term "annuities" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make payments in return for adequate and full consideration in money or money's worth."

ARTICLE VIII

Article 18 (GOVERNMENT SERVICE) of the Convention shall be deleted and replaced by the following:

"Article 18 GOVERNMENT SERVICE

1. a) Salaries, wages and other similar 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 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:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2. The provisions of Articles 14, 15 and 16 shall apply to salaries, wages and other similar remuneration 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.

3. The provisions of paragraphs 1 and 2 of this Article shall likewise apply in respect of salaries, wages and other similar remuneration paid, in the case of Korea, by the Bank of Korea, the Korea Export-Import Bank, the Korea Trade-Investment Promotion Agency, the Korea Trade Insurance Corporation, the Korea Investment Corporation, the Korea Finance 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."

ARTICLE IX

1. Paragraph 1 of Article 23 (RELIEF FROM DOUBLE TAXATION) of the Convention shall be deleted and replaced by the following:

"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 credit against Korean tax of tax payable in any country other than Korea (which shall not affect the general principle thereof);

- a) Where a resident of Korea derives income from Luxembourg which may be taxed in Luxembourg under the laws of Luxembourg in accordance with the provisions of this Convention, in respect of that income, the amount of Luxembourg tax payable shall be allowed as a credit against the Korean tax payable imposed on that resident. The amount of credit shall not, however, exceed that part of Korean tax as computed before the credit is given, which is appropriate to that income;
- b) Where the income derived from Luxembourg is dividends paid by a company which is a resident of Luxembourg to a company which is a resident of Korea which owns at least 10 per cent of the voting shares issued by or capital stock of the company paying the dividends, the credit shall take into account the Luxembourg tax payable by the company in respect of the profits out of which such dividends are paid."

2. In sub-paragraph 2. c) of Article 23 (RELIEF FROM DOUBLE

TAXATION) of the Convention, "25 per cent" shall be deleted and replaced by "10 per cent".

3. Sub-paragraph 2. e) of Article 23 (RELIEF FROM DOUBLE TAXATION) of the Convention shall be deleted.

ARTICLE X

Article 26 (EXCHANGE OF INFORMATION) of the Convention shall be deleted and replaced by the following:

"Article 26 EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.
2. Any information received under paragraph 1 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, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. 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.
3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:
 - a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
 - b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the

other Contracting State;

- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information upon request solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person."

ARTICLE XI

1. Article 28 (EXCLUSION OF CERTAIN COMPANIES) of the Convention shall be deleted.

2. Article 29 (ENTRY INTO FORCE) and Article 30 (TERMINATION) shall be renumbered as Article 28 (ENTRY INTO FORCE) and Article 29 (TERMINATION).

ARTICLE XII

Nothing in the Convention shall be construed as restricting, in any manner, the application of any provisions of the laws of a Contracting State which are designed to prevent the avoidance or evasion of taxes.

ARTICLE XIII

1. The Contracting States shall notify each other of the completion of the procedures required by their respective law for the entry into force of this Protocol as soon as possible.
2. This Protocol shall enter into force on the date of receipt of the latter of the notifications referred to in paragraph 1 of this Article.
3. This Protocol shall be applicable for taxes levied on or after the date on which the Protocol enters into force.

ARTICLE XIV

This Protocol, which shall form an integral part of the Convention, shall remain in force as long as the Convention remains in force and shall apply as long as the Convention itself is applicable.

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

DONE in duplicate at Seoul, on this 29th day of May 2012, in the English language.

FOR THE GOVERNMENT OF
THE REPUBLIC OF KOREA

FOR THE GOVERNMENT OF
THE GRAND DUCHY OF LUXEMBOURG

(Luxembourgian Proposing Note)

Seoul, May 29, 2012

Excellency,

I have the honor to refer to the Convention between the Government of the Republic of Korea and the Government of the Grand Duchy of Luxembourg for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital, signed at Luxembourg on 7 November 1984, as amended by the Protocol signed today (hereinafter referred to as "the Convention") and to propose on behalf of the Government of the Grand Duchy of Luxembourg the following understandings:

1. It is understood that the competent authority of the requested State shall provide upon request by the competent authority of the requesting State information for the purposes referred to in Article 26.
2. The competent authority of the applicant State shall provide the following information to the competent authority of the requested State when making a request for information under the Convention to demonstrate the foreseeable relevance of the information to the request:
 - a) the identity of the person under examination or investigation;
 - b) a statement of the information sought including its nature and the form in which the applicant State wishes to receive the information from the requested State;
 - c) the tax purpose for which the information is sought;
 - d) the grounds for believing that the information requested is held in the requested State or is in the possession or control of a person within the jurisdiction of the requested State;
 - e) to the extent known, the name and address of any person believed to be in possession of the requested information;
 - f) a statement that the applicant State has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

If the foregoing understandings meet with the approval of the Government of the Republic of Korea, I have the further honor to propose that this Note and your affirmative Note in reply shall constitute an agreement between our two Governments which shall become an integral part of the Convention on the date of entry into force of the Protocol.

Paul Steinmetz
Ambassador Extraordinary and Plenipotentiary

His Excellency
Ahn Ho-young
Vice Minister of Foreign Affairs and Trade
of the Republic of Korea

(Korean Note in Reply)

Seoul, May 29, 2012

Excellency,

I have the honor to acknowledge the receipt of your Excellency's Note dated May 29, 2012 with regard Article 26 of the Convention between the Government of the Republic of Korea and the Government of the Grand Duchy of Luxembourg for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital, signed at Luxembourg on 7 November 1984, as amended by the Protocol signed today (hereinafter referred to as "the Convention").

"I have the honor to refer to the Convention between the Government of the Republic of Korea and the Government of the Grand Duchy of Luxembourg for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital, signed at Luxembourg on 7 November 1984, as amended by the Protocol signed today (hereinafter referred to as "the Convention") and to propose on behalf of the Government of the Grand Duchy of Luxembourg the following understandings:

1. It is understood that the competent authority of the requested State shall provide upon request by the competent authority of the requesting State information for the purposes referred to in Article 26.

2. The competent authority of the applicant State shall provide the following information to the competent authority of the requested State when making a request

for information under the Convention to demonstrate the foreseeable relevance of the information to the request:

- a) the identity of the person under examination or investigation;
- b) a statement of the information sought including its nature and the form in which the applicant State wishes to receive the information from the requested State;
- c) the tax purpose for which the information is sought;
- d) the grounds for believing that the information requested is held in the requested State or is in the possession or control of a person within the jurisdiction of the requested State;
- e) to the extent known, the name and address of any person believed to be in possession of the requested information;
- f) a statement that the applicant State has pursued all means

available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

If the foregoing understandings meet with the approval of the Government of the Republic of Korea, I have the further honor to propose that this Note and your affirmative Note in reply shall constitute an agreement between our two Governments which shall become an integral part of the Convention on the date of entry into force of the Protocol."

I have also the honor to confirm that your Note and my affirmative Note in reply shall constitute an agreement between our two Governments which shall become an integral part of the Convention on the date of entry into force of the Protocol.

Ahn Ho-young
Vice Minister of Foreign Affairs and Trade
of the Republic of Korea

His Excellency
Paul Steinmetz
Ambassador Extraordinary and Plenipotentiary
of the Grand Duchy of Luxembourg
to the Republic of Korea