

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

Signed at Paris, June 19, 1979
Entered into force February 1, 1981

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

Have agreed as follows:

Article 1. **【Personal Scope】** [1981.01.17]

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

Article 2. **【Taxes Covered】** [1981.01.17]

1. This existing taxes to which the Convention shall apply are :

(a) in the case of Korea :

- () the income tax ;
 - () the corporation tax ;
 - () the inhabitant tax ;
- (hereinafter referred to as "Korean tax").

(b) in the case of France :

- () the income tax ;
 - () the corporation tax ; including any withholding tax, prepayment (precompte) or advance payment with respect to the aforesaid taxes;
- (hereinafter referred to as "French tax");

2. The Convention shall apply also to any identical or substantially similar taxes which are imposed

after the date of signature of this Convention, in addition to, or in place of, the existing taxes. The competent authorities of the States shall notify to each other any substantial changes which have been made in their respective taxation laws.

Article 3. **【General Definitions】** [1981.01.17]

1. In the Convention, unless the context otherwise requires:

(a) the terms "a State" and "the other State" mean Korea or France, as the context requires;

(b) the term "Korea" means the Republic of Korea;

(c) the term "France" means the French Republic;

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

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

(f) the terms "enterprise of a State" and "enterprise of the other State" mean respectively an enterprise carried on by a resident of a State and an enterprise carried on by a resident of the other State;

(g) the term "nationals" means;

() any individual possessing the nationality of State;

() all legal persons, partnerships and associations deriving their status as such from the law in force in a State;

(h) the term "competent authority" means;

() in the case of France, the Minister of Budget or his authorised representative;

() in the case of Korea, the Minister of Finance or his authorised representative.

2. As regards the application of the Convention by a State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that State relating to the taxes which are the subject of the Convention.

Article 4. **【Fiscal Domicile】** [1981.01.17]

1. For the purposes of this Convention, the term "resident of a State" means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of head 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 therein.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both 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 closest (centre of vital interests);

(b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;

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

(d) if he is a national of both States or of neither of them, the competent authorities of the 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 States, then it shall be deemed to be a resident of the State in which its place of effective management is situated. If a place of effective management is considered as situated in both States, the competent authorities of the States shall settle the question by mutual agreement.

Article 5. **【Permanent Establishment】** [1981.01.17]

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" shall 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 national resources.

3. A building site or construction, installation or assembly project constitutes a permanent establishment only if it lasts more than twelve 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 subparagraphs a. to e., provided that the overall activity of the fixed place of business from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of the 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 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 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 State controls or is controlled by a company which is a resident of the other 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】** [1981.01.17]

1. Income from immovable property including income from agriculture or forestry may be taxed in the State in which such property is situated.

2. The term "immovable property" shall be defined in accordance with the taxation laws of the State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources, ships, boats and aircraft shall not be regarded as immovable property.

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

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

5. Where the ownership of shares or other corporate rights in a company or any other legal person entitles the owner to the enjoyment of immovable property situated in a State and held by that company or legal person, income derived by the owner from the direct use, letting or use in any other form of his right of enjoyment may be taxed in the State where the immovable property is situated according to the tax laws of that State.

Article 7. **【Business Property】** [1981.01.17]

1. The profits of an enterprise of a State shall be taxable only in that State unless the enterprise carries on business in the other 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 State carries on business in the other State through a permanent establishment situated therein, there shall in each 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 the determination of 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 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】** [1981.01.17]

1. Profits from the operation of ships or aircraft in international traffic carried on by an enterprise of a State 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】** [1981.01.17]

Where

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

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a State and an enterprise of the other 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】** [1981.01.17]

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

2. However, such dividends may be taxed in the 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 recipient is a company (excluding partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends;

(b) in all other cases, 15 per cent of the gross amount of the dividends. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3.

(a) A resident of Korea who receives from a company which is a resident of France dividends which, if received by a resident of France, would entitle such resident to a tax credit (avoir fiscal), shall be entitled from the French Treasury to a payment equal to such tax credit (avoir fiscal) subject to the deduction of tax as provided for under paragraph 2 b) of this Article.

(b) The provisions of sub-paragraph a) of this paragraph shall apply only to a resident of Korea who is

() an individual; or

() a company which holds directly or indirectly less than 10 per cent of the capital of the French company paying the dividends.

(c) The provisions of sub-paragraph a) of this paragraph shall not apply if the recipient of the payment from French Treasury provided for in sub-paragraph a) of this paragraph is not subject to Korean tax in respect of the payment.

(d) Payments from the French Treasury provided for under subparagraph (a) of this paragraph shall be deemed to be dividends for the purposes of this Convention.

4. A resident of Korea who receives dividends paid by a company which is a resident of France and who is not entitled to the payment provided for in paragraph 3 with respect to such dividends, in the event it had been paid by the distributing company shall be refunded. Such prepayment (precompte) shall be refunded subject to the deduction of the tax levied according to the national laws and the provisions of paragraph 2. The gross amount of the prepayment (precompte) refunded shall be deemed to be dividends for the purposes of this Convention.

5. 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 treated as a distribution by the taxation laws of the State of which the company making the distribution is a resident.

6. The provisions of paragraphs 1, 2 and 3 shall not apply if the recipient of the dividends, being a

resident of a State, carries on business in the other State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State professional 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 a case the provisions of Article 7 or Article 14, as the case may be, shall apply.

7. Where a company resident of a State has in the other State a permanent establishment, the profits of this permanent establishment shall, after having borne the corporation tax, be liable to a tax the rate of which shall not exceed 5 per cent, according to the law of that other Contracting State.

Article 11. **【Interest】** [1981.01.17]

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

2. However, such interest may be taxed in the State in which it arises, and according to the law of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 10 per cent of the amount of the interest.

3. Notwithstanding the provisions of the paragraph 2,

(a) Interest arising in a State and paid to a resident of the other State in respect of a bond, debenture or other similar obligation of the government of the first-mentioned State or a political subdivision or local authority thereof shall, provided that the interest is beneficially owned by a resident of the other State, be taxable only in that other State.

(b) Interest arising in a State in respect of loans or credits made or guaranteed,
- in the case of Korea, by the Bank of Korea or the Export-Import Bank of Korea;
- in the case of France, by the Bank of France (Banque de France) or the French Bank for External Trade (Banque française pour le commerce extérieur), and paid to a resident of the other State shall be taxable only in that other State.

(c) interest paid in connection with the sale on credit of any industrial, commercial or scientific equipment, or paid in connection with the sale on credit of any merchandise by one enterprise to another enterprise shall be taxable only in the State of which the beneficiary is a resident.

4. The term "interest" as used in this Article means income from government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and other debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the recipient of the interest, being a resident of a State, carries on business in the other State in which the interest arises, through a permanent establishment situated therein, or performs in that other State professional 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 a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Interest shall be deemed to arise in a State when the payer is that State itself, a political subdivision, a local authority, a statutory body thereof or a resident of that State. Where, however, the person paying the interest, whether he is a resident of one of the States or not, has in a State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.

7. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each State, due regard being had to the other provisions of this Convention.

Article 12. **【Royalties】** [1981.01.17]

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

2. However, such royalties may also be taxed in the State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payment of any kind received as a consideration:

(a) for the use of, or the right to use any copyright of literary, artistic or scientific works including cinematography films and works recorded for broadcasting and television; and

(b) for the use of, or the right to use any patent, trade mark, design or model, plan, secret formula or process, 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 recipient of the royalties, being a resident of a State, carries on business in the other State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State professional 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 a 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 State when the payer is that State itself, a political subdivision, a local authority, a statutory body thereof or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of one of the States or not, has in a State a permanent establishment in connection with which the obligation to pay the royalties was incurred and such royalties are borne by such permanent establishment then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.

6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other persons, the amount of the royalties paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each State, due regard being had to the other provisions of this Convention.

Article 13. **【Capital Gains】** [1981.01.17]

1. Capital gains from the alienation of immovable property, as defined in paragraph 2 of Article 6 or from the alienation of shares or comparable interests in a real property cooperative or in a company the assets of which consist principally of immovable property, may be taxed in the State in which such property is situated.

2. Capital gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a State has in the other State or of movable property pertaining to a fixed base available to a resident of a State in the other State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State. However, capital gains from the alienation of ships and aircraft operated in international traffic and of movable property pertaining to the operation of such ships and aircraft shall be taxable only in the state of which the enterprise is a resident.

3. Capital gains from the alienation of shares forming part of a substantial interest in the capital of a company which is a resident of a State may be taxed in that State and according to the law of that State . For the purposes of this paragraph, a substantial interest shall be deemed to exist

when the alienator, alone or together with associated or related persons, holds directly or indirectly shares which together give right to 25 per cent or more of the company profits.

4. Capital gains from the alienation of any property other than those mentioned in paragraph 1, 2 and 3 shall be taxable only in the State of which the alienator is a resident.

5. The provisions of paragraph 4 of this Article shall not affect the right of a State to tax according to its own law capital gains from the alienation of movable property derived by an individual who is a resident of the other State and has been a resident of the first-mentioned State at any

Article 14. **【Independent Personal Services】** [1981.01.17]

1. Income derived by a resident of a State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, when such income may also be taxed in the other State.

(a) If he has a fixed base regularly available to him in the other State for the purpose of performing his activities ; in that case, only so much of the income as is attributable to that fixed base may be taxed in that State ; or

(b) If his stay in the other State is for a period or periods amounting to or exceeding in the aggregate 183 days in the fiscal year concerned ; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.

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

Article 15. **【Dependent Personal Services】** [1981.01.17]

1. Subject to the provisions of Articles 16, 18, 19 and 21, salaries, wages and other similar remuneration derived by a resident of a State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other 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 State in respect of an employment exercised in the other State shall be taxable only in the first-mentioned State if:

(a) the recipient is present in the other State for a periods not exceeding in the aggregate 183

days in the taxable year concerned, and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the provisions of paragraphs 1 and 2, remuneration derived by a resident of a State in respect of an employment exercised aboard a ship or aircraft operated in international traffic shall be taxable only in that State.

Article 16. **【Directors' Fees】** [1981.01.17]

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

Article 17. **【Artistes and Athletes】** [1981.01.17]

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

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

3. Notwithstanding the provisions of paragraph 1, remunerations or profits, and wages, salaries and other similar income derived by entertainers and athletes from their personal activities as such in a State shall be taxable only in the other State if their visit to the first mentioned State is supported substantially from the public funds of that other State, one of its political subdivisions or local authorities or of a statutory body thereof.

4. Notwithstanding the provisions of paragraph 2, where income in respect of personal activities as such of entertainers and athletes in a State accrues not to that entertainer, or athlete himself but to another person, notwithstanding the provisions of Articles 7, 14 and 15, that income shall be taxable only in the other State if this person is supported substantially from the public funds of that other State, one of its political subdivisions or local authorities or of a statutory body thereof, or if this person is a non profit organization of that other State.

Article 18. **【Pensions】** [1981.01.17]

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a 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 social security legislation of a State may be taxed in that State.

Article 19. **【Government Service】** [1981.01.17]

1. Remuneration, other than a pension, paid by a State or one of its political subdivisions or local authorities or by a statutory body thereof to any individual in respect of services rendered to that State or subdivision or local authority or statutory body shall be taxable only in that State.

2. Any pension paid by, or out of funds created by, a State or one of its political subdivisions or local authorities or by a statutory body thereof to any individual in respect of services rendered to that State or subdivision or local authority or statutory body shall be taxable only in that State.

3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with any business carried on by a State or one of its political subdivisions or local authorities or by a statutory body thereof.

Article 20. **【Students and Apprentices】** [1981.01.17]

1. An individual who is or was immediately before visiting a State a resident of the other State and who is present in the first-mentioned State solely as a student at a recognised university, college, school or other similar recognised educational institution in the first mentioned State or as a business or technical apprentice therein, for a period not exceeding five 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 with a view to supplementing the resources available to him for such purposes.

2. An individual who is or was immediately before visiting a State a resident of the other State and who is present in the first-mentioned State for the purposes of study, research or training solely as a recipient of a grant, allowance or award from one of the States, a political subdivision, a local authority or statutory body thereof or from a scientific, educational, religious or charitable

organization or under a technical assistance programme entered into by one of the States, a political subdivision, a local authority or statutory body thereof for a period not exceeding five 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) the amount of such grant, allowance or award;

(b) all remittances from abroad for the purposes of his maintenance, education or training; and

(c) any remuneration for personal services rendered in the first mentioned State, provided such services are in connection with his study, research, or training are incidental thereto.

3. An individual who is or was immediately before visiting a State a resident of the other State and who is present in the first mentioned State solely as an employee of, or under contract with, one of the States, a political subdivision, a local authority or statutory body thereof, or an enterprise of that other State solely for the purpose of acquiring technical, professional or business experience for a period not exceeding two years from the date of his first arrival in the first mentioned State in connection with that visit shall be exempt in that first mentioned State on

(a) all remittances from aboard for the purposes of his maintenance, education or training; and

(b) any remuneration for personal services rendered in the first mentioned State, provided such services are in connection with his study or training or are incidental thereto.

Article 21. **【Teachers and Researchers】** [1981.01.17]

1. A teacher or a researcher who is or was immediately before visiting a State a resident of the other State, and who is present in the first mentioned State for the purpose of teaching or engaging in research shall be exempt from tax in that State for a period not exceeding two years on remuneration in respect of such activities.

2. This article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

Article 22. **【Other Income】** [1981.01.17]

1. Items of income of a resident of a 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 State, carries on business in the other 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 a case the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 23. **【Method for Elimination of Double Taxation】** [1981.01.17]

Double taxation shall be avoided in the following manner :

1. In the case of Korea ; Korea shall allow to a resident of Korea as a credit against Korean tax the appropriate amount of tax paid or to be paid to France. Such appropriate amount shall be based upon the amount of tax paid or to be paid to France but shall not exceed that proportion of Korean tax which the income from sources within France bears to the entire income subject to Korean tax.

2. In the case of France ; Profits and other positive income arising in Korea and which are taxable in that State in accordance with the provisions of this Convention may also be taxed in French where such income is received by a resident of France. The Korean tax shall not be deductible in France for the computation of taxable income. But the beneficiary shall be entitled to a tax credit against the French tax in the basis of which such income is included. Such tax credit shall be equal:

(a) in the case of income referred to in the Articles 10,11,12,13,14,16 and 17, to the amount of tax paid in Korea in accordance with the provisions of those articles. However, it shall not exceed the amount of the French tax attributable to such income;

(b) in the case of income other than those referred to in subparagraph a., to the amount of the French tax attributable to such income. This provision shall also apply to remuneration referred to in article 19.

Article 24. **【Non-Discrimination】** [1981.01.17]

1. The nationals of a State, whether or not they are residents of one of the States, shall not be subjected in the other State to any taxation or any requirement connected therewith, which is other or more requirements to which nationals of that other State in the same circumstances are or may be subjected.

2. The taxation on a permanent establishment which an enterprise of a State has in the other 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 State to grant to residents of the other 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. burdensome than the taxation and connected

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 State to a resident of the other State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same condition as if they had been paid to a resident of the first-mentioned State.

4. Enterprise of a State, the capital of which is wholly or partly owned or controlled, directly or indirectly by one or more residents of the other 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 that first-mentioned State are or may be subjected.

5. In this Article, the term "taxation" means taxes of every kind and description

Article 25. **【Mutual Agreement Procedure】** [1981.01.17]

1. Where a person considers that the actions of one or both of the States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the State of which he is a resident or, if his case comes under paragraph 1 of Article 24 , to that of the State of which he is a national. This case must be presented within three years of the first notification of the action giving rise to taxation not in accordance with 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 an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other State, with a view to the avoidance of taxation not in accordance with the Convention.

3. The competent authorities of the States shall endeavour to resolve by mutual agreement any difficulties arising as to the application of Convention. They may also consult together for the elimination of double taxation with respect to the taxes to which the Convention applies in cases not provided for in the Convention.

4. The competent authorities of the 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 States.

5. The competent authorities of the States shall by mutual agreement settle the mode of application of this convention and, especially, the requirements to which the residents of a State shall be

subjected in order to obtain in the other State, the tax reliefs or exemptions provided for by this Convention.

Article 26. **【Exchange of Information】** [1981.01.17]

1. The competent authorities of the States shall exchange such information as is necessary for the carrying out of this Convention or of the domestic laws of the States concerning the taxes to which the Convention applies insofar as the taxation thereunder is not contrary to this Convention, or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes to which the Convention applies. The exchange of information is not restricted by Article 1. Any information received by a 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 a court or administrative body) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of this Convention. Such persons or authorities shall use the information only for such purposes. These persons or authorities 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 provisions of special agreements on one of the States the obligation:

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

(b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other 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 and Consular Officials】** [1981.01.17]

1. Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions and their personal domestics, of members of consular missions, or of members of permanent missions to international organizations under the general rules of international law or under the provisions of special agreements.

2. Notwithstanding the provisions of Article 4, an individual who is a member of a diplomatic or consular or permanent mission of a State which is situated in the other State or in a third State shall be deemed for the purposes of this Convention to be a resident of the sending State if :

(a) in accordance with international law, he is not taxable in the receiving State on income from sources outside that State ; and

(b) he is liable in the sending State to the same obligations in relation to tax on his total world income as are residents of that sending State.

3. This Convention shall not apply to international organizations, to organs and officials thereof and to persons who are members of a diplomatic or consular or permanent mission of a third State, being present in a State and not treated in either State as residents in respect of taxes on income.

Article 28. **【Territorial Scope】** [1981.01.17]

1. This Convention shall apply :

(a) in the case of Korea, to all the territory of the Republic of Korea, in Which the laws relating to Korean tax are in force, and the territorial sea there and to the seabed and subsoil of the submarine areas adjacent to the coast thereof, but beyond the territorial sea, over which Korea exercises sovereign rights, in accordance with international law, for the purpose of exploration and exploitation of the natural resources of such areas;

(b) in the case of France, to the European and Overseas Departments of the French Republic, and to any area outside the territorial sea of those departments which is, in accordance with international law, an area within which France may exercise rights with respect to the seabed and sub-soil and their natural resources.

2. This Convention may be extended, either in its entirety or with any necessary modifications, to the Overseas Territories of the French Republic which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including condition as to termination, as may be specified and agreed between the States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures.

3. Unless otherwise agreed by both States, the termination of the Convention by one of them under Article 30 shall also terminate, in the manner provided for in that Article, the application of the Convention to any territory to which it has been extended under this Article.

Article 29. **【Entry into Force】** [1981.01.17]

1. Each State shall notify to the other the completion of the procedure required by its law for the bringing into force of this Convention. This Convention shall enter into force on the first day of

the second month following the month in which the latter of these notification has been given

2. This Convention shall have effect:

(a) as regard taxes withheld at source, in respect of amounts payable on or after the first day of January of the year of the signature.

(b) as regards other taxes on income,

- in the case of individuals, in respect of income derived during the year in which this Convention is signed;

- in the case of companies, in respect of income derived during the accounting period the end of which falls within the year in which the Convention is signed and the following years.

Article 30. **【Termination】** [1981.01.17]

1. This Convention shall remain into force indefinitely. However, after the fifth year following the year of the signature, each State may, by giving at least six months prior written notice of termination through diplomatic channels, denounce the Convention for the end of a calendar year.

2. In such an event, this Convention shall cease to have effect :

(a) as regards taxes withheld at source, in respect of amounts payable after the 31th of December of the year for the end of which the termination has been notified ;

(b) as regards other taxes on income,

- in the case of individuals, in respect of income derived during the year following the year for the end of which the termination has been notified and the following years,

- in the case of companies, in respect of income derived during any accounting period the end of which falls within the year following the year for the end of which the termination has been notified and the following years.

IN WITNESS WHEREOF, the undersigned duly authorized thereto, have signed this Convention. DONE in duplicate at this in the French and the Korean languages, each text being equally authentic.

FOR THE GOVERNMENT OF THE REPUBLIC OF KOREA

FOR THE GOVERNMENT OF THE FRENCH REPUBLIC

[1981.01.17]

PROTOCOL

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

Article 1

1. In respect of sub-paragraph (b) of paragraph 1 of Article 2, it is understood that the Convention shall apply to the Korean defense tax where charged by reference to the income tax or the corporation tax.

2. In respect of paragraph 3 of Article 11, loans or credits shall be considered as guaranteed by one of the banking institutions referred to in this paragraph when such loans or credits are granted with funds provided by such institution.

3. In respect of paragraph 3 of Article 12, payments received as a consideration for specific studies or surveys of a scientific, geological or technical nature, for specific engineering services or for consultant or supervisory services are not considered as payments for information concerning industrial, commercial or scientific experience.

4. In respect of Article 19, the provisions of paragraphs 1 and 2 of this Article shall apply in the case of Korea to remuneration or pensions paid by the Bank of Korea, Korea Exchange Bank, the Export-Import Bank of Korea and the Korea Trade Promotion Corporation.

5. In respect of Article 24, Nothing in paragraph 1 shall be construed as preventing France from granting only to persons possessing the French nationality the benefit of the exemption of the capital gains derived from the alienation of immovable property or part of immovable property constituting a residence in France of French persons who are not domiciled in France, as provided for in Article 150C of the Code General des Imports.

6. In respect of paragraph 3 of Article 24, nothing in this paragraph shall be construed as preventing France to apply the Provisions of Article 212 of the "Code General des Imports" as regards interest paid by a French company to a foreign parent company.

7. contributions paid by or for an individual who is a resident of a State or is temporarily present in that state, to a pension institution which is approved by the competent authorities of the other State of which that individual was before a resident, shall be treated, in the first-mentioned state, in the same way as contributions paid to a pension institution approved by the competent authorities of that State, if those competent authorities recognize the approbation granted in the

other State to such pension institution.

8. Notwithstanding the provisions of Article 2, the cultural or scientific institutions of a State referred to in the Agreement for Cultural and Technical Cooperation between the Government of the French Republic and the Government of the Republic of Korea, signed at Seoul on December 28, 1965, shall be exempt on the basis of reciprocity in the other State where they are situated from taxes on the acquisition, ownership or use of immovable property necessary to the performance of their cultural or scientific purposes and from taxes on the total amount of wages or salaries paid to persons employed for such purposes. Those provisions shall not apply to taxes levied in consideration of services rendered to those institutions.

Article 2

This Protocol shall remain in force as long as the Convention signed this day, between the Government of the Republic of Korea and the Government of the French Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income shall remain in force.

DONE in duplicate at, this in the French and the Korean Languages, each text equally authentic.

FOR THE GOVERNMENT OF THE REPUBLIC OF KOREA

FOR THE GOVERNMENT OF THE FRENCH REPUBLIC
