

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

Signed at Seoul March 7, 1989

Entered into force November 21, 1991

The Government of the Republic of Korea and the Government of the Federative Republic of Brazil, 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】** [1991.11.21]

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

-----  
Article 2. **【Taxes Covered】** [1991.11.21]

1. The taxes to which This convention shall apply are :

a) in the case of Korea :

( ) the income tax ;

( ) the corporation tax ; and

( ) the inhabitant tax, where charged by reference to the income tax or the corporation tax;

(hereinafter referred to as "Korean tax").

b) in the case of Brazil :the federal income tax, excluding the supplementary income tax and the tax on activities of minor importance.

(hereinafter referred to as "Brazilian tax").

2. The Convention shall also apply 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 above-mentioned

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】** [1991.11.21]

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

a) the term "Korea" means the territory of the Republic of Korea including any area adjacent to the territorial sea of the Republic of Korea which, in accordance with international law, has been or may hereafter be designated under the laws of the Republic of Korea, as an area within which the sovereign rights of the Republic of Korea with respect to the sea-bed and subsoil and their natural resources may be exercised;

b) the term "Brazil" means the territory of the Federative Republic of Brazil, that is, continental and insular earth and its corresponding air space, as well as the territorial sea and its corresponding sea-bed and subsoil, including the air space above the territorial sea, within which, in accordance with international law and the Brazilian laws, the rights of Brazil may be exercised;

c) the term "nationals" 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 law in force in a Contracting State;

d) the terms "a Contracting State" and "the other Contracting State" mean Korea or Brazil as the context requires ;

e) the term "person" comprises 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 ;

h) 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;

i) the term "tax" means Korean tax or Brazilian tax, as the context requires;

j) the term "competent authority" means;

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

( ) in Brazil, the Minister of Finance, the Secretary of Federal Revenue or their 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】** [1991.11.21]

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.

2. Where, by reason of the provisions of paragraph 1, an individual is a resident of both Contracting States, then his status shall be determined as follows:

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

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

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

d) if he is a national of both State 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】** [1991.11.21]

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of

business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially;

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop; and
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of national resources;

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts 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.

5. Notwithstanding the provisions of the paragraphs 1 and 2, where a person - other than an agent of independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude 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 a 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】** [1991.11.21]

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

2. a) Subject to the provisions of sub-paragraphs b) and c), the term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated;

b) 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;c) 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】** [1991.11.21]

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 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.

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】** [1991.11.21]

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

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

-----  
Article 9. **【Associated Enterprises】** [1991.11.21]

Where

a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of 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】** [1991.11.21]

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 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. 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 assimilated to income from shares by the taxation law 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, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such case the provisions of Article 7 shall apply.

5. Where a resident of Korea has a permanent establishment in Brazil, this permanent establishment may be subject to a tax withheld at source in accordance with Brazilian law. However, such a tax cannot exceed 15 percent of the gross amount of the profits of that permanent establishment determined after the payment of the corporate tax related to such profits.

6. 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 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】** [1991.11.21]

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

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

a) 10 percent of the gross amount of the interest if the recipient is a bank and the loan is granted for a period of at least 7 years in connection with the purchase of industrial equipment or with the study, the purchase and installation of industrial or scientific units, as well as with the financing of public works;

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

3. Notwithstanding the provisions of paragraphs 1 and 2:

a) Interest arising in a Contracting State and paid to the government of the other Contracting State including a political subdivision or a local authority thereof, the Central Bank of that other Contracting State, or any agency (including a financial institution) wholly owned directly or indirectly by that Government, Central Bank or both shall be exempt from tax in the first-mentioned State;

b) Interest from securities, bonds or debentures issued by the government of a Contracting State including a political subdivision or a local authority thereof, the Central Bank of that other Contracting State, or any agency (including a financial institution) owned directly or indirectly by that Government, Central Bank or both shall be taxable only in that State.

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 debt-claims of every kind as well as other income assimilated to income from money lent by the taxation law of the Contracting State in which the income arises.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such case the provisions of Article 7 shall apply.

6. The limitation established in paragraph 2 shall not apply to interest arising in a Contracting State and paid to a permanent establishment of an enterprise of the other Contracting State which is situated in a third State.

7. Interest shall be deemed to arise in a Contracting State when the payer is that Contracting 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 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 Contracting State in which the permanent establishment is situated.



8. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

-----  
Article 12. **【Royalties】** [1991.11.21]

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) 25 percent of the gross amount of the royalties arising from the use of or the right to use trade marks;

b) 15 percent of the gross amount of the royalties in all other cases.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films, films or tapes for television or radio broadcasting), any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the obligations 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 Contracting State in which the permanent establishment is situated.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such case the provisions of Article 7 shall apply.

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, the right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

-----  
Article 13. **【Capital Gains】** [1991.11.21]

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6, may be taxed in the other Contracting State in which the immovable property is situated.

2. Gains from the alienation of movable property forming part of business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise), may be taxed in the other State. However, gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State of which the enterprise is a resident.

3. Gains from the alienation of any property other than that referred to in paragraphs 1 and 2 may be taxed in both Contracting States.

-----  
Article 14. **【Independent Personal Services】** [1991.11.21]

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other independent activities of a similar nature shall be taxable only in that State , unless the payment of such services or activities is borne by a permanent establishment situated in the other Contracting State or a company resident therein. In such case, the income may be taxed in that other State.

2. The term "professional services" includes, especially, independent, scientific, technical, 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】** [1991.11.21]

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be

taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned; and

b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and

c) the remuneration is not borne by a permanent establishment which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State.

-----  
Article 16. **【Directors' Fees】** [1991.11.21]

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

-----  
Article 17. **【Artistes and Athletes】** [1991.11.21]

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as 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, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to remuneration or profits, salaries, wages and similar income derived from activities performed in a Contracting State by entertainers and

athletes if their visit to that State is substantially supported by the Government of the other Contracting State, any political subdivision, a local authority or statutory body thereof.

-----  
Article 18. **【Pensions and Annuities】** [1991.11.21]

1. Subject to the provisions of paragraphs 2 and 3 of Article 19, pensions and other similar remuneration not exceeding an amount equivalent to US\$ 3,000 in a calendar year and annuities not exceeding US\$3,000 in a calendar year paid to a resident of a Contracting State shall be taxable only in that State.

The amount of pensions or annuities which exceeds the above-mentioned limit may be taxed in both Contracting States.

2. As used in this Article:

a) The term "pensions and other similar remuneration" means periodic payments made after retirement in consideration of past employment or by way of compensation for injuries received, in connection with past employment;

b) The term "annuity" 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 the payments in return for adequate and full consideration in money or money's worth (other than services rendered).

-----  
Article 19. **【Government Service】** [1991.11.21]

1. a) Remuneration, other than a pension, paid by a Contracting State, a political subdivision, a local authority or statutory body thereof to an individual in respect of services rendered to that State, subdivision, authority or body 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, a political subdivision, a local authority or statutory body thereof to an individual in respect of services rendered to that State, subdivision, authority or body 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. Any pension paid out under the social security scheme of a Contracting State to a resident of the other Contracting State shall be taxable only in the first-mentioned State.

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

-----  
**Article 20. 【Teachers and Researchers】 [1991.11.21]**

An individual who is, or was immediately before visiting a Contracting State, a resident of the other Contracting State and who, at the invitation of the first-mentioned State or of a university, college, school, museum or other cultural institution in that first-mentioned State or under an official programme of cultural exchange, is present in that State for a period not exceeding two consecutive years solely for the purpose of teaching, giving lectures or carrying out research at such institution shall be exempt from tax in that State on his remuneration for such activity, provided that the payment of such remuneration is derived by him from outside that State.

-----  
**Article 21. 【Students and Business Apprentices】 [1991.11.21]**

1. 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

a) as a resident at a university, college or school in that first-mentioned State, or

b) as a recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific or educational organization, or

c) as a member of a technical cooperation programme entered into by the Government of the other Contracting State, shall be exempt from tax in that first-mentioned State in respect of remittances from abroad for the purpose of his maintenance, education or training.

2. 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 for the purpose of his education or training shall be exempt from tax in that first-mentioned State for a period not exceeding two consecutive years in respect of remuneration from employment in that State necessary for his maintenance, education or training

-----  
**Article 22. 【Other Income】 [1991.11.21]**

1. Items of income of a resident of a Contracting State, arising in the other Contracting State and not dealt with in the foregoing Articles of this Convention may be taxed in that other State.

-----  
Article 23. **【Methods for the Elimination of Double Taxation】** [1991.11.21]

1. Subject to the provisions of the tax law of each Contracting State regarding the allowance of tax credit, where a resident of a Contracting State derives income which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first Contracting State shall allow a deduction from the tax on the income of that resident, an amount equal to the income tax paid in the other Contracting State.

The deduction shall not, however, exceed that part of the income tax as computed before the deduction is given, which is appropriate to the income which may be taxed in the other Contracting State.

2. For the deduction indicated in paragraph 1, the Korean tax and Brazilian tax shall always be deemed to have been paid at the following rates:

a) 25 percent in the case of dividends referred to in paragraph 2 of Article 10;

b) 20 percent in the case of profits, interest and royalties referred to in paragraph 5 of Article 10, paragraph 2 of Article 11 and paragraph 2 b of Article 12.

3. Where a company which is a resident of a Contracting State pays a dividend to a company which is a resident of the other Contracting State and which controls at least 10 percent of the voting power in the company paying the dividend, the other Contracting State shall also allow credit for the amount of tax payable to the first-mentioned Contracting State by the company paying such dividend with respect to the profits out of which such dividend is paid.

The credit shall not, however, exceed that part of the tax of the other Contracting State as computed before the credit is given, which is appropriate to the income which is taxed in the Contracting State.

-----  
Article 24. **【Non-Discrimination】** [1991.11.21]

1. The 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.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on an enterprise of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or

family responsibilities which it grants to its own residents.

3. Except where the provisions of Article 9, paragraph 8 of Article 11, or paragraph 6 of Article 12, apply interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of a third State, are or may be subjected.

5. In this Article, the term "taxation" means taxes which are the subject of this Convention.

-----  
Article 25. **【Mutual Agreement Procedure】** [1991.11.21]

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 resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

-----  
Article 26. **【Exchange of Information】** [1991.11.21]

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out of this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons, authorities or courts other than those concerned with the assessment or collection of the taxes which are the subject of this Convention or the determination of appeals or the prosecution of offences in relation thereto.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States the obligation:

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

b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State ;

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

-----  
Article 27. **【Diplomatic Agents and Consular Officers】** [1991.11.21]

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

-----  
Article 28. **【Entry into Force】** [1991.11.21]

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

2. The Convention shall enter into force upon the exchange of the instruments of ratification and its provisions shall have effect for the first time:

a) in respect of tax withheld at the source on amounts paid or credited on or after January 1st of the calendar year immediately following that in which the Convention enters into force;

b) in respect of other taxes covered by the Convention, for the taxable year beginning on or after January 1st of the calendar year immediately following that in which the Convention enter into force.



-----  
Article 29. 【Termination】 [1991.11.21]

This Convention shall remain into force indefinitely but either of the Contracting States may, on or before the thirtieth day of June in any calendar year from the fifth year following that in which the instruments of ratification have been exchanged, give to the other Contracting State , through diplomatic channels, written notice of termination and, in such event, this Convention shall cease to have effect :

a) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of January 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, have signed this Convention.

DONE in duplicate at Seoul, this 7th day of March 1989, in the Korean, Portuguese and English languages, all three texts being equally authentic. In case of divergence between the Korean and the Portuguese texts, the English text shall prevail.

FOR THE GOVERNMENT OF THE REPUBLIC OF KOREA  
FOR THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL

-----  
[1991.11.21]

## PROTOCOL

At the moment of the signature of the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income between the Government of the Republic of Korea and the Government of the Federative Republic of Brazil, the undersigned, being duly authorized thereto, have agreed upon the following provisions which constitute an integral part of the present Convention.

1. With reference to Article 2, paragraph 1

In respect of subparagraph b) of paragraph 1 of Article 2 of the Convention, 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. With reference to Article 7, paragraph 3

It is understood that the provisions of this paragraph shall apply whether the expenses mentioned therein are incurred in the State in which the permanent establishment is situated or elsewhere.

3. With reference to Articles 10 and 12

In respect of Articles 10 and 12, it is understood that if Brazil agrees to reduce the rate of its tax on dividends, profits or royalties less than 15 per cent, paid by a resident of Brazil and to which a resident of the third State not located in Latin America is beneficially entitled in a Convention made between Brazil and a third State not located in Latin America subsequently to the signature of this Convention, the same rates provided to that third State shall be also applied to dividends, profits and royalties referred to in Articles 10 and 12 of this Convention.

4. With reference to Article 12, paragraph 3

It is understood that the provisions of paragraph 3 of Article 12 shall apply to payments of any kind received as a consideration for the rendering of technical assistances and technical services.

5. With reference to Article 14

It is understood that the provisions of Article 14 shall apply even if the activities are exercised by a "Sociedade Civil" (Civil Company).

6. With reference to Article 19, paragraphs 1 (a) and 2 (a)

It is understood that the term "statutory body" shall include especially, in the case of Korea, the Bank of Korea, the Export import Bank of Korea, the Korea Exchange Bank, and the Korea Trade Promotion Corporation, and, in the case of Brazil, the Central Bank of Brazil, the National Bank for Economic and Social Development, the National Bank of Housing, any regional or state development bank, and Banco do Brasil.

7. With reference to Article 23, paragraph 3

It is understood that for the purpose of the credit referred to in paragraph 3 of Article 23, the term "amount of tax payable" includes the amount of the corporate tax of a Contracting State which would have been paid if such tax had not been exempted or reduced in accordance with the special incentive measures designed to promote economic development in that State, which are effective on the date of signature of this Convention or which may be introduced thereafter with an identical or substantially similar scope in the tax laws of that State in modification of or in addition to the existing measure.

8. With reference to Article 24, paragraph 2

It is understood that the provisions of paragraph 5 of Article 10 are not in conflict with the provisions of paragraph 2 of Article 24.

9. With reference to Article 24, paragraphs 3 and 3

The provisions of the Brazilian law which do not allow that royalties as defined in paragraph 3 of Article 12 paid by a company resident of Brazil to a resident of Korea which holds at least 50 per cent of the voting capital of that company, be deductible at the moment of the determination of the taxable income of the company resident of Brazil, are not in conflict with the provisions of paragraphs 3 and 4 of Article 24 of this Convention.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Protocol.

DONE in duplicate at Seoul this 7th day of March 1989, in the Korean, Portuguese and English languages, all three texts being equally authentic.

FOR THE GOVERNMENT OF THE REPUBLIC OF KOREA  
FOR THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL

-----  
< Limited Tax Rates Lowered for Royalty and Dividend under the  
Korea-Brazil Tax Treaty(\*) >

Under Article 3 of the Protocol of the Korea-Brazil Tax Treaty, limited tax rates for royalties and dividends are lowered as follows:

Ground

Notice 490 from the International Tax Division of the Ministry of Finance and Economy (Aug. 8, 2007)

Application Date

Dividend Income:

Applied to dividends paid on and after Jan. 1, 1998

Royalty Income

1. Royalties paid for copyright: applied to the amount paid on and after Jan. 1, 1998
2. Royalties paid in all other cases: applied to the amount paid on and after Jan. 1, 2006

(\*) Limited tax rates for dividends and copyright were both set at 10% under the Brazil and Finland Tax Treaty(effective since Jan. 1, 1998), and a limited tax rate for royalties paid in all cases(the use of trademark right excluded) was fixed at 10% under the Brazil and Israel Tax Treaty(become effective since Jan. 1, 2006). Accordingly, limited tax rates for dividend income and royalty income under Article 3 of the Protocol of the Korea-Brazil Tax Treaty was also

lowered .

#### Limited Tax Rates Lowered

Limited Tax Rate for Dividend Income

- 15%      10%

Limited Tax Rate for Royalty Income

- Royalties for Copyright:

15%      10%

- Royalties paid in all other cases:

15%      10%

Trademark Right: No change (25%)

---