

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

Signed at Caracas June 26, 2006
Entered into force January 15, 2007

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

have agreed as follows:

Article 1. **【PERSONAL SCOPE】** [2007.01.15]

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

Article 2. **【TAXES COVERED】** [2007.01.15]

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

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

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

a) in the case of Korea:

(i) the income tax;

(ii) the corporation tax; and

(iii) the special tax for rural development on income taxation (hereinafter referred to as

"Korean tax");

b) in the case of Venezuela:

- (i) the taxes on income;
(hereinafter referred to as "Venezuelan tax").

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

Article 3. **【GENERAL DEFINITIONS】** [2007.01.15]

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

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

b) The term "Venezuela" means, in its geographical sense, the territory of the Bolivarian Republic of Venezuela, including its land territory, islands, lakes and rivers, internal waters and waters included within the straight base lines adopted by the Bolivarian Republic of Venezuela, its territorial sea and the air space over these areas, as well as the exclusive economic zone and the continental shelf beyond the exclusive economic zone, over which the Bolivarian Republic of Venezuela exercises, in accordance with its legislation and international law, sovereign rights or jurisdiction;

c) The expression "a Contracting State" and "the other Contracting State" means Korea or Venezuela as the context requires;

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

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

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

g) the term "national" means:

- (i) any individual possessing the nationality of a Contracting State;
- (ii) any legal person, partnership or association deriving its status as such from the laws in

force in a Contracting State;

h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

i) the term "competent authority" means:

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

(ii) in the case of Venezuela, the Superintendent of the Integrated National Service of Customs and Tax Administration (Servicio Nacional Integrado de Administracin Aduanera y Tributaria - SENIAT), or his authorized representative.

2. As regards the application of the Convention by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

Article 4. **【RESIDENT】** [2007.01.15]

1. or 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, place of incorporation or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

2. Where by reason of the provision 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 (center of vital interest);

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

c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a

resident of the State of which he is a national;

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

3. Where by reason of the provision of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

Article 5. **【PERMANENT ESTABLISHMENT】** [2007.01.15]

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

a) a place of management;

b) a branch;

c) an office;

d) a factory;

e) a workshop;

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

g) the furnishing of services, including consultancy services, and technical assistance, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only if activities of that nature continue (for the same or connected project) within a Contracting State for a period or periods aggregating more than six months within any twelve-month period.

3. A building site, a construction, assembly or installation project or supervisory or inspection activities in connection therewith, constitutes a permanent establishment only if such site, project or activities lasts, more than nine 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 or display 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 or display;

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 or 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 resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person other than an agent of an independent status to whom paragraph 7 applies is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.

7. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

8. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6. **【INCOME FROM IMMOVABLE PROPERTY】** [2007.01.15]

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

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

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

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

Article 7. **【BUSINESS PROFITS】** [2007.01.15]

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 are 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 business 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, which are allowed under the provisions of the domestic law of the Contracting States in which the permanent establishment is situated. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than as a reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a bank, as interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a bank, as interest on moneys lent to the head office of the enterprise or any of its other offices.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provision of those Articles shall not be affected by the provisions of this Article.

Article 8. **【SHIPPING AND AIR TRANSPORT】** [2007.01.15]

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only the Contracting State in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbor of the ship is situated, or, if there is no such home harbor, in the Contracting State of which the operator of the ship is a resident.

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

Article 9. **【ASSOCIATED ENTERPRISES】** [2007.01.15]

1. Where

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

b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10. **【DIVIDENDS】** [2007.01.15]

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

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying

the dividends;

- b) 10 per cent of the gross amount of the dividends in all other cases.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other state independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment of fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11. **【INTEREST】** [2007.01.15]

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

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

- a) 5 per cent of the amount of the interest in the case of banks; and
- b) 10 per cent of the gross amount of the interest in all other cases.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to the Government of the other Contracting State shall be exempt from tax in the first-mentioned State. The term "Government":

a) in the case of Korea, means the Government of Korea and shall include:

- (i) the Bank of Korea;
- (ii) The Korea Export-Import Bank;
- (iii) The Korea Development Bank; and

(iv) such other financial institutions performing functions of a governmental nature as may be specified and agreed upon in letters exchanged between the competent authorities of the Contracting States;

b) in the case of Venezuela, means the Government of the Bolivarian Republic of Venezuela and shall include:

- (i) the Central Bank of Venezuela; and

(ii) any other similar institutions wholly owned by the Government of the Bolivarian Republic of Venezuela as may be agreed upon from time to time by the competent authorities of the Contracting States.?

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

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, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provision of Article 7 or Article 14, as the case may be, shall apply.

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

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Articles 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

provision of this Convention.

Article 12. **【ROYALTIES?】** [2007.01.15]

1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed:

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

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

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

Article 13. **【CAPITAL GAINS】** [2007.01.15]

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State, may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal service, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. Gains from the alienation of shares or other rights of the capital stock of a company the property of which consists directly or indirectly principally of immovable property situated in a Contracting State may be taxed in that State.

5. Gains from the alienation of shares that represent a participation of more than 20 per cent of the stock of a company which is a resident of a Contracting State may be taxed in that State.

6. Gains from the alienation of any property other than that referred to in the paragraphs mentioned above, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14. 【INDEPENDENT PERSONAL SERVICES】 [2007.01.15]

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State. However, such income may also be taxed in the other Contracting State if:

a) the individual has a fixed base regularly available to him in that other State for the purpose of performing his activities, but only so much thereof as is attributable to that fixed base; or

b) the individual is present in that other State for a period or periods exceeding in the aggregate 183 days within any twelve(12) month period, but only so much thereof as is attributable to the services performed in that 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】 [2007.01.15]

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

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

a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve (12) month period commencing or ending in the fiscal year concerned; and

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

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

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

Article 16. **【DIRECTOR'S FEES】** [2007.01.15]

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

Article 17. **【ARTISTS AND SPORTS PERSONS】** [2007.01.15]

1. Notwithstanding the provisions of Articles 7, 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theater, motion picture, radio or television artiste, or a musician, or as a sports person, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sports person in his capacity as such accrues not to the entertainer or sports person 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 sports person are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, income derived by entertainers or sports person who are residents of a Contracting State from the activities exercised in the other Contracting State under a special program of cultural exchange agreed upon between the governments of both Contracting States, shall be exempt from tax in that other State.

Article 18. **【PENSIONS?】** [2007.01.15]

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

2. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under a public scheme which is part of the social security system of a Contracting State or a political subdivision or a local authority thereof shall be taxable only in that State.

Article 19. **【GOVERNMENT SERVICE】** [2007.01.15]

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

b) However, such salaries, wages and similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

2. a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 15, 16, 17 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political

subdivision or a local authority thereof.

4. The provisions of paragraph 1 and 2 shall likewise apply in respect of remuneration or pensions paid by:

a) in the case of Korea:

the Bank of Korea, the Korea Export-Import Bank, the Korea Development Bank, the Korea Trade Promotion Corporation and other institutions performing functions of a governmental nature as may be specified and agreed upon in letters exchanged between the competent authorities of the Contracting States.

b) in the case of Venezuela:

The Central Bank of Venezuela, The Bank of Economic and Social Development, The Bank of Foreign Commerce and other institutions performing functions of a governmental nature as may be specified and agreed upon in letters exchanged between the competent authorities of the Contracting States.

Article 20. **【STUDENTS】** [2007.01.15]

1. Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

2. In respect of grants, scholarships and remuneration from employment not covered by paragraph 1, a student or business apprentice described in paragraph 1 shall, in addition, be entitled during such education or training to the same exemptions, reliefs or reductions in respect of taxes available to residents of the State which he is visiting.

Article 21. **【TEACHERS AND RESEARCHERS】** [2007.01.15]

1. An individual who is or was a resident of a Contracting State at the beginning of his visit to the other Contracting State and who, at the invitation of the Government of that other Contracting State or of a university or other educational institution situated in that other Contracting State and approved by the appropriate educational authority of that other Contracting State visits that other Contracting State for the primary purpose of teaching or researching at such university or other educational institution shall be exempt from tax by that other Contracting State on his income from personal services for teaching or researching at such university or other educational institution for a period not exceeding two (2) years from the date of his arrival in that other Contracting State.

2. The exemption granted under paragraph 1 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 specific persons.

Article 22. **【OTHER INCOME】** [2007.01.15]

1. Subject to the provisions of paragraph 2 of this Article, items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Convention shall be taxable only in that Contracting State.

2. However, if such income is derived by a resident of a Contracting State, such income may also be taxed in the State in which it arises, and according to the law of that State.

Article 23. **【CAPITAL】** [2007.01.15]

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.

3. Capital represented by ships and aircraft operated in international traffic and by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 24. **【ELIMINATION OF DOUBLE TAXATION】** [2007.01.15]

1. In the case of Korea, subject to the provisions of the law of Korea, double taxation shall be avoided as follows:

Where a resident of Korea derives income which, in accordance with the provisions of this Convention, may be taxed in Venezuela, the amount of tax payable from that income shall be allowed as a credit against the Korean tax payable imposed on the income of that resident. The amount of credit shall not, however, exceed that part of the Korean tax, as computed before the credit is given, which is attributable to the income which may be taxed in Venezuela.

2. In the case of Venezuela, subject to the provisions of the law of Venezuela, double taxation shall be avoided, as follows:

a) Where a resident of Venezuela derives income, which, in accordance with the provisions of this Convention may be taxed in Korea, Venezuela shall allow as a tax credit from the Venezuelan tax on the income of that resident, an amount equal to the income tax paid in Korea, according to the Venezuelan tax legislation;

b) The tax credit allowed under sub-paragraph a) of this paragraph shall not exceed that part of the Venezuelan income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Korea;

c) Where in accordance with any provision of this Convention income derived by a resident of Venezuela is exempt from tax in Venezuela, Venezuela may nevertheless in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

Article 25. **【NON-DISCRIMINATION】** [2007.01.15]

1. Nationals of a Contracting State shall not be subjected in the other Contracting to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected.

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

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 5 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible, under the same conditions as if they had been paid to a resident of the first-mentioned State.

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

similar enterprises of the first-mentioned State are or may be subjected.

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

Article 26. **【MUTUAL AGREEMENT PROCEDURE】** [2007.01.15]

1. Where a person considers that the actions of one or both of the Contracting State result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

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

3. The competent authorities of the Contracting State shall endeavor 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 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.

Article 27. **【EXCHANGE OF INFORMATION】** [2007.01.15]

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

methods and techniques concerning the matters in respect of which such exchanges of information shall be made, including, where appropriate, exchanges of information regarding tax avoidance.

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

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

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

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

Article 28. 【DIPLOMATIC AGENTS AND CONSULAR OFFICERS】 [2007.01.15]

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 provision of special agreements.

Article 29. 【ENTRY INTO FORCE】 [2007.01.15]

Each Contracting State shall notify the other in writing, through diplomatic channels, of the completion of the procedure required by its law for the bringing into force of this Convention. This Convention shall enter into force of the date of the later of this notification and shall thereupon have effect:

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

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

Article 30. 【TERMINATION】 [2007.01.15]

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year following after the period of five years from the date on which the convention enters into force. In such event, the Convention shall cease to have effect:

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

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

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

one in duplicate at Caracas this 26th day of June 2006, in the Korean, Spanish and English languages, all texts being equally authentic. In the case of divergence, the English text shall prevail.

FOR THE REPUBLIC
OF KOREA

FOR THE BOLIVARIAN REPUBLIC
OF VENEZUELA

[2007.01.15]

PROTOCOL

At the moment of signing the Convention this day concluded between the Government of the Republic of Korea and the Government of the Bolivarian Republic of Venezuela for the avoidance of double taxation and the prevention of fiscal avoidance and evasion with respect to taxes on income and on capital, the undersigned have agreed upon the following provisions which shall be an integral part of the Convention.

1. With respect to Article 5;

a) It is understood that, with respect to paragraph 2 of Article 5, a "warehouse in relation to a person providing storage facilities for others" would be considered as a permanent establishment.

b) It is understood that, in order for paragraph 4 of Article 5 to apply, subparagraph a) and b) would not involve any sales activities.

2. With respect to Article 13;

With respect to paragraph 4 of article 13, it is understood that "the property of the company consists principally of immovable property" means a property which consist of no less than fifty percent of immovable property".

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

Done in duplicate at Caracas this 26th day of June 2006, in the Korean, Spanish and English languages, all texts being equally authentic. In the case of divergence, the English text shall prevail.

FOR THE REPUBLIC
OF KOREA

FOR THE BOLIVARIAN REPUBLIC
OF VENEZUELA
