

法規名稱：AGREEMENT BETWEEN THE TAIPEI REPRESENTATIVE OFFICE IN THE NETHERLANDS AND THE NETHERLANDS TRADE AND INVESTMENT OFFICE IN TAIPEI FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

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THE TAIPEI REPRESENTATIVE OFFICE IN THE NETHERLANDS (TRON)

and

THE NETHERLANDS TRADE AND INVESTMENT OFFICE IN TAIPEI (NTIO)

DESIRING to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed as follows:

ARTICLE 1

PERSONAL SCOPE

This Agreement shall apply to persons who are residents of one or both of the territories.

ARTICLE 2

TAXES COVERED

1.This Agreement shall apply to taxes on income imposed on behalf of each territory, or its subdivisions or local authorities, irrespective of the way they are levied.

2 The existing taxes to which the Agreement shall apply are:

a) in the territory in which the taxation law administered by the Department of Taxation, Ministry of Finance, Taipei, is applied:

- (i) the profit seeking enterprise income tax;
- (ii) the individual consolidated income tax;

b) in the territory in which the taxation law administered by the Netherlands Ministry of Finance is applied:

- (i) income tax, de inkomstenbelasting;
- (ii) wages tax, de loonbelasting;
- (iii) company tax, de vennootschapsbelasting, including the



Government share in the net profits of the exploitation of natural resources levied pursuant to the Mijnwet 1810 (the Mining Act of 1810) with respect to concessions issued from 1967, or pursuant to the Mijnwet Continentaal Plat 1965 (the Netherlands Continental Shelf Mining Acting Act of 1965);

(iv) dividend tax, de dividendbelasting.

3. This Agreement shall also apply to any identical or substantively similar taxes which are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities shall notify each other of any significant changes which have been made in their respective taxation laws.

ARTICLE 3

GENERAL DEFINITIONS

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

- a) the term "territory" means the territory referred to in subparagraph 2(a) or 2(b) of Article 2, as the case may be. The term "territory" shall not include ships of an enterprise of a territory;
- b) the term "person" includes an individual, a company and any other body of persons;
- c) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- d) the terms "enterprise of a territory" and "enterprise of the other territory" mean respectively an enterprise carried on by a resident of a territory and an enterprise carried on by a resident of the other territory;
- e) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a territory, except when the ship or aircraft is operated solely between places in the other territory;

f) the term "competent authority" means, in the case of the territory in which the taxation law administered by the Department of Taxation, Ministry of Finance, Taipei is applied, the Department of Taxation or its authorized representative, in the case of the territory in which the taxation law administered by the Netherlands Ministry of Finance is applied, the Ministry of Finance of the Netherlands or its authorized representative.

2.As regards the application of the Agreement at any time in a territory, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the laws of that territory for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that territory prevailing over a meaning given to the term under other laws of that territory.

ARTICLE 4

RESIDENT

1.For the purposes of this Agreement, the term "resident of a territory" means any person who, under the laws of that territory, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes the territories referred to in subparagraphs 2(a) and 2(b) of Article 2 and any political subdivision or local authority thereof.

2.A person is not a resident of a territory for the purposes of this Agreement if that person is liable to tax in that territory in respect only of income from sources in that territory, provided that this paragraph shall not apply to individuals who are residents of the territory referred to in subparagraph 2 (a) of Article 2 as long as resident individuals are taxed

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nly in respect of income from sources in that territory.

3.Where by reason of the preceding provisions of this Article an individual is a resident of both territories, then his status

shall be determined as follows:

- a) he shall be deemed to be a resident only of the territory in which he has a permanent home available to him; if he has a permanent home available to him in both territories, he shall be deemed to be a resident of the territory with which his personal and economic relations are closer (centre of vital interests);
 - b) if the territory 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 territory, he shall be deemed to be a resident only of the territory in which he has an habitual abode;
 - c) if he has an habitual abode in both territories or in neither of them, the competent authorities of the territories shall settle the question by mutual agreement.
4. Where by reason of the provisions of paragraphs 1 and 2 a person other than an individual is a resident of both territories, then it shall be deemed to be a resident only of the territory in which its place of effective management is situated.

ARTICLE 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, 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 natural resources.
3. The term "permanent establishment" likewise encompasses:
 - a) a building site, a construction, assembly or installation pr-

object, but only where such site or project lasts for a period of more than six months ;

- b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the territory for a period or periods aggregating more than 183 days within any 12-month period.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display, or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a territory an authority to conclude contracts in the name of the enterprise, that enterp-

rise shall be deemed to have a permanent establishment in that territory in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise shall not be deemed to have a permanent establishment in a territory merely because it carries on business in that territory 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 territory controls or is controlled by a company which is a resident of the other territory, or which carries on business in that other territory (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a territory from immovable property (including income from agriculture or forestry) situated in the other territory may be taxed in that other territory .
2. The term "immovable property" shall have the meaning which it has under the law of the territory in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

Exploration and exploitation rights of natural resources shall be regarded as immovable property of the territory where these rights may be exercised.

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

ARTICLE 7

BUSINESS PROFITS

- 1.The profits of an enterprise of a territory shall be taxable only in that territory unless the enterprise carries on business in the other territory 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 territory 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 territory carries on business in the other territory through a permanent establishment situated therein, there shall in each territory be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
- 3.In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the territory in which the permanent establishment is situated or elsewhere.

4. Insofar as it has been customary in a territory 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 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 purpose 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 Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8

SHIPPING AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft in international-
al traffic shall be taxable only in the territory in which the place of effective management of the enterprise is situated.
2. For the purpose of this Article, profits from the operation of ships or aircraft in international traffic shall include:
 - a) profits from the use, maintenance or rental of containers and related equipment; and
 - b) profits from the rental of ships or aircraft on a full time, voyage or bare boat basis; if such use, maintenance or rental is incidental to the operation of ships or aircraft in international traffic.
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, but only so much of the profits so derived as is attributable to the participant in proportion to its share in the joint operation.

ARTICLE 9

ASSOCIATED ENTERPRISES

1. Where

- a) an enterprise of a territory participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or
- b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a territory and an enterprise of the other territory, 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 the competent authority of a territory includes in the profits of an enterprise of that territory - and taxes accordingly - profits on which an enterprise of the other territory has been charged to tax in that other territory and the profits so included are profits which would have accrued to the enterprise of the first-mentioned territory if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then the competent authority of the other territory 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 Agreement and the competent authorities of the territories shall if necessary consult each other.

ARTICLE 10

DIVIDENDS

- 1.Dividends paid by a company which is a resident of a territory to a resident of the other territory may be taxed in that other territory.
- 2.However, such dividends may also be taxed in the territory of which the company paying the dividends is a resident and according to the laws of that territory, but if the beneficial owner of dividends is a resident of the other territory, the tax so charged shall not exceed 10% of the gross amount of the dividends.
- 3.The competent authorities of the territories shall by mutual agreement settle the mode of application of paragraph 2.
- 4.The provisions of paragraph 2 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.
- 5.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 taxation laws of the territory of which the company making the distribution is a resident.
- 6.The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a territory, carries on business in the other territory of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other territory independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
- 7.Where a company which is a resident of a territory derives profits or income from the other territory, no tax may be impos-

ed in that other territory on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other territory 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 territory, 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 territory.

ARTICLE 11

INTEREST

1. Interest arising in a territory and paid to a resident of the other territory may be taxed in that other territory.
2. However, such interest may also be taxed in the territory in which it arises and according to the laws of that territory, but if the beneficial owner of the interest is a resident of the other territory, the tax so charged shall not exceed 10% percent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2, interest arising in a territory and paid to a resident of the other territory who is the beneficial owner thereof shall be taxable only in that other territory to the extent that such interest:
 - a) is paid in respect of a bond, debenture or other similar obligation of a public entity of a territory, or of a subdivision or local authority thereof; or
 - b) is paid to the other territory or a subdivision or local authority thereof, a central bank of that other territory or to any instrumentality (including a financial institution) controlled by that territory or subdivision or local authority thereof; or
 - c) is paid between banks.
4. The competent authorities of the territories shall by mutual agreement settle the mode of application of paragraphs 2 and 3.

5. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from public securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
6. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a territory, carries on business in the other territory in which the interest arises, through a permanent establishment situated therein, or performs in that other territory independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
7. Interest shall be deemed to arise in a territory when the payer is a resident of that territory. Where, however, the person paying the interest, whether he is a resident of a territory or not, has in a territory 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 territory in which the permanent establishment or fixed base is situated.
8. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable acco-

rding to the laws of each territory, due regard being had to the other provisions of this Agreement.

ARTICLE 12

ROYALTIES

1. Royalties arising in a territory and paid to a resident of the other territory may be taxed in that other territory.
2. However, the royalties may also be taxed in the territory in which they arise and according to the laws of that territory, but if the beneficial owner of the royalties is a resident of the other territory, the tax so charged shall not exceed 10% percent of the gross amount of the royalties.
3. The competent authorities of the territories shall by mutual agreement settle the mode of application of paragraph 2.
4. 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 cinematography films or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial, or scientific experience.
5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a territory, carries on business in the other territory in which the royalties arise, through a permanent establishment situated therein, or performs in that other territory 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.
6. Royalties shall be deemed to arise in a territory when the payer is a resident of that territory. Where, however, the person paying the royalties, whether he is a resident of a territ-

ory or not, has in a territory a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the territory 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 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 territory, due regard being had to the other provisions of this Agreement.

ARTICLE 13

CAPITAL GAINS

1. Gains derived by a resident of a territory from the alienation of immovable property referred to in Article 6 and situated in the other territory may be taxed in that other territory.
2. Where a resident of a territory owns all or virtually all of the shares in a company which is a resident of the other territory (other than a company of which the shares are quoted on a stock exchange) and the property of such company consists principally of immovable property situated in that other territory, any gains derived by such resident from the alienation of shares in that company may be taxed in that other territory. For the purpose of this paragraph the term "immovable property" does not include immovable property in which the business of the company is carried on. The provision of this paragraph shall not apply if such gains are derived in the course of a corporate reorganization, amalgamation, division or similar transaction.

3. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a territory has in the other territory or of movable property pertaining to a fixed base available to a resident of a territory in the other territory for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other territory.
4. 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 territory in which the place of effective management of the enterprise is situated.
5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4 shall be taxable only in the territory of which the alienator is a resident.
6. Notwithstanding the provisions of paragraph 5, gains from the alienation of shares or other corporate rights in a company resident under the laws of that territory, and gains from the alienation of any other securities which are subjected in that territory to the same taxation treatment as gains from the alienation of such shares or other corporate rights, derived by an individual who has been a resident of a territory, and who has become a resident of the other territory, may be taxed in the firstmentioned territory if the alienation of the shares, other corporate rights or securities at any time during the ten years next following the date on which the individual has ceased to be a resident of the first-mentioned territory.

ARTICLE 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is a resident of a territory in respect of professional services or other independent activities shall be taxable only in that territory unless such

services are performed in the other territory and:

- a) the individual is present in the other territory for a period or periods exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year of income concerned; or
- b) a fixed base is regularly available to the individual in the other territory for the purpose of performing the individual's activities.

If the provisions of subparagraphs (a) or (b) are satisfied, the income may be taxed in that other territory but only so much of it as is attributable to activities performed during such period or periods or from that fixed base.

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

ARTICLE 15

DEPENDENT PERSONAL SERVICES

- 1. Subject to the provisions of Articles 16, 18, 19, and 21, the salaries, wages and other similar remuneration derived by a resident of a territory in respect of an employment shall be taxable only in that territory unless the employment is exercised in the other territory. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other territory.
- 2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a territory in respect of an employment exercised in the other territory shall be taxable only in the first-mentioned territory if:
 - a) the recipient is present in the other territory for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned, and
 - b) the remuneration is paid by, or on behalf of, an employer who

- is not a resident of the other territory, and
- c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other territory.
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, may be taxed in the territory in which the place of effective management of the enterprise is situated.

ARTICLE 16

DIRECTORS' AND SUPERVISORS' FEES

Directors' and supervisors' fees and other similar remuneration derived by a resident of a territory in his capacity as a member of the board of directors (bestuurder) or supervisors (commissaris) of a company which is a resident of the other territory may be taxed in that other territory.

ARTICLE 17

ARTISTES AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a territory as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other territory, may be taxed in that other territory.
2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the territory in which the activities of the entertainer or sportsperson are exercised.
3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a territory by an entertainer or a sportsperson if the visit to that territory is wholly or mainly supported by public funds of the other territory

as recognized by the territories. In such case, the income shall be taxable only in the territory of which the entertainer or sportsperson is a resident.

ARTICLE 18

PENSIONS, ANNUITIES AND

SOCIAL SECURITY PAYMENTS

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a territory in consideration of past employment and any annuity, shall be taxable only in that territory if the pensions and other similar remuneration and annuities as such are subject to the normal rate of income tax in that territory.
2. However, where such remuneration is not of a periodical nature and it is paid in consideration of past employment in the other territory, or where instead of the right to annuities a lump sum is paid, this remuneration or this lump sum shall be taxable only in that other territory.
3. Any pension and other payment paid out under the provisions of a social security system of a territory to a resident of the other territory shall be taxable only in the first-mentioned territory.
4. 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.

ARTICLE 19

PUBLIC SERVICE

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

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

- a) is a citizen or national in that territory; or
- b) did not become a resident of that territory solely for the purpose of rendering the services.

2. Any pension paid by, or out of funds created by, a governing authority of a territory or by a local authority of that territory to an individual in respect of services rendered to that territory or subdivision or authority shall be taxable only in that territory. However, such pension shall be taxable only in the other territory if the individual is a resident of, and a citizen or national of, that territory.

3. The provisions of Article 15, 16, 17, and 18, shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a governing authority of a territory or a subdivision of that territory or by a local authority of that territory.

ARTICLE 20

STUDENTS AND TRAINEES

Payments which a student, or an apprentice or trainee who is or was immediately before visiting a territory a resident of the other territory and who is present in the first-mentioned territory 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 territory, provided that such payments arise from sources outside that territory.

ARTICLE 21

PROFESSORS AND RESEARCHERS

1. An individual who visits a territory for the purpose of teaching or carrying out research at a university, college or other

recognized educational institution in that territory and who is a resident of the other territory, shall be exempted from taxation in the first-mentioned territory on remuneration for such teaching or research for a period not exceeding two years from the date of his first visit for that purpose.

2. The provisions of paragraph 1 of this Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

ARTICLE 22

OTHER INCOME

1. Items of income of a resident of a territory, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that territory.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a territory, carries on business in the other territory through a permanent establishment situated therein, or performs in that other territory independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

ARTICLE 23

ELIMINATION OF DOUBLE TAXATION

1. In the case of a resident of the territory referred to in subparagraph 2(a) of Article 2 double taxation shall be avoided as follows:
Where a resident of the territory referred to in subparagraph 2(a) of Article 2 derives income from the other territory, the amount of tax on that income payable in that other territory (

but excluding, in the case of a dividend, tax paid in respect of the profits out of which the dividend is paid) and in accordance with the provisions of this Agreement, shall be credited against the tax levied in the first-mentioned territory imposed on that resident. The amount of credit, however, shall not exceed the amount of the tax in the first-mentioned territory on that income computed in accordance with its taxation laws and regulations.

2. In the case of a resident of the territory referred to in subparagraph 2(b) of Article 2, double taxation shall be avoided as follows:

- a) when imposing tax on its residents, this territory may include in the basis upon which such taxes are imposed the items of income which, according to the provisions of this Agreement, may be taxed in the territory referred to in subparagraph 2 (a) of Article 2;
- b) where a resident of the territory referred to in subparagraph 2(b) of Article 2 derives income which, in accordance with this Agreement, may be taxed in the territory referred to in subparagraph 2(a) of Article 2, the first-mentioned territory shall allow as a deduction from the tax on the income of that resident, an amount equal to the tax paid in the other territory. Such deduction shall, however, not exceed that part of the tax, as computed before the deduction is given, which is attributable to the income which according to the provisions of this Agreement may be taxed in the first-mentioned territory;
- c) the provisions of subparagraph b shall not apply, if and insofar as in the territory referred to in subparagraph 2(b) of Article 2 under the provisions of the domestic law for the avoidance of double taxation applicable in that territory, items of income which according to this Agreement may be taxed in the other territory are exempt in the first-mentioned territory. In such case the first-mentioned territory shall exempt such items of income by allowing a reduction of its tax

computed in conformity with the provisions of the domestic law for the avoidance of double taxation applicable in the first-mentioned territory.

ARTICLE 24

NON - DISCRIMINATION

1. Nationals of a territory shall not be subjected in the other territory 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 territory in the same circumstances, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the territories.
2. The taxation on a permanent establishment which an enterprise of a territory has in the other territory shall not be less favourably levied in that other territory than the taxation levied on enterprises of that other territory carrying on the same activities. This provision shall not be construed as obliging the competent authority of a territory to grant to residents of the other territory any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
3. Except where the provisions of paragraph 1 of Article 9, paragraph 8 of Article 11, or paragraph 7 of Article 12, apply, interest, royalties, and other disbursements paid by an enterprise of a territory to a resident of the other territory shall, for the purposes 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 territory.
4. Enterprises of a territory, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other territory, shall not be subjected in the first-mentioned territory to any taxation or any requi-

rement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned territory are or may be subjected.

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

ARTICLE 25

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of competent authorities of one or both of the territories result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those territories, present his case to the competent authority of the territory of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the territory 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 Agreement.
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 territory, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the territories.
3. The competent authorities of the territories shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.
4. The competent authorities of the territories may communicate with each other directly for the purpose of reaching an agree-

ment in the sense of the preceding paragraphs.

ARTICLE 26

EXCHANGE OF INFORMATION

1. The competent authorities of the territories shall exchange such information as is necessary for carrying out the provisions of this Agreement. Any information so exchanged shall be treated as secret and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Agreement. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.
2. In no case shall the provisions of paragraph 1 be construed so as to impose on the competent authority of a territory the obligation:
 - a) to carry out administrative measures at variance with the laws and the administrative practice of that or of the other territory;
 - 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 territory;
 - 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).
3. This Article shall not affect the rights and safeguards available to persons under the laws or the administrative practice in the territory requested to exchange information under paragraph 1.
4. The competent authorities of the territories shall by mutual agreement settle the mode of application of this Article.

ARTICLE 27

ENTRY INTO FORCE

1. This Agreement shall enter into force on the later of the dates on which the Taipei Representative Office in the Netherlands, and the Netherlands Trade and Investment Office in Taipei notify each other in writing that the processes required for the entry into force of this Agreement in their respective territories have been complied with.
2. This Agreement shall have effect:
 - a) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of the second month following the entry into force of the Agreement; and
 - b) in respect of other taxes on income, for taxable years beginning on or after 1 January in the year next following the entry into force of the Agreement.

ARTICLE 28

TERMINATION

This Agreement shall remain in force indefinitely, but the Taipei Representative Office in the Netherlands, and the Netherlands Trade and Investment Office in Taipei may terminate the Agreement, by giving written notice of termination on or before 30 June of any calendar year following after the period of five years from the entry into force of the Agreement.

In such case, the Agreement shall cease to have effect for taxable years beginning on or after 1 January in the year next following that in which the notice of termination is given.

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

DONE in duplicate in the English language at the Hague on this twenty-seventh day of February 2001

FOR THE TAIPEI REPRESENTATIVE OFFICE IN THE NETHERLANDS FOR THE
NETHERLANDS TRADE AND INVESTMENT OFFICE IN TAIPEI
PROTOCOL

At the moment of signing the Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, this day concluded between the TRON and the NTIO, the undersigned have agreed that the following provisions shall form an integral part of the Agreement.

I. Ad paragraph 1, subparagraph c of Article 3

In case an entity that is treated as a body corporate for tax purposes is liable as such to tax in a territory, but the income of that entity is taxed in the other territory respectively as income of the participants in that entity, the competent authorities shall take such measures that on the one hand no double taxation remains, but on the other hand it is prevented that merely as a result of application of the Agreement income is (partly) not subject to tax.

II. Ad Article 4

1. Funds established by public entities of a territory for mutual benefits for the employees of these public entities, and pension funds recognized as such and controlled by statutory provisions in a territory, and of which the income is generally exempt from tax in that territory, shall be regarded as a resident of that territory.
2. An individual living aboard a ship without any real domicile in either of the territories shall be deemed to be a resident of the territory in which the ship has its home harbour.

III. Ad Article 7

In respect of paragraphs 1 and 2 of Article 7, where an enterprise of a territory sells goods or merchandise or carries on business in the other territory through a permanent establishment situated therein, the profits of that permanent establishment shall not be determined on the basis of the total amount received by the enterprise, but shall be determined only on the basis of that portion of the income of the enterprise that is attributable

le to the actual activity of the permanent establishment in respect of such sales of business. Specifically, in the case of contracts for the survey, supply, installation or construction of industrial, commercial or scientific equipment or premises, or of public works, when the enterprise has a permanent establishment, the profits attributable to such permanent establishment shall not be determined on the basis of the total amount of the contract, but shall be determined only on the basis of that part of the contract that is effectively carried out by the permanent establishment in the territory where the permanent establishment is situated. The profits related to that part of the contract which is carried out by the head office of the enterprise shall be taxable only in the territory of which the enterprise is a resident.

IV. Ad Article 9

It is understood, however, that the mere fact that associated enterprises have concluded arrangements, such as costsharing arrangements or general services agreements, for or based on the allocation of executive, general administrative, technical and commercial expenses, research and development expenses and other similar expenses, is not enough to presume a condition as meant in paragraph 1 of Article 9. However, this does not prevent one of the territories from checking the above-mentioned arrangements or conditions as meant in this paragraph.

V. Ad Articles 10 and 13

It is understood that income received in connection with the (partial) liquidation of a company or a purchase of own shares by a company is treated as income from shares and not as capital gains.

VI. Ad Article 11

It is understood that an instrumentality (including a financial institution) is controlled by a territory or subdivision or loc-

al authority thereof if that territory or subdivision or local authority thereof holds at least 50 per cent of the capital of that instrumentality.

VII. Ad Article 18

Pensions and other similar remuneration or annuities paid to a resident of a territory shall be considered to be subject as such to the normal rate of income tax if:

- a) at least 90 per cent of the gross amount of the pensions and other similar remuneration or annuities is effectively taxed at the generally applicable rate for income derived from dependent personal services; or b) the total amount of the pensions and other similar remuneration or annuities does not exceed the sum of 20 000 Euro in any calendar year.

VIII. Ad Article 18, paragraphs 2 and 3, and Article 19, paragraphs 1 and 2

It is understood that the provisions of paragraph 2 and 3 of Article 18 and paragraphs 1 and 2 of Article 19 do not prevent the territory referred to in paragraph 2 (b) of Article 2 from applying the provisions of paragraph 2 of Article 23 of the Agreement.

IX. Ad Article 24

Contributions paid by, or on behalf of, an individual who is a resident of a territory to a pension plan that is recognized for tax purposes in the other territory shall be treated in the same way for tax purposes in the first-mentioned territory as a contribution paid to a pension plan that is recognized for tax purposes in that first-mentioned territory, provided that

- a) such contributions to such pension plan were paid by, or on behalf of, that individual before he became a resident of the first-mentioned territory; and
- b) the competent authority of the first-mentioned territory agrees that the pension plan corresponds to a pension plan reco-

gnized for tax purposes by that territory.

For the purpose of this paragraph, the term "pension plan" includes a pension plan created under a public social security system.

IN WITNESS whereof the undersigned have signed this Protocol.

DONE in duplicate in the English language at the Hague this twenty-seventh day of February, 2001

For the Taipei
Representative Office in
the Netherlands

For the Netherlands Trade
and Investment Office in
Taipei

Final Agreed Minutes

A second round of negotiations for an Agreement to prevent double taxation was held in the Hague, from 26 to 29 June 2000, between a delegation from Taipei and a delegation from the Netherlands. The two delegations were respectively headed by Ms. Joanne Ling, senior specialist of the Department of Taxation, Ministry of Finance, Taipei, and Mr. Siebe K. Schuur, Representative of the Netherlands Trade and Investment Office in Taipei.

The negotiation took place in a spirit of friendship and mutual understanding. Full agreement of the text was reached, and both heads of delegation have initialed the draft text of the Agreement and have expressed their intention to take the necessary steps to the signing of the Agreement as soon as possible.

With respect to the application of the Agreement, it is understood that :

- the provision laid down in Article 11, paragraph 3, subparagraph c , is applicable to interest payments by banks or branches of banks to banks or branches of banks; and
- the staff sent abroad to work respectively in the Taipei Representative office in the Netherlands and the Netherlands Trade and Investment Office in Taipei, fall under the scope of

Article 19 of this Agreement.

Done in the Hague on the 27th day of February 2001.

Chung-Lien Ku

Representative of the

Taipei Representative Office

In the Netherlands

Siebe K. Schuur

Representative of the

Netherlands Trade and Invest

Office in Taipei