

法規名稱：AGREEMENT BETWEEN THE TAIPEI ECONOMIC AND CULTURAL OFFICE IN MALAYSIA AND THE MALAYSIAN FRIENDSHIP AND TRADE CENTRE IN TAIPEI FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

簽訂日期：民國 85 年 07 月 23 日

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Date: 23rd July, 1996

President,

The Malaysian Friendship and Trade Centre,

8th Floor, San Ho Plastic Building,

102, Tun Hua North Road,

Taipei, Taiwan, R.O.C.

Dear Mr. President,

I have the honour to refer to the Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed between us on July 23, 1996, and have the pleasure to inform you that approval has been given in respect of matters set out in the said Agreement.

I wish to state further that, for the purposes of Article 24, the word "resident" shall not apply to "nationals" of areas other than the area represented by the Malaysian Friendship and Trade Centre in Taipei or the Taipei Economic and Cultural Office in Malaysia, as the case may be.

I have further the honour to propose that this letter and your letter in reply, shall bring into force the said Agreement.

Please accept, Mr. President, the assurances of my highest consideration.

(Huang Hsin-pi)

The Representative,

The Taipei Economic and Cultural Office in Malaysia,
Kuala Lumpur, Malaysia.

AGREEMENT BETWEEN THE TAIPEI ECONOMIC AND CULTURAL OFFICE IN
MALAYSIA AND THE MALAYSIAN FRIENDSHIP AND TRADE CENTRE IN TAIPEI
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF
FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Taipei Economic and Cultural Office in Malaysia and the
Malaysian Friendship and Trade Centre in Taipei, being desirous
of promoting closer economic cooperation and investment,
undertake to seek the approval of their respective authorities
on matters relating to the avoidance of double taxation and the
prevention of fiscal evasion and on matters relating to credits,
benefits, exemptions or other facilities relating to taxation,
as may be applicable, to the residents of the area represented
by the Taipei Economic and Cultural Office in Malaysia or the
area represented by the Malaysian Friendship and Trade Centre in
Taipei, as the case may be, in respect of investments and
economic activities;

Both parties have agreed to seek the approval of their
respective authorities in respect of matters set out in this
Agreement.

ARTICLE 1 PERSONAL SCOPE

This Agreement shall apply to persons who are residents of the
"area represented by the Malaysian Friendship and Trade Centre
in Taipei" (hereinafter called the "MFTC") and the "area
represented by the Taipei Economic and Cultural Office in
Malaysia" (hereinafter called the "TECO").

ARTICLE 2 TAXES COVERED

1. The existing taxes to which this Agreement shall apply are:

- (a) in the MFTC: the income tax and the petroleum income tax;
 - (b) in the TECO: the individual consolidated income tax and the profit seeking enterprise income tax.
2. This Agreement shall also apply to any other taxes of a substantially similar character which are subsequently imposed in addition to, or in place of, the existing taxes. Both parties shall notify each other of any significant changes which have been made in the taxation laws applicable in the MFTC or in the TECO, as the case may be, and of any significant official publication concerning the application of the Agreement, including explanations, regulations, rulings or judicial decisions.

ARTICLE 3 GENERAL DEFINITIONS

1. In this Agreement, unless the context otherwise requires:
- (a) the term "person" comprises an individual, a company and any other body of persons which is treated as a person for tax purposes;
 - (b) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - (c) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise in the MFTC or in the TECO, as the case may be, except when the ship or aircraft is operated solely between places in the MFTC or in the TECO, as the case may be;
 - (d) the term "competent authority" means the appropriate authority responsible for taxation in the MFTC or in the TECO, as the case may be.
2. As regards the application of this Agreement in the MFTC or in the TECO, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws applicable in the MFTC or in the TECO relating to the taxes which are the subject of this Agreement.

ARTICLE 4 RESIDENT



1. For the purposes of this Agreement, the term "resident" means any person who is a resident in accordance with the taxation laws applicable in the MFTC or in the TECO, as the case may be.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both the MFTC and the TECO, then his status shall be determined in accordance with the following rules:
 - (a) he shall be deemed to be a resident of either the MFTC or the TECO where he has a permanent home available to him. If he has a permanent home available to him in both the MFTC and the TECO, he shall be deemed to be a resident of the MFTC or the TECO with which his personal and economic relations are closer (centre of vital interest);
 - (b) in cases where his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either the MFTC or the TECO, he shall be deemed to be a resident of the MFTC or the TECO in which he has an habitual abode;
 - (c) if he has an habitual abode in both the MFTC and the TECO or in neither of them, the respective authorities in the MFTC and in the TECO shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both the MFTC and the TECO, then it shall be deemed to be a resident of the MFTC or the TECO in which the control and management of its business is exercised.

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 the enterprise is wholly or partly carried on.
2. The term "permanent establishment" shall include especially:
 - (a) a place of management;

- (b) a branch;
 - (c) an office;
 - (d) a factory;
 - (e) a workshop;
 - (f) a mine, oil well, quarry or other place of extraction of natural resources;
 - (g) a plantation, farm, orchard or vineyard;
 - (h) a building site, construction, installation and assembly project which exist in the aggregate for more than six months in a calendar year or for more than six consecutive months overlapping two calendar years.
3. The term "permanent establishment" shall not be deemed 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 for 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.
4. An enterprise of the MFTC shall be deemed to have a permanent establishment in the TECO if it carries on supervisory activities in the TECO for more than six months in connection with a construction, installation or assembly project which is being undertaken in the TECO.
5. An enterprise of the TECO shall be deemed to have a permanent establishment in the MFTC if it carries on supervisory

- activities in the MFTC for more than six months in connection with a construction, installation or assembly project which is being undertaken in the MFTC.
6. A person acting in the MFTC on behalf of an enterprise of the TECO (other than an agent of an independent status to whom paragraph 8 applies) notwithstanding he has no fixed place of business in the MFTC shall be deemed to be a permanent establishment in the MFTC if -
 - (a) he has, and habitually exercises a general authority in the MFTC to conclude contracts in the name of the enterprise; or
 - (b) he maintains in the MFTC a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise; or
 - (c) he regularly secures orders in the MFTC wholly or almost wholly for the enterprise.
 7. A person acting in the TECO on behalf of an enterprise of the MFTC (other than an agent of an independent status to whom paragraph 9 applies) notwithstanding he has no fixed place of business in the TECO shall be deemed to be a permanent establishment in the TECO if -
 - (a) he has, and habitually exercises a general authority in the TECO to conclude contracts in the name of the enterprise; or
 - (b) he maintains in the TECO a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise; or
 - (c) he regularly secures orders in the TECO wholly or almost wholly for the enterprise.
 8. An enterprise of the MFTC shall not be deemed to have a permanent establishment in the TECO merely because it carries on business in the TECO through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.
 9. An enterprise of the TECO shall not be deemed to have a permanent establishment in the MFTC merely because it carries on business in the MFTC through a broker, general commission

- agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.
10. The fact that a company which is a resident of the MFTC controls or is controlled by a company which is a resident of the TECO, or which carries on business in the TECO (whether through a permanent establishment or otherwise), shall not of itself constitute for either company a permanent establishment of the TECO.
11. The fact that a company which is a resident of the TECO controls or is controlled by a company which is a resident of the MFTC, or which carries on business in the MFTC (whether through a permanent establishment or otherwise), shall not of itself constitute for either company a permanent establishment of the MFTC.

ARTICLE 6 INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of the MFTC from immovable property situated in the TECO may be taxed in the TECO.
2. Income derived by a resident of the TECO from immovable property situated in the MFTC may be taxed in the MFTC.
3. For the purposes of this Agreement, the term "immovable property" shall be defined in accordance with the laws applicable in the MFTC or in the TECO, as the case may be, 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, oil or gas wells, quarries and other places of extracting of natural resources including timber or other forest produce. Ships, boats and aircraft shall not be regarded as immovable

property.

4. The provisions of paragraphs 1 and 2 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
5. The provisions of paragraphs 1, 2 and 4 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 the MFTC shall be taxable only in the MFTC unless the enterprise carries on business in the TECO through a permanent establishment situated in the TECO. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the TECO but only on so much thereof as is attributable to that permanent establishment.
2. The profits of an enterprise of the TECO shall be taxable only in the TECO unless the enterprise carries on business in the MFTC through a permanent establishment situated in the MFTC. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the MFTC but only on so much thereof as is attributable to that permanent establishment.
3. Subject to the provisions of paragraph 5, where an enterprise of the MFTC carries on business in the TECO through a permanent establishment situated therein, there shall in the TECO 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.
4. Subject to the provisions of paragraph 5, where an enterprise of the TECO carries on business in the MFTC through a

- permanent establishment situated therein, there shall in the MFTC 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.
5. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses including executive and general administrative expenses, which would be deductible if the permanent establishment were an independent enterprise insofar as they are reasonably allocable to the permanent establishment, whether incurred in the MFTC or the TECO as the case may be, in which the permanent establishment is situated or elsewhere.
 6. No profits shall be attributed to a permanent establishment by reason of the mere purchase (including transportation) by that permanent establishment of goods or merchandise for the enterprise.
 7. 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.
 8. 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 derived by an enterprise of the MFTC from the operation of ships or aircraft in international traffic shall be taxable only in the MFTC.
2. Profits derived by an enterprise of the TECO from the operation of ships or aircraft in international traffic shall be taxable only in the TECO.

3. Paragraphs 1 and 2 shall also apply to the share of profits from the participation in a pool, a joint business or an international operating agency.
4. Paragraphs 1 and 2 shall also apply to profits from the rental of ships or aircraft on a full (time, voyage or bareboat) basis, and profits from the rental of containers and related equipment, which is incidental to the international operation of ships or aircraft.

ARTICLE 9 ASSOCIATED ENTERPRISES

1. Where-

- (a) an enterprise of the MFTC participates directly or indirectly in the management, control or capital of an enterprise of the TECO, or
 - (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of the MFTC and an enterprise of the TECO,
- and in either case conditions are made or imposed between the two enterprise 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) an enterprise of the TECO participates directly or indirectly in the management, control or capital of an enterprise of the MFTC, or
 - (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of the TECO and an enterprise of the MFTC,
- and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between

independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

ARTICLE 10 DIVIDENDS

1. Dividends paid by a company which is a resident of the MFTC to a resident of the TECO may be taxed in the TECO.
2. Dividends paid by a company which is a resident of the TECO to a resident of the MFTC may be taxed in the MFTC.
3. However, dividends paid by a company which is a resident of the TECO to a resident of the MFTC may be taxed in the TECO in accordance with the laws applicable in the TECO, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 12.5 per cent of the gross amount of the dividends.
4. However, dividends paid by a company which is a resident of the MFTC to a resident of the TECO who is the beneficial owner thereof shall be exempt from any tax in the MFTC which is chargeable on dividends in addition to the tax chargeable in respect of the income of the company. Nothing in this paragraph shall affect the provisions of the law of the MFTC under which the tax in respect of a dividend paid by a company which is a resident of the MFTC from which tax payable in the MFTC has been, or has been deemed to be, deducted may be adjusted by reference to the rate of tax appropriate to the year of assessment of the MFTC immediately following that in which the dividend was 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 laws as applicable in the MFTC or in the TECO, as the case may be, of which the

- company making the distribution is a resident.
6. The provisions of paragraphs 1 and 4 shall not apply if the beneficial owner of the dividends, being a resident of the TECO, carries on business in the MFTC, of which the company paying the dividends is a resident, through a permanent establishment situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.
 7. The provisions of paragraphs 2 and 3 shall not apply if the beneficial owner of the dividends, being a resident of the MFTC, carries on business in the TECO, of which the company paying the dividends is a resident, through a permanent establishment situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.
 8. Where a company which is a resident of the TECO derives income or profits from the MFTC, the MFTC may not impose any tax on the dividends paid by the company to persons who are not residents of the MFTC, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of income or profits arising in the MFTC.
 9. Where a company which is a resident of the MFTC derives income or profits from the TECO, the TECO may not impose any tax on the dividends paid by the company to persons who are not residents of the TECO, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of income or profits arising in the TECO.

ARTICLE 11 INTEREST

1. Interest arising in the MFTC and paid to a resident of the TECO may be taxed in the TECO.

2. Interest arising in the TECO and paid to a resident of the MFTC may be taxed in the MFTC.
3. However, interest arising in the MFTC may be taxed in the MFTC according to the laws applicable in the MFTC, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.
4. However, interest arising in the TECO may be taxed in the TECO according to the laws applicable in the TECO, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.
5. Notwithstanding the provisions of paragraph 3, interest to which a resident of the TECO is beneficially entitled may be exempt from tax if the loan or other indebtedness in respect of which the interest is paid is an approved loan as defined in Section 2(1) of the Income Tax Act 1967 of the MFTC.
6. 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.
7. The provisions of paragraphs 1, 3 and 5 shall not apply if the beneficial owner of the interest, being a resident of the TECO, carries on business in the MFTC, through a permanent establishment situated in the MFTC, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.
8. The provisions of paragraphs 2 and 4 shall not apply if the beneficial owner of the interest, being a resident of the MFTC, carries on business in the TECO, through a permanent establishment situated in the TECO, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such a case,

the provisions of Article 7 shall apply.

9. Interest shall be deemed to arise in the MFTC when the payer is a resident of the MFTC. Where, however, the person paying the interest, whether he is a resident of the MFTC or not, has in the MFTC a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the MFTC.
10. Interest shall be deemed to arise in the TECO when the payer is a resident of the TECO. Where, however, the person paying the interest, whether he is a resident of the TECO or not, has in the TECO a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the TECO.
11. 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 paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the 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 applicable in the MFTC or in the TECO, as the case may be, due regard being had to the other provisions of this Agreement.

ARTICLE 12 ROYALTIES

1. Royalties arising in the MFTC and paid to a resident of the TECO may be taxed in the TECO.
2. Royalties arising in the TECO and paid to a resident of the

- MFTC may be taxed in the MFTC.
3. However, royalties arising in the MFTC may also be taxed in the MFTC according to the laws applicable in the MFTC, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.
 4. However, royalties arising in the TECO may also be taxed in the TECO according to the laws applicable in the TECO, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.
 5. The term "royalties" as used in this Article means payments of any kind received as a consideration for:
 - (a) the use of, or the right to use, any patent, trade mark, design or model, plan, secret formula or process, or any copyright of scientific work, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience;
 - (b) the use of, or the right to use, cinematograph films, or tapes for radio or television broadcasting, any copyright of literary or artistic work.
 6. The provisions of paragraphs 1 and 3 shall not apply if the beneficial owner of the royalties, being a resident of the TECO, carries on business in the MFTC in which the royalties arise through a permanent establishment situated in the MFTC, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.
 7. The provisions of paragraphs 2 and 4 shall not apply if the beneficial owner of the royalties, being a resident of the MFTC, carries on business in the TECO in which the royalties arise through a permanent establishment situated in the TECO, and the right or property in respect of which the royalties

are paid is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.

8. Royalties shall be deemed to arise in the MFTC when the payer is a resident of the MFTC. Where, however, the person paying such royalties, whether he is a resident of the MFTC or not, has in the MFTC a permanent establishment in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the MFTC.
9. Royalties shall be deemed to arise in the TECO when the payer is a resident of the TECO. Where, however, the person paying such royalties, whether he is a resident of the TECO or not, has in the TECO a permanent establishment in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the TECO.
10. 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 paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a case, the excess part of the payments shall remain taxable according to the laws applicable in the MFTC or in the TECO, as the case may be, due regard being had to the other provisions of this Agreement.

ARTICLE 13 TECHNICAL FEES

1. Notwithstanding the provisions of Article 15, technical fees arising in the MFTC and paid to a resident of the TECO may be taxed in the TECO.
2. Notwithstanding the provisions of Article 15, technical fees



- arising in the TECO and paid to a resident of the MFTC may be taxed in the MFTC.
3. However, technical fees arising in the MFTC may also be taxed in the MFTC according to the laws applicable in the MFTC, but if the recipient is the beneficial owner of the technical fees, the tax so charged shall not exceed 7.5 per cent of the gross amount of the technical fees.
 4. However, technical fees arising in the TECO may also be taxed in the TECO according to the laws applicable in the TECO, but if the recipient is the beneficial owner of the technical fees, the tax so charged shall not exceed 7.5 per cent of the gross amount of the technical fees.
 5. The term "technical fees" as used in this Article means payments of any kind to any person, other than to an employee of the person making the payments, in consideration for any services of a technical, managerial or consultancy nature.
 6. The provisions of paragraphs 1 and 3 of this Article shall not apply if the beneficial owner of the technical fees, being a resident of the TECO, carries on business in the MFTC in which the technical fees arise, through a permanent establishment situated therein, or perform in the MFTC personal (professional) services and the technical fees are effectively connected with such permanent establishment or such services. In such case, the provisions of Article 7 or Article 15, as the case may be, shall apply.
 7. The provisions of paragraphs 2 and 4 of this Article shall not apply if the beneficial owner of the technical fees, being a resident of the MFTC, carries on business in the TECO in which the technical fees arise, through a permanent establishment situated therein, or perform in the TECO personal (professional) services and the technical fees are effectively connected with such permanent establishment or such services. In such case, the provisions of Article 7 or Article 15, as the case may be, shall apply.
 8. Technical fees shall be deemed to arise in the MFTC when the

payer is a resident of the MFTC. Where, however, the person paying the technical fees, whether he is a resident of the MFTC or not, has in the MFTC a permanent establishment in connection with which the obligation to pay the technical fees was incurred, and such technical fees are borne by that permanent establishment, then such technical fees shall be deemed to arise in the MFTC.

9. Technical fees shall be deemed to arise in the TECO when the payer is a resident of the TECO. Where, however, the person paying the technical fees, whether he is a resident of the TECO or not, has in the TECO a permanent establishment in connection with which the obligation to pay the technical fees was incurred, and such technical fees are borne by that permanent establishment, then such technical fees shall be deemed to arise in the TECO.

ARTICLE 14 CAPITAL GAINS

1. Gains derived by a resident of the MFTC from the alienation of immovable property referred to in Article 6 and situated in the TECO may be taxed in the TECO.
2. Gains derived by a resident of the TECO from the alienation of immovable property referred to in Article 6 and situated in the MFTC may be taxed in the MFTC.
3. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of the MFTC has in the TECO or of movable property available to a resident of the MFTC in the TECO 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 may be taxed in the TECO.
4. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of the TECO has in the MFTC or of movable property available to a resident of the TECO in the MFTC 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 may be taxed in the MFTC.
5. Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft or boats, shall be taxable only in the MFTC or in the TECO, as the case may be, in which the enterprise is situated.
 6. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the MFTC or in the TECO, as the case may be, of which the alienator is a resident.

ARTICLE 15 INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of the MFTC in respect of professional services or other independent activities of a similar character shall be taxable only in the MFTC. However, in the following circumstances such income may be taxed in the TECO:
 - (a) if his stay in the TECO is for a period or periods amounting to or exceeding in the aggregate 183 days in the calendar year concerned; or
 - (b) if the remuneration for his services in the TECO is either derived from residents of the TECO or borne by a permanent establishment which a person not resident in the TECO has in the TECO and which, in either case exceeds 3,000 US Dollars or the equivalent in New Taiwan Dollars in the calendar year concerned, notwithstanding that his stay in the TECO is for a period or periods amounting to less than 183 days during that calendar year.
2. Income derived by a resident of the TECO in respect of professional services or other independent activities of a similar character shall be taxable only in the TECO.

However, in the following circumstances such income may be taxed in the MFTC:

- (a) if his stay in the MFTC is for a period or periods amounting to or exceeding in the aggregate 183 days in the calendar year concerned; or
- (b) if the remuneration for his services in the MFTC is either derived from residents of the MFTC or borne by a permanent establishment which a person not resident in the MFTC has in the MFTC and which, in either case exceeds 3,000 US Dollars or the equivalent in Malaysia Ringgit in the calendar year concerned, notwithstanding that his stay in the MFTC is for a period or periods amounting to less than 183 days during that calendar year.

3. 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 16 DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 17, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of the MFTC in respect of an employment shall be taxable only in the MFTC unless the employment is exercised in the TECO. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in the TECO.
2. Subject to the provisions of Articles 17, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of the TECO in respect of an employment shall be taxable only in the TECO unless the employment is exercised in the MFTC. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in the MFTC.
3. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of the MFTC in respect of an employment exercised in the TECO shall be taxable only in the MFTC if:

- (a) the recipient is present in the TECO for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned; and
 - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the TECO; and
 - (c) the remuneration is not borne by a resident or a permanent establishment which the employer has in the TECO.
4. Notwithstanding the provisions of paragraph 2, remuneration derived by a resident of the TECO in respect of an employment exercised in the MFTC shall be taxable only in the TECO if:
- (a) the recipient is present in the MFTC for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned; and
 - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the MFTC; and
 - (c) the remuneration is not borne by a resident or a permanent establishment which the employer has in the MFTC.
5. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of the MFTC may be taxed in the MFTC.
6. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of the TECO may be taxed in the TECO.

ARTICLE 17 DIRECTORS' FEES

1. Directors' fees and similar payments derived by a resident of the MFTC in his capacity as a member of the board of directors of a company which is a resident of the TECO, may be taxed in the TECO.
2. Directors' fees and similar payments derived by a resident of the TECO in his capacity as a member of the board of directors of a company which is a resident of the MFTC, may be taxed in the MFTC.



3. The remuneration which a director to whom paragraphs 1 and 2 apply derives from the company in respect of the discharge of day-to-day functions of a managerial or technical nature may be taxed in accordance with the provisions of Article 16.

ARTICLE 18 ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 15 and 16, income derived by a resident of the MFTC as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the TECO, may be taxed in the TECO.
2. Notwithstanding the provisions of Articles 15 and 16, income derived by a resident of the TECO as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the MFTC, may be taxed in the MFTC.
3. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 15 and 16, be taxed in the TECO or in the MFTC, as the case may be in which the activities of the entertainer or sportsman are exercised.
4. Paragraphs 1 and 3 shall not apply to remuneration or profits derived from activities exercised in the TECO if the visit to the TECO is directly or indirectly supported wholly or substantially from the public funds of the MFTC.
5. Paragraphs 2 and 3 shall not apply to remuneration or profits derived from activities exercised in the MFTC if the visit to the MFTC is directly or indirectly supported wholly or substantially from the public funds of the TECO.

ARTICLE 19 TEACHERS AND RESEARCHERS

1. An individual who is a resident of the MFTC immediately before making a visit to the TECO, and who, at the invitation



- of a public university, college, or other similar public institutions, visits the TECO for a period not exceeding two years solely for the purpose of teaching or research or both at such public institutions shall be exempt from tax in the TECO on his remuneration for such teaching or research which is subject to tax in the MFTC.
2. An individual who is a resident of the TECO immediately before making a visit to the MFTC, and who, at the invitation of a public university, college, or other similar public institutions, visits the MFTC for a period not exceeding two years solely for the purpose of teaching or research or both at such public institutions shall be exempt from tax in the MFTC on his remuneration for such teaching or research which is subject to tax in the TECO.
 3. The provisions of paragraphs 1 and 2 shall not apply where his visit, under one or more contracts with the public institutions of the MFTC or the TECO, as the case may be, exceed two years.
 4. This Article shall not apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.

ARTICLE 20 STUDENTS AND TRAINEES

1. An individual who is a resident of the TECO immediately before making a visit to the MFTC and is temporarily present in the MFTC solely:
 - (a) as a student at a recognised university, college, school or other similar recognised educational institution in the MFTC;
 - (b) as a business or technical apprentice; or
 - (c) as a recipient of a grant, allowance or award for the primary purpose of study, research or training from the relevant authorities either in the TECO or in the MFTC or from a scientific, educational, religious or charitable organisation or under a technical assistance programme,

shall be exempt from tax in the MFTC on:

- (i) all remittances from abroad for the purposes of his maintenance, education, study, research or training;
- (ii) the amount of such grant, allowance or award; and
- (iii) any remuneration not exceeding 3,000 US Dollars or the equivalent in New Taiwan Dollars per annum in respect of services in the MFTC provided the services are performed in connection with his study, research or training or are necessary for the purposes of his maintenance.

2. An individual who is resident of the MFTC immediately before making a visit to the TECO and is temporarily present in the TECO solely:

- (a) as a student at a recognised university, college, school or other similar recognised educational institution in the TECO;
- (b) as a business or technical apprentice; or
- (c) as a recipient of a grant, allowance or award for the primary purpose of study, research or training from the relevant authorities either in the MFTC or in the TECO or from a scientific, educational, religious or charitable organisation or under a technical assistance programme,

shall be exempt from tax in the TECO on:

- (i) all remittances from abroad for the purposes of his maintenance, education, study, research or training;
- (ii) the amount of such grant, allowance or award; and
- (iii) any remuneration not exceeding 3,000 US Dollars or the equivalent in Malaysian Ringgit per annum in respect of services in the TECO provided the services are performed in connection with his study, research or training or are necessary for the purposes of his maintenance.

ARTICLE 21 OTHER INCOME

1. Items of income of a resident of the TECO, wherever arising,

not dealt with in the foregoing Articles of this Agreement shall be taxable only in the TECO except that if such income is derived from sources in the MFTC, it may also be taxed in the MFTC.

2. Items of income of a resident of the MFTC, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in the MFTC except that if such income is derived from sources in the TECO, it may also be taxed in the TECO.

ARTICLE 22 LIMITATION OF RELIEF

1. Where this Agreement provides (with or without other conditions) that income from sources in the TECO shall be exempt from tax, or taxed at a reduced rate in the TECO and under the laws in force in the MFTC the said income is subject to tax by reference to the amount thereof which is remitted to or received in the MFTC and not by reference to the full amount thereof, then the exemption or reduction of tax to be allowed under this Agreement in the TECO shall apply to so much of the income as is remitted to or received in the MFTC.
2. Where this Agreement provides (with or without other conditions) that income from sources in the MFTC shall be exempt from tax, or taxed at a reduced rate in the MFTC and under the laws in force in the TECO the said income is subject to tax by reference to the amount thereof which is remitted to or received in the TECO and not by reference to the full amount thereof, then the exemption or reduction of tax to be allowed under this Agreement in the MFTC shall apply to so much of the income as is remitted to or received in the TECO.

ARTICLE 23 ELIMINATION OF DOUBLE TAXATION

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



Subject to the taxation laws applicable in the MFTC regarding the allowance as a credit against tax payable outside the MFTC, tax payable in the TECO under the taxation laws applicable in the TECO by a resident of the MFTC in respect of income derived from the TECO shall be allowed as a credit against tax payable in the MFTC in respect of that income. The credit shall not, however, exceed that part of the tax payable in the MFTC, as computed before the credit is given, which is appropriate to such item of income.

2. For the purposes of paragraph 1, the term "tax payable in the TECO" shall be deemed to include any income derived from sources in the TECO had the income not been taxed at a reduced rate or exempted from tax payable in the TECO in accordance with articles 6, 7, 8 and 8 - 1 of the Statute for Upgrading Industries in the TECO which were in force on the date of signature of this Agreement; or any other provisions which may subsequently be introduced in the TECO in modification of, or in addition to, the investment incentives laws so far as they are agreed by the authorities in the TECO and in the MFTC to be of a substantially similar character.

3. In the case of a resident in the TECO, double taxation shall be avoided as follows:

Subject to the taxation laws applicable in the TECO regarding the allowance as a credit against tax payable outside the TECO, tax payable in the MFTC under the taxation laws applicable in the MFTC by a resident of the TECO in respect of income derived from the MFTC shall be allowed as a credit against tax payable in the TECO in respect of that income. The credit shall not, however, exceed that part of the tax payable in the TECO, as computed before the credit is given, which is appropriate to such item of income.

4. For the purposes of paragraph 3, the term "tax payable in the MFTC" shall be deemed to include any income derived from sources in the MFTC had the income not been taxed at a reduced rate or exempted from tax payable in the MFTC in

accordance with sections 22, 23, 29, 35 and 37 of the Promotion of Investments Act 1986 in the MFTC which were in force on the date of signature of this Agreement; or any other provisions which may subsequently be introduced in the MFTC in modification of, or in addition to, the investment incentives laws so far as they are agreed by the authorities in the MFTC and in the TECO to be of a substantially similar character; and interest to which paragraph 5 of Article 11 applies, an amount not exceeding 10 per cent of the gross amount of the interest in respect of which tax payable in the MFTC would have been payable but for the exemption granted in accordance with that paragraph.

5. The provisions of paragraphs 2 and 4 shall apply for the first five years from the date on which this Agreement takes effect. These provisions shall apply to a resident in the TECO approved by its authority and to a resident in the MFTC. The MFTC and the TECO shall consult each other and their competent authorities in order to determine whether the period stipulated herein shall be extended.

ARTICLE 24 NON-DISCRIMINATION

1. The Malaysian Friendship and Trade Centre in Taipei or the Taipei Economic and Cultural Office in Malaysia shall make representation to their competent authorities to ensure that:
 - (a) the residents of an area shall not be subjected in the other area to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which residents of that other area in the same circumstances are or may be subjected;
 - (b) the taxation on a permanent establishment which an enterprise of an area has in the other area shall not be less favourably levied in that other area than the taxation levied on enterprises of that other area carrying on the same activities;



- (c) enterprises of an area, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other area, shall not be subjected in the first-mentioned area to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned area are or may be subjected.
2. The Malaysian Friendship and Trade Centre in Taipei or the Taipei Economic and Cultural Office in Malaysia as the case may be, agreed that:
- (a) nothing in this Article shall be construed as obliging the competent authority of an area to grant to individuals who are residents of the other area any personal allowances, reliefs and reductions for tax purposes on account of civil status or family responsibilities which are granted to the residents of the first-mentioned area;
- (b) nothing in this Article shall be construed so as to prevent either competent authority from limiting to the residents of an area the enjoyment of tax incentives designed to promote economic development in that area.
3. In this Article, the term "taxation" means taxes to which this Agreement applies.

ARTICLE 25 MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the competent authorities of the MFTC and the TECO 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 relevant domestic laws, present his case to the Malaysian Friendship and Trade Centre in Taipei or the Taipei Economic and Cultural Office in Malaysia, as the case may be, who will in turn present his case to the competent authority. 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 Malaysian Friendship and Trade Centre in Taipei and the Taipei Economic and Cultural Office in Malaysia shall endeavour to resolve the case by mutual agreement with a view to the avoidance of taxation which is not in accordance with the Agreement.
 3. The Malaysian Friendship and Trade Centre in Taipei and the Taipei Economic and Cultural Office in Malaysia shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may consult together for the elimination of double taxation in cases not provided for in the Agreement.

ARTICLE 26 EXCHANGE OF INFORMATION

1. The Malaysian Friendship and Trade Centre in Taipei and the Taipei Economic and Cultural Office in Malaysia shall exchange such information as is necessary for carrying out the provisions of this Agreement or of their respective domestic laws concerning taxes covered by this Agreement insofar as the taxation thereunder is in accordance with this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of this Agreement.
2. In no case shall the provisions of paragraph 1 be construed so as to impose on either the Centre or the Office the obligation:
 - (a) to carry out administrative measures at variance with their respective domestic laws;
 - (b) to supply information which is not obtainable under their respective domestic laws;
 - (c) to supply information which would disclose any trade,

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

ARTICLE 27 ENTRY INTO FORCE

1. This Agreement shall enter into force upon an exchange of notes by the duly authorized representatives of the Malaysian Friendship and Trade Centre in Taipei and the Taipei Economic and Cultural Office in Malaysia confirming their mutual agreement that both sides have completed all internal legal procedures necessary to give effect to this Agreement.
2. The provisions of the Agreement shall have effect:
 - (a) in the TECO:
 - (i) in respect of tax withheld or deducted at source on income paid to non-residents on or after the first day of January in the calendar year following that in which the exchange of notes takes place; and
 - (ii) in all other cases, in respect of tax for the taxable year beginning on the first day of January of the calendar year immediately following the year in which the exchange of notes takes place and subsequent taxable years.
 - (b) in the MFTC:
 - (i) in respect of withholding tax on income that is derived by a non-resident, in relation to income derived on or after the first day of January in the calendar year following that in which the exchange of notes takes place; and
 - (ii) in respect of other taxes for the year of assessment beginning on or after the first day of January in the second calendar year immediately following the year in which the exchange of notes takes place and subsequent years of assessment.

ARTICLE 28 TERMINATION



This Agreement shall remain in force indefinitely but either the Malaysian Friendship and Trade Centre in Taipei or the Taipei Economic and Cultural Office in Malaysia may terminate the Agreement by giving to the other Office or Centre written notice of termination on or before the 30th day of June in any calendar year from the fourth year from the year in which the Agreement entered into force. In such an event, the Agreement shall cease to have effect:

(a) in the TECO:

- (i) in respect of tax withheld or deducted at source on income paid to non-residents on or after the first day of January in the calendar year following that in which the notice is given; and
- (ii) in all other cases, in respect of tax for the taxable year beginning on the first day of January of the calendar year following that in which the notice is given.

(b) in the MFTC:

- (i) in respect of withholding tax on income that is derived by a non-resident, in relation to income derived on or after the first day of January in the calendar year following the year in which the notice is given; and
- (ii) in all other cases, in respect of tax for the year of assessment beginning on or after the first day of January in the second calendar year following the year in which the notice is given.

DONE in duplicate at Taipei this 23rd day of July 1996 each in Bahasa Malaysia, Chinese and English languages, the three texts being equally authentic. In the event of there being a dispute in the interpretation and the application of this Agreement, the English text shall prevail.

.....

the Representative The Taipei Economic and Cultural Office in



Malaysia Huang Hsin-Pi

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President The Malaysian Friendship and Trade Centre in Taipei

Datu Harun Datu Mansor