

法規名稱：AGREEMENT BETWEEN THE TAIPEI ECONOMIC AND CULTURAL OFFICE IN AUSTRIA AND THE AUSTRIAN 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 Economic and Cultural Office in Austria  
and

The Austrian Office in Taipei

desiring to promote their economic relations through the conclusion of an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, negotiated by the Taipei Economic and Cultural Office in Austria and the Austrian Federal Economic Chamber, have agreed as follows:

#### Article 1

##### PERSONS COVERED

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 a territory or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Agreement shall apply are in particular:
  - a) in the territory in which the taxation laws administered by

the Austrian Federal Ministry of Finance are applied:

- (i) the income tax (die Einkommensteuer);
  - (ii) the corporation tax (die Körperschaftsteuer);
- b) in the territory in which the taxation laws administered by the Ministry of Finance, Taipei are applied:
- (i) the profit-seeking enterprise income tax;
  - (ii) the individual consolidated income tax;
  - (iii) the income basic tax.
4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the territories shall notify each other of any significant changes that have been made in their 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 paragraph 3 a) or 3 b) of Article 2 of this Agreement, as the context requires, and the terms "other territory" and "territories" shall be construed accordingly; 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 that is treated as a body corporate for tax purposes;
  - d) the term "enterprise" applies to the carrying on of any business;
  - e) 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;
  - f) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a territory,



- except when the ship or aircraft is operated solely between places in the other territory;
- g) the term "competent authority" means:
- (i) in the territory in which the taxation laws administered by the Austrian Federal Ministry of Finance are applied: the Federal Minister of Finance or his authorized representative;
  - (ii) in the territory in which the taxation laws administered by the Ministry of Finance, Taipei are applied: the Minister of Finance or his authorized representative;
- h) the term "business" includes the performance of professional services and of other activities of an independent character.
2. As regards the application of the Agreement at any time by a territory, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law 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 incorporation, place of management or any other criterion of a similar nature, and also includes that territory 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. However, this provision shall not apply to individuals who are residents of the territory referred to in

paragraph 3 b) of Article 2, as long as resident individuals are liable to tax only in respect of income from sources in that territory.

3. Where by reason of the provisions of paragraph 1 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 only 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 endeavour to settle the question by mutual agreement.
4. Where by reason of the provisions of paragraph 1 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 it is incorporated.

## 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" also encompasses:
- a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities last 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 if activities of that nature continue (for the same or a connected project) within a territory for a period or periods aggregating more than six months within any twelvemonth 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 enterprise 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.
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.

#### 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 that territory from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

#### Article 8

##### SHIPPING, INLAND WATERWAYS TRANSPORT AND AIR TRANSPORT

1. Profits of an enterprise of a territory from the operation of ships or aircraft in international traffic shall be taxable only in that territory.
2. Profits of an enterprise of a territory from the operation of boats engaged in inland waterways transport shall be taxable only in that territory.

3. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic include:
  - a) profits from the rental on a full (time or voyage) basis or a bareboat basis of ships or aircraft; and
  - b) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise; where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.
4. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

#### Article 9

##### ASSOCIATED ENTERPRISES

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 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 that 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 the dividends is a resident of the other territory, the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.  
This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.
3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income which is subjected to the same taxation treatment as income from shares by the laws of the territory of which the company making the distribution is a resident.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a territory, carries on business in the other territory 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 case the provisions of Article 7 shall apply.

5. Where a company which is a resident of a territory derives profits or income from the other territory, that other territory may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other territory or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment 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 in force in 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 per cent of the gross amount of the interest.
3. Notwithstanding paragraph 2, interest arising in a territory shall be exempt from tax in that territory if it is paid:
  - a) to the authority administering the other territory, subdivision or local authority or the Central Bank thereof or any financial institution wholly owned or controlled by the other territory;
  - b) in respect of a loan granted, guaranteed or insured by an approved financial institution of the other territory which aims at promoting export;

- c) on loans made between banks as long as the beneficial owner is a bank and a resident of the other territory.
4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
5. The provisions of paragraphs 1 to 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 and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
6. 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 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 territory in which the permanent establishment is situated.
7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this 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 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, such 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 per cent of the gross amount of the royalties.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and films or tapes for television or radio broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a territory, carries on business in the other territory in which the royalties arise through a permanent establishment situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
5. 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 territory or not, has in a territory a permanent establishment in connection with which the liability 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 territory in which the permanent establishment is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, 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. 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, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other territory.
3. Gains derived by an enterprise of a territory 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 that territory.
4. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2 and 3 shall be taxable only in the territory of which the alienator is a resident.

## Article 14

### INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 15, 17 and 18 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 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, or aboard a boat engaged in inland waterways transport, may be taxed in the territory of which the enterprise operating the ship, aircraft or boat is a resident.

## Article 15

### DIRECTORS' FEES

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

Article 16

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 7 and 14, 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 sportsman, 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 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 and 14, be taxed in the territory in which the activities of the entertainer or sportsman are exercised.
3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities performed in a territory by artistes or sportsmen if the visit to that territory is wholly or mainly supported by public funds of one or both of the territories or political subdivisions or local authorities thereof. In such a case, the income is taxable only in the territory in which the artiste or the sportsman is a resident.

Article 17

PENSIONS AND ANNUITIES

1. Pensions and other similar remuneration paid to a resident of a territory in consideration of past employment shall be taxable only in the territory in which they arise. This provision shall also apply to annuities and to pensions and other similar remuneration paid by an entity of a territory under social security legislation in force in that territory or under a public scheme organized by that territory in order to supplement the benefits of that social security legislation.
2. 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 18

##### GOVERNMENT SERVICE

1. a) Salaries, wages and other similar remuneration, other than a pension or annuity, paid by an authority administering a territory or a subdivision thereof, or by a local authority of that territory or some other legal entity under public law of that territory as approved by the competent authority of that territory to an individual in respect of services rendered in charge of public or administrative functions on behalf of such an authority or such other legal entity under public law of that territory shall be taxable only in that territory.
2. b) However, such salaries, wages and other similar remuneration shall be taxable only in the other territory if the services are rendered in that territory and the individual is a resident of that territory who:
  - (i) is a national of that territory; or
  - (ii) did not become a resident of that territory solely for the purpose of rendering the services.
3. The provisions of Articles 14, 15, 16, and 17 shall apply to salaries, wages and other similar remuneration, and to pensions or annuities, in respect of services rendered in connection with a business carried on by a territory or a political subdivision, a local authority or other above-mentioned legal entity thereof.

#### Article 19

##### STUDENTS

Payments which a student or business apprentice 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 20

##### 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 and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
3. Income derived by a resident of a territory from the other territory under a legal claim to maintenance may not be taxed in the first-mentioned territory if such income would be exempt from tax according to the laws of the other territory.
4. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, items of income of a resident of a territory not dealt with in the foregoing Articles of this Agreement and arising in the other territory may also be taxed in that other territory.

#### Article 21

##### ELIMINATION OF DOUBLE TAXATION

Double taxation shall be eliminated as follows:

1. In the territory in which the taxation laws administered by the Austrian Federal Ministry of Finance are applied:



- a) Where a resident of the territory in which the taxation laws administered by the Austrian Federal Ministry of Finance are applied derives income which, in accordance with the provisions of this Agreement, may be taxed in the territory in which the taxation laws administered by the Ministry of Finance, Taipei are applied, the territory in which the taxation laws administered by the Austrian Federal Ministry of Finance are applied shall, subject to the provisions of sub-paragraphs b) and c), exempt such income from tax.
- b) Where a resident of the territory in which the taxation laws administered by the Austrian Federal Ministry of Finance are applied derives items of income which, in accordance with the provisions of Articles 10, 11 and 12, may be taxed in the territory in which the taxation laws administered by the Ministry of Finance, Taipei are applied, the territory in which the taxation laws administered by the Austrian Federal Ministry of Finance are applied shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in the territory in which the taxation laws administered by the Ministry of Finance, Taipei are applied. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from the territory in which the taxation laws administered by the Ministry of Finance, Taipei are applied.
- c) Where in accordance with any provision of the Agreement income derived by a resident of the territory in which the taxation laws administered by the Austrian Federal Ministry of Finance are applied is exempt from tax in the territory in which the taxation laws administered by the Austrian Federal Ministry of Finance are applied, the territory in which the taxation laws administered by the Austrian Federal Ministry of Finance are applied may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

- d) The provisions of sub-paragraph a) shall not apply to income derived by a resident of the territory in which the taxation laws administered by the Austrian Federal Ministry of Finance are applied where the territory in which the taxation laws administered by the Ministry of Finance, Taipei are applied applies the provisions of this Agreement to exempt such income from tax or applies the provisions of paragraph 2 of Article 10, 11 or 12 to such income.
2. In the territory in which the taxation laws administered by the Ministry of Finance, Taipei are applied:  
Where a resident of the territory in which the taxation laws administered by the Ministry of Finance, Taipei are applied derives income from the territory in which the taxation laws administered by the Austrian Federal Ministry of Finance are applied, the amount of tax on that income paid in the territory in which the taxation laws administered by the Austrian Federal Ministry of Finance are applied (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 territory in which the taxation laws administered by the Ministry of Finance, Taipei are applied imposed on that resident. The amount of credit, however, shall not exceed the amount of the tax in the territory in which the taxation laws administered by the Ministry of Finance, Taipei are applied on that income computed in accordance with its taxation laws and regulations.

## Article 22

### 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, in particular with respect to residence, 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 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 7 of Article 11, or paragraph 6 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 purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned 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 requirement 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. The provisions of this Article shall apply to taxes which are the subject of this Agreement.
  6. This Article shall not be construed so as to apply to any provision of the laws of a territory which:
    - a) does not allow tax rebates, credits or exemption in relation

to dividends paid by a company that is a resident of that territory for purposes of its tax; or

- b) is designed for the purpose of the promotion of economic development and public policy.

#### Article 23

##### MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions 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 22, 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 agreement in the sense of the preceding paragraphs.

Article 24

EXCHANGE OF INFORMATION

1. The competent authorities of the territories shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes covered by this Agreement imposed on behalf of the territories, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1.
2. Any information received under paragraph 1 by a territory shall be treated as secret in the same manner as information obtained under the domestic laws of that territory 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, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. 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.
3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a territory the obligation:
  - a) to carry out administrative measures at variance with the laws and 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).
4. If information is requested by a territory in accordance with



this Article, the other territory shall use its information gathering measures to obtain the requested information, even though that other territory may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a territory to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a territory to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

#### Article 25

##### LIMITATION ON BENEFITS

Notwithstanding the provisions of any other Article of the Agreement, a resident of a territory shall not receive the benefit of any reduction in or exemption from tax provided for in the Agreement by the other territory if the conduct of operations by such resident or a person connected with such resident had for main purpose or one of main purposes to obtain the benefits of the Agreement.

#### Article 26

##### MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

#### Article 27

##### ENTRY INTO FORCE

1. The Taipei Economic and Cultural Office in Austria and the

Austrian Office in Taipei will inform each other in writing about the adoption of this Agreement in their respective territories. This Agreement shall enter into force on the date of the later of these notifications.

2. This Agreement shall have effect:

- a) in respect of taxes withheld at source, for amounts paid on or after the first day of January of the calendar year next following that in which the Agreement entered into force;
- b) in the case of other taxes, in respect of taxes levied for periods beginning on or after the first day of January of the calendar year next following that in which the Agreement entered into force.

Article 28

#### TERMINATION

1. This Agreement shall remain in force indefinitely, but its validity may be terminated by the competent authorities on or before 30 June of any calendar year after a period of five years from the entry into force of the Agreement. The Taipei Economic and Cultural Office in Austria or the Austrian Office in Taipei will inform in writing the respective other side of the termination.

2. This Agreement shall cease to have effect:

- a) in respect of taxes withheld at source, for amounts paid on or after the first day of January of the calendar year next following that in which notice of termination is given;
- b) in the case of other taxes, in respect of taxes levied for periods beginning on or after the first day of January of the calendar year next following that in which notice of termination is given.

IN WITNESS WHEREOF the Plenipotentiaries of the two territories, duly authorised thereto, have signed this Agreement.

DONE in duplicate at Vienna, on 12 July 2014, in the Chinese,

German and English languages, each text being equally authentic. In case of divergence of interpretation the English text shall prevail.

For the Taipei Economic and Cultural Office in Austria      For the Austrian Office in Taipei  
For the Austrian Federal Economic Chamber

#### 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 Taipei Economic and Cultural Office in Austria and The Austrian Office in Taipei, the undersigned have agreed that the following provisions shall form an integral part of the Agreement.

1. With reference to Article 4

With respect to paragraph 2 of Article 4 of the Agreement it is understood that resident individuals of the territory referred to in paragraph 3 b) of Article 2 are liable to tax only in respect of income from sources in that territory in accordance with the Income Tax Act provided that such residents need not include their overseas income in the basic income in accordance with the Income Basic Tax Act.

2. With reference to Article 7

- a) 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 therefore by the enterprise but only on the basis of the amount which is attributable to the actual activity of the permanent establishment for such sales or business.
- b) In the case of contracts, in particular for the survey, supply, installation or construction of industrial,

commercial or scientific equipment or premises, or of public works, where the enterprise has a permanent establishment in the other territory, the profits of such permanent establishment shall be determined only on the basis of that part of the contract which is effectively carried out by the permanent establishment in the territory in which it is situated. Profits derived from the supply of goods to that permanent establishment or profits related to the part of the contract which is carried out in the territory in which the head office of the enterprise is situated shall be taxable only in that territory.

3. With reference to Article 11

Notwithstanding the provisions of Article 11 of this Agreement, interest may be taxed in the territory in which it arises, and according to the law of that territory, if it is derived from rights or debt-claims carrying a right to participate in the profits, including the income derived by a sleeping partner from his participation as a sleeping partner or from participating loans and participating bonds.

4. With reference to Article 24

a) The competent authority of the applicant territory shall provide the following information to the competent authority of the requested territory when making a request for information under the Agreement to demonstrate the foreseeable relevance of the information to the request:

- (i) the identity of the person under examination or investigation;
- (ii) a statement of the information sought including its nature and the form in which the applicant territory wishes to receive the information from the requested territory;
- (iii) the tax purpose for which the information is sought;
- (iv) grounds for believing that the information requested is held in the requested territory or is in the possession or control of a person within the jurisdiction of the requested territory;



- (v) to the extent known, the name and address of any person believed to be in possession of the requested information;
  - (vi) a statement that the applicant territory has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.
- b) It is understood that the exchange of information provided in Article 24 does not include measures which constitute "fishing expeditions".
- c) It is understood that paragraph 5 of Article 24 does not obligate the territories to exchange information on a spontaneous or automatic basis.
5. With reference to Article 25
- It is understood that Article 25 does not prevent either territory from applying their domestic anti-abuse rules.

IN WITNESS WHEREOF the Plenipotentiaries of the two territories, duly authorised thereto, have signed this Protocol.

DONE in duplicate at Vienna, on 12 July 2014, in the Chinese, German and English languages, each text being equally authentic. In case of divergence of interpretation the English text shall prevail.

For the Taipei Economic and Cultural Office in Austria

For the Austrian Office in Taipei  
For the Austrian Federal Economic Chamber