

In case of any discrepancy between the English translation and the Chinese and Italian texts, the Chinese and Italian texts shall govern.

## **AGREEMENT**

### **BETWEEN THE TAIPEI REPRESENTATIVE OFFICE IN ITALY AND THE ITALIAN ECONOMIC, TRADE AND CULTURAL PROMOTION OFFICE IN TAIPEI FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND THE PREVENTION OF FISCAL EVASION**

#### Article 1

#### PERSONAL SCOPE

This Agreement shall apply to persons who are residents of one or both of the territories referred to in paragraph 3 of Article 2.

#### Article 2

#### TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of each territory or of its administrative 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 law administered by the Italian Ministry of Economy and Finance is applied:
    - (i) the personal income tax (l'imposta sul reddito delle persone fisiche - IRPEF);
    - (ii) the corporate income tax (l'imposta sul reddito delle società - IRES);
    - (iii) the regional tax on business activities (l'imposta regionale sulle attività produttive - IRAP);
  - (b) in the territory in which the taxation laws administered by the Taxation Administration, Ministry of Finance, Taipei are applied:
    - (i) the profit-seeking enterprise income tax;
    - (ii) the individual consolidated income tax;
    - (iii) the income basic tax;

including the additional taxes levied thereon, whether or not they are collected by withholding at source.

4. This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of implementation of this 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 which have been made in their respective taxation laws.

Article 3  
GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:
- (a) the term "territory" means the territory referred to in paragraph 3(a) or 3(b) of Article 2, as the case may be. 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 which is treated as a body corporate for tax purposes;
  - (d) the terms "enterprise of a territory" and "enterprise of the other territory" mean respectively an enterprise carried on by a resident of a territory and an enterprise carried on by a resident of the other territory;
  - (e) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a territory, except when the ship or aircraft is operated solely between places in the other territory;
  - (f) the term "competent authority" means:
    - (i) in the case of the territory in which the taxation law administered by the Italian Ministry of Economy and Finance is applied, the Tax Policy Department;
    - (ii) in the case of the territory in which the taxation laws administered by the Taxation Administration, Ministry of Finance, Taipei are applied, the Director General of the Taxation Administration or his authorized representatives.
2. As regards the application of this Agreement at any time by a territory, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has at that time under the laws of that territory for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that territory prevailing over a meaning given to the term under other laws of that territory.

Article 4  
RESIDENT

1. For the purposes of this Agreement, the term "resident of a territory" means any person who, under the laws of that territory, is liable to tax therein by reason of his domicile,

residence, place of incorporation, place of management, or any other criterion of a similar nature, and also includes the authority administering a territory and any administrative 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 taxation in that territory in respect only of income from sources in that territory, provided that this paragraph shall not apply to individuals who are residents of the territory referred to in paragraph 3(b) of Article 2, as long as resident individuals are taxed only in respect of income from sources in that territory.
3. Where by reason of the provisions of paragraphs 1 and 2 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 of neither of them, the competent authorities of the territories shall settle the question by mutual agreement.
4. Where by reason of the provisions of paragraphs 1 and 2, a person other than an individual is a resident of both territories, then it shall be deemed to be a resident only of the territory in which its place of effective management is situated.

#### Article 5

#### PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of 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, quarry or 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 twelve-month period.

4. 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 advertising, for the supply of information, for scientific research, or for similar activities which have a preparatory or auxiliary character for the enterprise;
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. A person acting in a territory on behalf of an enterprise of the other territory - other than an agent of an independent status to whom paragraph 6 applies - shall be deemed to be a permanent establishment in the first-mentioned territory if he has, and habitually exercises in that territory, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

6. An enterprise of a territory shall not be deemed to have a permanent establishment in the other territory merely because it carries on business in that other territory 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.
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 be defined in accordance with 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 shall also be considered as "immovable property". 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 and to income from immovable property used for the performance of independent personal services.

#### Article 7

#### BUSINESS PROFITS

1. The profits of an enterprise of a territory shall be taxable only in that territory unless the enterprise carries on business in the other territory through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other territory but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a territory carries on business in the other territory through a permanent establishment situated therein, there shall in each territory be attributed to that permanent establishment the profits which it

might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In the determination of the profits of a permanent establishment, there shall be allowed as deduction 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 AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the territory in which the place of effective management of the enterprise is situated.
2. 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, use or maintenance, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

3. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the territory in which the home harbour of the ship is situated or, if there is no such home harbour, in the territory of which the operator of the ship is a resident.
4. The provisions of paragraph 1 shall also apply to profits derived from the participation in a pool, a joint business or in an international operating agency, but only to so much of the profits so derived as is attributable to the participant in proportion to its share in the joint operation.

#### Article 9

#### ASSOCIATED ENTERPRISES

##### 1. Where

- (a) an enterprise of a territory participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a territory and an enterprise of the other territory,

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

2. Where 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. Any such adjustment shall be made only in accordance with the mutual agreement procedure in Article 25.

#### 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 recipient

is the beneficial owner of the dividends the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

The competent authorities of the territories shall by mutual agreement settle the mode of application of this limitation.

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

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the taxation laws of the territory of which the company making the distribution is a resident. The term also includes any other item of income which, under the laws of the territory of which the company making the distribution is a resident, is treated as a dividend or a distribution of dividend of a company.
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 or performs in that other territory independent personal services from a fixed base situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
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 or a fixed base situated in that other territory, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other territory.
6. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the share or other rights in respect of which the dividend is paid to take advantage of this Article by means of that creation or assignment.

## Article 11 INTEREST

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



2. However, such interest may also be taxed in the territory in which it arises and according to the laws of that territory, but if the beneficial owner of the interest is a resident of the other territory, the tax so charged shall not exceed 10 per cent of the gross amount of the interests.
3. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from public securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. The term does not include the items of income which are treated as dividends according to the provisions of Article 10 of this Agreement.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a territory, carries on business in the other territory, in which the interest arises, through a permanent establishment situated therein, or performs in that other territory independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Interest shall be deemed to arise in a territory when the payer is a resident of that territory. Where, however, the person paying the interest, whether he is a resident of a territory or not, has in a territory a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the territory in which the permanent establishment or fixed base is situated.
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 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.
7. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment.

## 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 if such resident is the beneficial owner of the royalties.

2. However, such royalties may also be taxed in the territory in which it arises and according to the laws of that territory, but if the beneficial owner of the 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, 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, or performs in that other territory independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.
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 or a fixed base in connection with which the indebtedness on which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the territory in which the permanent establishment or fixed base is situated.
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 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 that 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.
7. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the rights in respect of which the royalties are paid to take advantage of this Article by means of that creation or assignment.

Article 13  
CAPITAL GAINS

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

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 or of movable property pertaining to a fixed base available to a resident of a territory in the other territory for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other territory.
3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the territory in which the place of effective management of the enterprise is situated.
4. Gains derived by a resident of a territory from the alienation of shares which are not listed on stock exchanges deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other territory may be taxed in that other territory.
5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the territory of which the alienator is a resident.

Article 14  
INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a territory in respect of professional services or other independent activities of a similar character shall be taxable only in that territory except in the following circumstances, when such income may also be taxed in the other territory:
  - (a) if he has a fixed base regularly available to him in the other territory for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that territory, or
  - (b) if his stay in the other territory is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned; in that case, only so much income as is derived from his activities performed in the other territory may be taxed in that territory.
2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15  
DEPENDENT PERSONAL SERVICES

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

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

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a territory in respect of an employment exercised in the other territory shall be taxable only in the first-mentioned territory if:
  - (a) the recipient is present in the other territory for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned, and
  - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other territory, and
  - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other territory.
3. Notwithstanding the provisions of paragraphs 1 and 2, remuneration derived in respect of an employment exercised aboard a ship or aircraft in international traffic, may be taxed in the territory in which the place of effective management of the enterprise is situated.
4. If a resident of a territory becomes a resident of the other territory, payments received by such resident on the cessation of his employment in the first-mentioned territory as severance payments (indemnities) or similar lump sum payments shall be taxable only in that first-mentioned territory. In this paragraph, the expression "severance payments (indemnities)" includes any payment made in consequence of the termination of any office or employment of a person.

#### Article 16 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 17 ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a territory as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a 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, 14 and 15, be taxed in the territory in which the activities of the entertainer or sportsman are exercised.
3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from activities referred to in paragraph 1 of this Article, performed in the other territory is taxable only in the first-mentioned territory if those activities are supported wholly or mainly by public funds of the first-mentioned territory.

Article 18  
PENSIONS

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

Article 19  
PUBLIC SERVICE

1. (a) Remuneration, other than a pension, paid by an authority administering a territory or an administrative subdivision or a local authority thereof to any individual in respect of services rendered to that territory or subdivision or authority shall be taxable only in that territory.  
  
(b) However, such 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.
2. (a) Any pension paid by, or out of funds created by, a territory or an administrative subdivision or a local authority thereof to any individual in respect of services rendered to that territory or subdivision or authority shall be taxable only in that territory.  
  
(b) However, such pension shall be taxable only in the other territory if the individual is a national of and a resident of that territory.
3. The provisions of Articles 15, 16 and 18 shall apply to remunerations or pensions in respect of services rendered in connection with business carried on by one of the territory or an administrative subdivision or a local authority thereof.

Article 20

## PROFESSORS AND TEACHERS

A professor or teacher who makes a temporary visit to a territory for a period not exceeding two years for the purpose of teaching or conducting research at a university, college, school or other educational institution, and who is, or immediately before such visit was, a resident of the other territory shall be exempt from tax in the first-mentioned territory in respect of remuneration for such teaching or research.

### Article 21 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 22 OTHER INCOME

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

### Article 23 ELIMINATION OF DOUBLE TAXATION

1. It is agreed that double taxation shall be avoided in accordance with the following paragraphs of this Article.
2. In the case of the territory referred to in paragraph 3(a) of Article 2:

If a resident of this territory owns items of income which are taxable in the other territory, the first-mentioned territory, in determining its income taxes specified in Article 2 of this Agreement, may include in the basis upon which such taxes are imposed the said items of income, unless specific provisions of this Agreement otherwise provide.

In such case, the first-mentioned territory shall deduct from the taxes so calculated the income tax paid in that other territory, but in an amount not exceeding that proportion of the aforesaid tax of the first-mentioned territory which such items of income bear to the entire income.

The tax paid in that other territory, for which deduction is granted is only the pro rata amount corresponding to the foreign income which is included in the aggregate income.

However, no deduction shall be granted if the item of income is subjected in the first-mentioned territory to a substitute tax or to a final withholding tax, or to substitute taxation at the same rate as the final withholding tax, also by request of the recipient, in accordance with law of the same territory.

3. In the case of the territory referred to in paragraph 3(b) of Article 2:

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

Article 24  
NON-DISCRIMINATION

1. Nationals of a territory shall not be subjected in the other territory to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other territory in the same circumstances, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the territories.
2. The taxation on a permanent establishment which an enterprise of a territory has in the other territory shall not be less favourably levied in that other territory than the taxation levied on enterprises of that other territory carrying on the same activities. This provision shall not be construed as obliging 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 6 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 that first-mentioned territory are or may be subjected.
5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.
6. However, the provisions of paragraphs 1, 2, 3, 4 and 5 will not limit the application of the domestic provisions for the prevention of the fiscal evasion and tax avoidance.

#### Article 25

#### 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 24, to that of the territory of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other territory, with a view to the avoidance of taxation not in accordance with the Agreement.
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. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a commission consisting of representatives of the competent authorities of the territories.



Article 26  
EXCHANGE OF INFORMATION

1. The competent authorities of the territories shall exchange such information as is necessary for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the territories, or of their administrative subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement, as well as to prevent fiscal evasion and tax avoidance. The exchange of information is not restricted by Articles 1 and 2.
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 27  
REFUNDS

1. Taxes withheld at the source in a territory will be refunded by request of the taxpayer if the right to collect the said taxes is affected by the provisions of this Agreement.
2. Claims for refund, that shall be produced within the time limit fixed by the laws of the territory which is obliged to carry out the refund, shall be accompanied by an official certificate of the territory of which the taxpayer is a resident certifying the existence of the conditions required for being entitled to the application of the allowances provided for by this Agreement.
3. The competent authorities of the territories may by mutual agreement settle the mode of application of this Article, in accordance with the provisions of Article 25 of this Agreement.

Article 28  
LIMITATION OF BENEFITS

1. Notwithstanding the provisions of any other Article of this Agreement, a resident of a territory shall not receive the benefit of any reduction in or exemption from taxes provided for in this Agreement by the other territory if the main purpose or one of the main purposes of the creation or existence of such resident or any person connected with such resident was to obtain the benefits under this Agreement that would not otherwise be available.
2. Nothing in this Agreement shall affect the application of the domestic provisions to prevent fiscal evasion and tax avoidance concerning the limitation of expenses and any deductions arising from transactions between enterprises of a territory and enterprises situated in the other territory, if the main purpose or one of the main purposes of the creation of such enterprises or of the transactions undertaken between them, was to obtain the benefits under this Agreement, that would not otherwise be available.
3. Notwithstanding the provisions of any other Article of this Agreement, a resident of a territory who, as a consequence of domestic laws, is not subject to tax or is subject to tax at a reduced rate in that territory on income or capital gains, shall not receive the benefit of any reduction in or exemption from tax provided for in this Agreement by the other territory if the main purpose or one of the main purposes of such resident or a person connected with such resident was to obtain the benefits of this Agreement.

Article 29  
SPECIAL PROVISIONS

1. With reference to paragraph 3(b) of Article 2, nothing in this Agreement affects the imposition of the Land Value Increment Tax.

2. With reference to paragraph 3 of Article 5, both territories agree with the interpretation provided by paragraph 18 of the Commentary on Article 5 of OECD Model Tax Convention on Income and on Capital, 2005.
3. With reference to paragraph 3 of Article 7, the term "expenses which are incurred for the purposes of the permanent establishment" means the expenses directly connected with the activity of the permanent establishment.
4. With reference to Article 19, the staff sent abroad to work respectively in the Italian Economic, Trade, and Cultural Promotion Office in Taipei and the Taipei Representative Office in Italy, fall under the scope of this Article.
5. The provisions of paragraph 3 of Article 27 shall not prevent the competent authorities of the territories from the carrying out, by mutual agreement, of other practices for the granting of tax benefits provided by this Agreement.
6. With reference to Article 30, the term "amounts derived on or after 1<sup>st</sup> January" means the amounts accrued and payable on or after 1<sup>st</sup> January.
7. Nothing in this Agreement shall prevent either territory in applying its domestic tax laws in order to prevent fiscal evasion and tax avoidance.

### Article 30

#### ENTRY INTO FORCE AND TERMINATION

1. This Agreement shall enter into force on the date of the receipt of the latter notification by which the Taipei Representative Office in Italy and the Italian Economic, Trade and Cultural Promotion Office in Taipei officially inform each other of the fulfilment of their respective domestic procedures and its provisions shall have effect:
  - (a) in respect of taxes withheld at source, to amounts derived on or after 1<sup>st</sup> January of the calendar year next following that in which the Agreement enters into force;
  - (b) in respect of other taxes on income, to taxes chargeable for any taxable period beginning on or after 1<sup>st</sup> January of the calendar year next following the year in which the Agreement enters into force.
2. This Agreement shall remain in force until terminated by one of the territories. The Taipei Representative Office in Italy or the Italian Economic, Trade and Cultural Promotion Office in Taipei may terminate this Agreement by giving written notice of termination at least six months before the end of any calendar year after the period of five years from the date on which the Agreement enters into force. In such event, this Agreement shall cease to have effect:

- (a) in respect of taxes withheld at source, to amounts derived on or after 1<sup>st</sup> January of the calendar year next following the year in which the notice is given;
- (b) in respect of other taxes on income, to taxes chargeable for any taxable period beginning on or after 1<sup>st</sup> January of the calendar year next following the year in which the notice is given.