AGREEMENT

BETWEEN

THE TAIPEI CULTURAL AND ECONOMIC DELEGATION IN SWITZERLAND

AND

THE TRADE OFFICE OF SWISS INDUSTRIES, TAIPEI

FOR THE AVOIDANCE OF DOUBLE TAXATION
WITH RESPECT TO TAXES ON INCOME

THE TAIPEI CULTURAL AND ECONOMIC DELEGATION IN SWITZERLAND

AND

THE TRADE OFFICE OF SWISS INDUSTRIES, TAIPEI

DESIRING to conclude an Agreement for the avoidance of double taxation with respect to taxes on income;

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 in either of the territories including its 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 Swiss Federal Tax Administration and the cantonal and municipal tax authorities are applied:

the federal, cantonal and communal taxes on income (total income, earned income, income from capital, industrial and commercial profits, capital gains, and other items of income);

b) in the territory in which the taxation laws administered by the Taxation Agency, Ministry of Finance in Taipei are applied:

(i) the profit-seeking enterprise income tax;

(ii) the individual consolidated income tax; and

(iii) the income basic tax;

including the surcharges levied thereon.

4. The Agreement shall apply also to any identical or substantially similar taxes which are imposed in either territory 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 substantial changes which have been made in the taxation laws of the respective territories.

5. The Agreement shall not apply to taxes withheld at the source on prizes in a lottery.

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 case 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 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 of 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 laws administered by the Swiss Federal Tax Administration and the cantonal and municipal tax authorities are applied, the Director of the Federal Tax Administration or his authorized representative;

(ii) in the case of the territory in which the taxation laws administered by the Taxation Agency, Ministry of Finance in Taipei are applied, the Director-General of the Taxation Agency or his authorized representative.

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

Article 4

Resident

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

incorporation, place of management or any other criterion of a similar nature, and also includes that territory and any subdivision or local authority thereof.

2. A person is not a resident of a territory for the purposes of the Agreement if that person is liable to tax in that territory in respect only of income from sources in that territory, provided that this paragraph shall not apply to individuals who are residents of the territory referred to in 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 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 settle the question by mutual agreement.

4. A pension fund which is established in a territory under the laws in force in that territory, and which is generally tax exempt in that territory, shall be treated as a resident of that territory and as beneficiary for the purposes of this Agreement.

5. 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 its place of effective management is situated.

Article 5

Permanent establishment

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

2. The term “permanent establishment“ includes especially:

a) a place of management;
b) a branch;
c) an office;
d) a factory;
e) a workshop, and
f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than six months.

4. Notwithstanding the provisions of paragraphs 1, 2 and 3, where an enterprise of a territory:
a) carries on supervisory activities for more than six months in connection with a building site or construction or installation project which is being undertaken in the other territory, or
b) during a period or periods exceeding in the aggregate 183 days in any twelve-month period, performs services for the same project or for connected projects through one or more individuals who are performing such services in that territory,
these supervisory activities or services shall be deemed to be performed through a permanent establishment that the enterprise has in the other territory, unless these supervisory activities or services are limited to those mentioned in paragraph 5 which, if performed through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

5. 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 advertising, for the supply of information, for scientific research or 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.

6. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 7 applies - is acting 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 the purchase of goods or merchandise for the enterprise.

7. 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.

8. 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 and to income from immovable property used for the performance of independent personal services.

Article 7

Business profits

1. The profits of an enterprise of a territory shall be taxable only in that territory unless the enterprise carries on business in the other territory through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other territory but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a territory carries on business in the other territory through a permanent establishment situated therein, there shall in each territory be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the territory in which the permanent establishment is situated or elsewhere.

4. Insofar as it has been customary in a territory to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude 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 of an enterprise of a territory from the operation of ships or aircraft in international traffic shall be taxable only in that territory.

2. For the purpose of this Article, profits from the operation in international traffic of ships or aircraft shall include in particular:

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.

3. The provisions of paragraphs 1 and 2 shall also apply to profits from the participation in a pool, a joint business or 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 other territory agrees that 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:

a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 20 per cent of the capital of the company paying the dividends;

b) 15 per cent of the gross amount of the dividends in all other cases.

The competent authorities of the territories shall by mutual agreement settle the mode of application of these limitations.

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 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, 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.

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

3. Notwithstanding the provisions of paragraph 2, interest arising in a territory and paid to a resident of the other territory who is the beneficial owner thereof shall be taxable only in that other territory to the extent that such interest is paid

a) in connection with the sale on credit of any industrial, commercial or scientific equipment;
b) in connection with the sale on credit of any merchandise or service by one enterprise to another enterprise;
c) on loans made between banks; or

d) to the other territory or to a subdivision or local authority thereof, or to the central bank of that 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, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a territory, carries on business in the other territory in which the interest arises, through a permanent establishment situated therein, or performs in that other territory independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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 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.

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, 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 fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to have arisen 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 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 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 derived by an enterprise of a territory 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 that territory.

4. Gains derived by a resident of a territory from the alienation of shares - other than shares which are quoted on a stock exchange as may be agreed by the territories - or other corporate rights in a company the assets of which consist directly or indirectly for more than 50 per cent of immovable property referred to in Article 6 and situated in the other territory[1] may be taxed in that other territory. The provisions of the preceding sentence shall not apply if:

a) the person who derives the gains owns less than 5 per cent of the shares or other corporate rights in the company prior to the alienation; or

b) the gains are derived in the course of a corporate reorganisation, amalgamation, division or similar transaction; or

c) the immovable property is used by a company for its own business.

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 activities of an independent character shall be taxable only in that territory except in the following circumstances, when such income may also be taxed in the other territory:

[1] The words “and situated in the other territory“ were inserted by Exchange of Letters dated 14 July 2011.

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; 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 and 19, 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 the fiscal year concerned, and

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

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

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the territory of which the enterprise operating the ship or aircraft is a resident.

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. The provisions of paragraphs 1 and 2 of this Article shall not apply to income derived by entertainers or sportsmen who are residents of a territory from their personal activities as entertainers or sportsmen exercised in the other territory if their visit to that other territory is wholly or substantially supported from the public funds of the first-mentioned territory, a subdivision or local authority thereof. In such a case, the income shall be taxable only in the territory of which the entertainer or sportsman, as the case may be, is a resident.

Article 18

Pensions and similar payments

Pensions and other similar remuneration in consideration of past employment, for which the contributions were deductible in determining taxable income, arising in a territory and paid to a resident of the other territory, may be taxed in the first-mentioned territory.

Article 19

Public service

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

   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.

2. a) Any pension and other similar remuneration paid by, or out of funds created by, a territory or a subdivision or a local authority thereof to an individual in respect of services rendered to that territory or subdivision or authority shall be taxable only in that territory.

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

3. The provisions of Articles 15, 16**,** 17 and 18 shall apply to salaries, wages, pension and other similar remuneration, in respect of services rendered in connection with a business carried on by any authority referred to in paragraph 1.

Article 20

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 21

Other income

1. Items of income of a resident of a territory, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that territory.

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

Article 22

Elimination of double taxation

1. In the case of the territory referred to in paragraph 3 a) of Article 2, double taxation shall be avoided as follows:

a) Where a resident of the territory referred to in paragraph 3 a) of Article 2 derives income which, in accordance with the provisions of this Agreement, may be taxed in the territory referred to in paragraph 3 b) of Article 2, the territory referred to in paragraph 3 a) of Article 2 shall, subject to the provisions of subparagraph b), exempt such income from tax but may, in calculating tax

on the remaining income of that resident, apply the rate of tax which would have been applicable if the exempted income had not been so exempted. However, such exemption shall apply to gains referred to in paragraph 4 of Article 13 only if actual taxation of such gains in the territory referred to in paragraph 3 b) of Article 2 is demonstrated.

b) Where a resident of the territory referred to in paragraph 3 a) of Article 2 derives dividends, interest or royalties which, in accordance with the provisions of Article 10, 11 and 12, may be taxed in the territory referred to in paragraph 3 b) of Article 2, the territory referred to in paragraph 3 a) of Article 2 shall allow, upon request, a relief to such resident. The relief may consist of:

(i) a deduction from the tax on the income of that resident of an amount equal to the tax levied in the territory referred to in paragraph 3 b) of Article 2 in accordance with the provisions of Articles 10, 11 and 12; such deduction shall not, however, exceed the part of the tax in the territory referred to in paragraph 3 a) of Article 2, as computed before the deduction is given, which is appropriate to the income which may be taxed in the territory referred to in paragraph 3 b) of Article 2; or

(ii) a lump sum reduction of the tax in the territory referred to in paragraph 3 a) of Article 2; or

(iii) a partial exemption of such dividends, interest or royalties from tax in the territory referred to in paragraph 3 a) of Article 2, in any case consisting at least of the deduction of the tax levied in the territory referred to in paragraph 3 b) of Article 2 from the gross amount of the dividends, interest or royalties.

The territory referred to in paragraph 3 a) of Article 2 shall determine the applicable relief and regulate the procedure in accordance with the applicable provisions relating to the carrying out of international conventions of that territory for the avoidance of double taxation.

c) A company which is a resident of the territory referred to in paragraph 3 a) of Article 2 and which derives dividends from a company which is a resident of the territory referred to in paragraph 3 b) of Article 2 shall be entitled, for the purposes of tax in the first-mentioned territory with respect to such dividends, to the same relief which would be granted to the company if the company paying the dividends were a resident of the territory referred to in paragraph 3 a) of Article 2.

2. In the case of the territory referred to in paragraph 3 b) of Article 2, double taxation shall be avoided as follows:

Where a resident of the territory referred to in paragraph 3 b) of Article 2 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 23

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 l, 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 to promote economic development.

Article 24

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 23, 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.

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, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 25[2]

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

[2] As amended by Exchange of Letters dated 14 July 2011.

the domestic laws concerning taxes covered by the Agreement 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, or the determination of appeals in relation to the taxes referred to in paragraph 1. 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. In order to obtain such information, the tax authorities of the requested territory, if necessary to comply with its obligations under this paragraph, shall have the power to enforce the disclosure of information covered by this paragraph, notwithstanding paragraph 3 or any contrary provisions in its domestic laws.

Article 26

Limitation of benefits

1. The provisions of Articles 10, 11 and 12 shall not apply in respect of any dividend, interest or royalty paid under, or as part of, a conduit arrangement.

2. The term “conduit arrangement” means a transaction or series of transactions which is structured in such a way that a resident of a territory entitled to the benefits of this Agreement receives an item of income arising in the other territory but that resident pays, directly or indirectly, all or substantially all of that income (at any time or in any form) to another person who is not a resident of either territory and who, if it received that item of income directly from the other territory, would not be entitled under an agreement for the avoidance of double taxation between the territory in which that other person is a resident and the territory in which the income arises, or otherwise, to benefits with respect to that item of income which are equivalent to, or more favourable than, those available under this Agreement to a resident of a territory, and the main purpose of such structuring is obtaining benefits under this Agreement.

3. Notwithstanding the provisions of paragraphs 1 and 2 and any other Article of this 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 main purpose of such a resident or a person connected with such a resident was to obtain the benefits of this Agreement.

Article 27

Entry into force

1. The Trade Office of Swiss Industries, Taipei and the Taipei Cultural and Economic Delegation in Switzerland shall notify each other in writing about the completion of the procedures required by the law of their respective territories for the bringing into force of this Agreement. The Agreement shall enter into force on the date on which the later of those written notifications has been received.

2. The provisions of the Agreement shall have effect:

a) in respect of taxes withheld at source on amounts paid or credited on or after the first day of January of the year of the entry into force of the Agreement;

b) in respect of other taxes for taxation years beginning on or after the first day of January of the year of the entry into force of the Agreement;

c)[3] in respect of Article 25 for information that relates to taxation years beginning on or after the first day of January following the year of the entry into force of the Agreement.

Article 28

Termination

This Agreement shall remain in force until terminated by the Trade Office of Swiss Industries, Taipei or the Taipei Cultural and Economic Delegation in Switzerland. Either the Trade Office of Swiss Industries, Taipei or the Taipei Cultural and Economic Delegation in Switzerland may terminate the Agreement by giving written notice of termination to the other at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect:

a) in respect of taxes withheld at source on amounts paid or credited on or after the first day of January of the calendar year next following that in which the notice was given;

b) in respect of other taxes for taxation years beginning on or after the first day of January of the calendar year next following that in which the notice was given.

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

Done in duplicate at Berne, this 8th October 2007, in the English language.

For the Taipei Cultural and Economic Delegation in Switzerland	For the Trade Office of Swiss Industries, Taipei
Shih-Rong Wang	Jost Feer

[3] As amended by Exchange of Letters dated 14 July 2011.

PROTOCOL

The Taipei Cultural and Economic Delegation in Switzerland

and

The Trade Office of Swiss Industries, Taipei

Have agreed at the signing at Berne on the 8th October 2007 of the Agreement for the avoidance of double taxation with respect to taxes on income upon the following provisions which shall form an integral part of the said Agreement.

1. ad Article 2

With respect to the territory in which the taxation laws administered by the Taxation Agency, Ministry of Finance in Taipei are applied, it is understood that the Agreement does not affect the assessment of the Land Value Increment Tax.

2. ad Article 4

In respect of paragraph 4 of Article 4, it is understood and confirmed that the term "pension fund" means any plan, scheme, fund, trust or other arrangement established in a territory which is operated principally to administer and provide pension or retirement benefits or to earn income for the benefit of one or more such arrangements.

3. ad Article 7

In respect of paragraphs 1 and 2 of Article 7, where an enterprise of a territory sells goods or merchandise or carries on business in the other territory through a permanent establishment situated therein, the profits of that permanent establishment shall not be determined on the basis of the total amount received by the enterprise, but shall be determined only on the basis of that part of the total receipts which is attributable to the actual activity of the permanent establishment for such sales or business.

In the case of contracts for the survey, supply, installation or construction of industrial, commercial or scientific equipment or premises, or of public works, when the enterprise has a permanent establishment, the profits of such permanent establishment shall not be determined on the basis of the total amount of the contract, but shall be determined only on the basis of that part of the contract

which is effectively carried out by the permanent establishment in the territory where the permanent establishment is situated.

The profits related to that part of the contract which is carried out by the head office of the enterprise shall be taxable only in the territory of which the enterprise is a resident.

4. ad Articles 7 and 12

It is understood that payments received as a consideration for the use of, or the right to use industrial, commercial or scientific equipment constitute business profits covered by Article 7.

5. ad Article 10

If, in an agreement for the avoidance of double taxation or a protocol amending such an agreement that is signed after the signature of this Agreement between the territory referred to in paragraph 3 b) of Article 2[4] and a third territory, being a member of the Organisation for Economic Co-operation and Development (OECD), the first-mentioned territory would exempt dividends from tax or reduce the rate of tax on dividends below 10 per cent, such exemption or reduced rate shall automatically apply as if it had been specified in the Agreement, with effect from the date on which the provisions of that agreement or amendment, as the case may be, or of this Agreement, whichever is the later, become effective. This provision shall, however, only apply to dividends where the beneficial owner is a company (other than a partnership) which holds at least 20 per cent of the capital of the company paying the dividends.

6. ad Article 12

If, in an agreement for the avoidance of double taxation or a protocol amending such an agreement that is signed after the signature of this Agreement between the territory referred to in paragraph 3 b) of Article 2[5] and a third territory, being a member of the Organisation for Economic Co-operation and Development (OECD)**,** the first mentioned territory would exempt royalties from tax or reduce the rate of tax on royalties below 10 per cent, such exemption or reduced rate shall automatically apply as if it had been specified in the Agreement, with effect from the date on which the provisions of that agreement or amendment, as the case may be, or of this Agreement, whichever is the later, become effective.

7. ad Articles 18 and 19

It is understood that the terms “pensions“ and “pension“ as used in Articles 18 and 19, respectively, do not only cover periodic payments, but also include lump sum payments.

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[4] Reference to paragraph 3 b) of Article 2 as amended by Exchange of Letters dated 14 July 2011.
[5] Reference to paragraph 3 b) of Article 2 as amended by Exchange of Letters dated 14 July 2011.

8. ad Article 25[6]

a) It is understood that an exchange of information will only be requested once the requesting territory has exhausted all regular sources of information available under the internal taxation procedure.

b) It is understood that the tax authorities of the requesting territory shall provide the following information to the tax authorities of the requested territory when making a request for information under Article 25 of the Agreement:

(i) the identity of the person under examination or investigation;

(ii) the period of time for which the information is requested;

(iii) a statement of the information sought including its nature and the form in which the requesting territory wishes to receive the information from the requested territory;

(iv) the tax purpose for which the information is sought;

(v) to the extent known, the name and address of any person believed to be in possession of the requested information.

The purpose of referring to information that may be foreseeably relevant is intended to provide for exchange of information in tax matters to the widest possible extent without allowing the territories to engage in "fishing expeditions" or to request information that is unlikely to be relevant to the tax affairs of a given taxpayer. While this subparagraph contains important procedural requirements that are intended to ensure that fishing expeditions do not occur, clauses (i) through (v) nevertheless need to be interpreted with a view not to frustrate effective exchange of information.

c) It is further understood that Article 25 of the Agreement shall not commit the territories to exchange information on an automatic or a spontaneous basis.

d) It is understood that in case of an exchange of information, the administrative procedural rules regarding taxpayers' rights provided for in the requested territory remain applicable before the information is transmitted to the requesting territory. It is further understood that this provision aims at guaranteeing the taxpayer a fair procedure and not at preventing or unduly delaying the exchange of information process.

9….[7]

Done in duplicate at Berne, this 8th October 2007, in the English language.

For the Taipei Cultural and Economic Delegation in Switzerland	For the Trade Office of Swiss Industries, Taipei
Shih-Rong Wang	Jost Feer

[6] As amended by Exchange of Letters dated 14 July 2011.
[7] Deleted by Exchange of Letters dated 14 July 2011.

駐瑞士臺北文化經濟代表團與瑞士商務辦事處

避免所得稅雙重課稅協定

（中文譯文）

駐瑞士臺北文化經濟代表團及瑞士商務辦事處，咸欲締結避免所得稅雙重課稅協定，爰經議定下列條款：

第一條　　適用之人

本協定適用於具有一方或雙方領域居住者身分之人。

第二條　　適用之租稅

一、本協定適用於各領域、其所屬機關或地方機關就所得所課徵之租稅，其課徵方式在所不問。

二、對總所得或各類所得課徵之所有租稅，包括對轉讓動產或不動產之利得所課徵之租稅、對企業給付之工資或薪俸總額所課徵之租稅及對資本增值所課徵之租稅，應視為對所得所課徵之租稅。

三、本協定所適用之現行租稅，尤指：

（一）在瑞士聯邦稅務局、州及市鄉鎮稅捐機關主管之稅法所適用之領域，係指：

聯邦、州及市鄉鎮對所得(包括總所得、勤勞所得、資本所得、工商利潤、資本利得及其他所得項目)所課徵之租稅。

（二）在臺北之財政部賦稅署主管之稅法所適用之領域，係指：

1. 營利事業所得稅。
2. 個人綜合所得稅。
3. 所得基本稅額。

包含對該等租稅所課徵之附加稅。

四、本協定亦適用於協定簽署後一方領域新開徵或替代現行各項租稅，而與現行租稅相同或實質類似之任何租稅。雙方領域之主管機關對於其各自稅法之重大修訂，應通知對方。

五、本協定不適用於樂透彩券獎金就源扣繳之稅款。

第三條　　一般定義

一、除上下文另有規定外，本協定所稱：

（一）「領域」，視情況規定，指本協定第二條第三項第一款或第二款所稱之領域，「他方領域」及「雙方領域」亦同。

（二）「人」，包括個人、公司及其他任何人之集合體。

（三）「公司」，指法人或依稅法規定視同法人之任何實體。

（四）「一方領域之企業」及「他方領域之企業」，分別指由一方領域之居住者所經營之企業及他方領域之居住者所經營之企業。

（五）「國際運輸」，指一方領域之企業以船舶或航空器所經營之運輸業務，但該船舶或航空器僅於他方領域境內經營者，不在此限。

（六）「主管機關」：

1. 在瑞士聯邦稅務局、州及市鄉鎮稅捐機關主管之稅法所適用之領域，指瑞士聯邦稅務局局長或其授權之代表。

2. 在臺北之財政部賦稅署主管之稅法所適用之領域，指賦稅署署長或其授權之代表。

二、本協定於一方領域適用時，未於本協定界定之任何名詞，除上下文另有規定外，依本協定所稱租稅於協定適用當時之法律規定辦理，該領域稅法之規定應優先於該領域其他法律之規定。

第四條　　居住者

一、本協定稱「一方領域之居住者」，指依該領域法律規定，因住所、居所、設立登記地、管理處所或其他類似標準而負有納稅義務之人，包括該領域、其所屬機關或地方機關。

二、僅因有源自一方領域之所得而負有該領域納稅義務之人，非為本協定所稱一方領域之居住者。但第二條第三項第二款所稱領域，如僅對其居住者個人源自該領域之所得課稅者，該居住者個人不適用本項規定。

三、個人依第一項規定，如同為雙方領域之居住者，其身分決定如下：

（一）於一方領域內有永久住所，視其為該領域之居住者；如於雙方領域內均有永久住所，視其為與其個人及經濟利益較為密切之領域之居住者（主要利益中心）。

（二）如主要利益中心所在地領域不能確定，或於雙方領域內均無永久住所，視其為有經常居所之領域之居住者。

（三）如於雙方領域內均有或均無經常居所，雙方領域之主管機關應共同協議解決之。

四、依據一方領域法律規定設立之養老基金，且依該一方領域規定通常免稅者，為本協定規定之該一方領域之居住者及受益人。

五、個人以外之人依第一項規定，如同為雙方領域之居住者，視其為實際管理處所所在地領域之居住者。

第五條　　常設機構

一、本協定稱「常設機構」，指企業從事全部或部分營業之固定營業場所。

二、「常設機構」包括：

（一）管理處。

（二）分支機構。

（三）辦事處。

（四）工廠。

（五）工作場所。

（六）礦場、油井或氣井、採石場或任何其他天然資源開採場所。

三、建築工地、營建或安裝工程之存續期間超過六個月者，構成常設機構。

四、一方領域之企業有下列情形之一者，視為該企業經由其於他方領域之常設機構從事監督活動或提供服務，不適用第一項至第三項規定。但經由固定營業場所從事之監督活動或所提供之服務僅限於第五

項規定者，該固定營業場所不視為常設機構：

（一）於他方領域內從事與建築工地、營建或安裝工程相關之監督活動，期間超過六個月者。

（二）為相同或相關計畫案，經由一位或一位以上之個人於他方領域提供服務之期間，於任何十二個月期間內持續或合計超過一百八十三天者。

五、前述各項之「常設機構」，不包括下列各款：

（一）專為儲存、展示或運送屬於該企業之貨物或商品而使用設備。

（二）專為儲存、展示或運送而儲備屬於該企業之貨物或商品。

（三）專為供其他企業加工而儲備屬於該企業之貨物或商品。

（四）專為該企業採購貨物或商品或蒐集資訊而設置固定營業場所。

（五）專為該企業從事廣告、資訊提供、科學研究或具有準備或輔助性質之類似活動而設置固定營業場所。

（六）專為從事第一款至第五款活動之任一組合活動而設置固定營業場所，但以因該組合活動而設置之固定營業場所，其整體活動具有準備或輔助性質者為限。

六、於一方領域內代表他方領域之企業，有權以該企業名義於該一方領域內簽訂契約，並經常行使該權力之人（非第七項所稱具有獨立身分之代理人），其為該企業所從事之任何活動，視為該企業於該一方領域有常設機構，不受第一項及第二項規定之限制。但該人僅為該企業從事採購貨物或商品之活動者，不在此限。

七、企業僅透過經紀人、一般佣金代理商或其他具有獨立身分之代理人，以其通常之營業方式，於一方領域內從事營業者，不得視為該企業於該領域有常設機構。

八、一方領域之居住者公司，控制或受控於他方領域之居住者公司或於他方領域內從事營業之公司（不論其是否透過常設機構或其他方式

），均不得就此事實認定任一公司為另一公司之常設機構。

第六條　　不動產所得

一、一方領域之居住者取得位於他方領域內之不動產所產生之所得（包括農業或林業所得），他方領域得予課稅。

二、稱「不動產」，應具有財產所在地領域法律規定之含義，包括附著於不動產之財產、供農林業使用之牲畜及設備、適用與地產有關一般法律規定之權利、不動產收益權，及以給付變動或固定報酬為對價而取得開採或有權開採礦產、資源與其他天然資源之權利。船舶、小艇及航空器不視為不動產。

三、直接使用、出租或以其他任何方式使用不動產所取得之所得，應適用第一項規定。

四、由企業之不動產及供執行業務使用之不動產所產生之所得，亦應適用第一項及第三項規定。

第七條　　營業利潤

一、一方領域之企業，除經由其位於他方領域內之常設機構從事營業外，其利潤僅由該一方領域課稅。該企業如經由其位於他方領域內之常設機構從事營業，他方領域得就該企業之利潤課稅，但以歸屬於該常設機構之利潤為限。

二、除第三項規定外，一方領域之企業經由其於他方領域內之常設機構從事營業，各領域歸屬該常設機構之利潤，應與該常設機構為一獨立之企業，於相同或類似條件下從事相同或類似活動，並以完全獨立之方式與該企業從事交易時，所應獲得之利潤相同。

三、計算常設機構之利潤時，應准予減除該常設機構為營業目的而發生之費用，包括行政及一般管理費用，不論該費用係於常設機構所在地領域或他處發生。

四、一方領域慣例依企業全部利潤按比例分配予各部門利潤之原則，計算應歸屬於常設機構之利潤者，不得依第二項規定排除該一方領域之分配慣例，但採用該分配方法所獲致之結果，應與本條所定之原則相符。

五、常設機構僅為該企業採購貨物或商品，不得對該常設機構歸屬利潤。

六、前五項有關常設機構利潤之歸屬，除有正當且充分理由者外，每年均應採用相同方法決定之。

七、利潤中如包含本協定其他條文規定之所得項目，各該條文之規定，應不受本條規定之影響。

第八條　　海空運輸

一、一方領域之企業以船舶或航空器經營國際運輸業務之利潤，僅由該一方領域課稅。

二、本條所稱以船舶或航空器經營國際運輸業務之利潤，應包括下列項目，但以該出租或該使用、維護或出租係與以船舶或航空器經營國際運輸有附帶關係者為限：

（一）以計時、計程或光船方式出租船舶或航空器之利潤。

（二）使用、維護或出租用於運送貨物或商品之貨櫃（包括貨櫃運輸之拖車及相關設備）之利潤。

三、參與聯營、合資企業或國際代理業務之利潤，亦適用第一項及第二項規定，但以歸屬於參與聯合營運之比例所取得之利潤為限。

第九條　　關係企業

一、兩企業間有下列情事之一，於其商業或財務關係上所訂定之條件，異於雙方為獨立企業所為，其任何應歸屬其中一企業之利潤因該等條件而未歸屬於該企業者，得計入該企業之利潤，並予以課稅：

（一）一方領域之企業直接或間接參與他方領域企業之管理、控制

或資本。

（二）相同之人直接或間接參與一方領域之企業及他方領域企業之管理、控制或資本。

二、一方領域將業經他方領域課稅之他方領域企業之利潤，列計為該一方領域企業之利潤並予以課稅，如該兩企業間所訂定之條件與互為獨立企業所訂定者相同，且該他方領域同意該項列計之利潤應歸屬於該一方領域企業之利潤時，該他方領域對該項利潤之課稅，應作適當之調整。在決定此項調整時，應考量本協定其他條文之規定，如有必要，雙方領域之主管機關應相互磋商。

第十條　　股利

一、一方領域之居住者公司給付他方領域之居住者之股利，他方領域得予課稅。

二、前項給付股利之公司如係一方領域之居住者，該領域亦得依其法律規定，對該項股利課稅，但股利之受益所有人如為他方領域之居住者，其課徵之稅額不得超過：

（一）受益所有人為公司(不包括合夥)且直接持有該給付股利之公司之股份百分之二十以上者，為股利總額之百分之十。

（二）其他情況，為股利總額之百分之十五。

雙方領域之主管機關應共同協議決定本項限制之適用方式。

本項規定不影響對該公司用以發放股利之利潤所課徵之租稅。

三、本條所稱「股利」，指自股份、受益股份或權利、礦業股份、發起人股份或其他非屬債權而得參與利潤分配之其他權利所取得之所得，及依分配股利之公司居住地領域稅法規定，與股份所得課徵相同租稅而自公司其他權利取得之所得。

四、股利受益所有人如為一方領域之居住者，於給付股利公司為居住者之他方領域內，經由其於他方領域內之常設機構從事營業或於該領域內之固定處所執行業務，且與股利有關之股份持有與該常設機構

或固定處所有實際關聯時，不適用第一項及第二項規定，而視情況適用第七條或第十四條規定。

五、一方領域之居住者公司自他方領域取得利潤或所得，其所給付之股利或其未分配盈餘，即使全部或部分來自他方領域之利潤或所得，他方領域不得對該給付之股利或未分配盈餘課稅。但該股利係給付予他方領域之居住者，或與該股利有關之股份持有與他方領域內之常設機構或固定處所有實際關聯者，不在此限。

第十一條　　利息

一、源自一方領域而給付他方領域居住者之利息，他方領域得予課稅。

二、前項利息來源地領域亦得依其法律規定，對該項利息課稅，但利息之受益所有人如為他方領域之居住者，其課徵之稅額不得超過利息總額之百分之十。雙方領域之主管機關應共同協議決定本項限制之適用方式。

三、下列源自一方領域而給付予受益所有人為他方領域居住者之利息，應僅由他方領域課稅，不適用前項規定：

（一）與賒銷工業、商業或科學設備有關之利息。

（二）與一企業賒銷商品或服務予其他企業有關之利息。

（三）銀行間融資之利息。

（四）給付予他方領域、其所屬機關或地方機關，或他方領域之中央銀行之利息。

四、本條稱「利息」，指由各種債權所孳生之所得，不論有無抵押擔保及是否有權參與債務人利潤之分配，尤指政府債券之所得及債券或信用債券之所得，包括附屬於該等債券之溢價收入及獎金。但延遲給付之違約金非屬本條所稱之「利息」。

五、利息受益所有人如為一方領域之居住者，經由其於利息來源地之他方領域內之常設機構從事營業或他方領域內之固定處所執行業務，且與利息給付有關之債務與該常設機構或固定處所有實際關聯時，

不適用第一項至第三項規定，而視情況適用第七條或第十四條規定。

六、由一方領域之居住者所給付之利息，視為源自該領域。利息給付人如於一方領域內有常設機構或固定處所，而與利息給付有關之債務之發生與該常設機構或固定處所有關聯，且該利息係由該常設機構或固定處所負擔者，不論該利息給付人是否為該一方領域之居住者，該利息視為源自該常設機構或固定處所所在地領域。

七、利息給付人與受益所有人間，或上述二者與其他人間有特殊關係，其債務之利息數額，超過利息給付人與受益所有人在無上述特殊關係下所同意之數額，本條規定應僅適用於後者之數額。在此情形下，各領域應考量本協定之其他規定，依其法律對此項超額給付課稅。

第十二條　　權利金

一、源自一方領域而給付他方領域居住者之權利金，他方領域得予課稅。

二、前項權利金來源地領域亦得依其法律規定，對該項權利金課稅，但權利金之受益所有人如為他方領域之居住者，其課徵之稅額不得超過權利金總額之百分之十。

三、本條稱「權利金」，指使用或有權使用文學作品、藝術作品或科學作品之任何著作權，包括電影、專利權、商標權、設計或模型、計畫、秘密處方或方法、或有關工業、商業或科學經驗之資訊，所取得任何方式之給付。

四、權利金受益所有人如為一方領域之居住者，經由其權利金來源地之他方領域內之常設機構從事營業或他方領域內之固定處所執行業務，且與權利金給付有關之權利或財產與該常設機構或固定處所有實際關聯時，不適用第一項及第二項規定，而視情況適用第七條或第十四條規定。

五、由一方領域之居住者給付之權利金，視為源自該領域。但權利金給付人如於一方領域內有常設機構或固定處所，而權利金給付義務之發生與該常設機構或固定處所有關聯，且該權利金係由該常設機構或固定處所負擔者，不論該權利金給付人是否為一方領域之居住者，該權利金視為源自該常設機構或固定處所所在地領域。

六、權利金給付人與受益所有人間，或上述二者與其他人間有特殊關係，考量使用、權利或資訊等因素，所給付之權利金數額，超過權利金給付人與受益所有人在無上述特殊關係下所同意之數額，本條規定應僅適用於後者之數額。在此情形下，各領域應考量本協定之其他規定，依其法律對此項超額給付課稅。

第十三條　　財產交易所得

一、一方領域之居住者轉讓位於他方領域內合於第六條所稱不動產而取得之利得，他方領域得予課稅。

二、一方領域之企業轉讓其於他方領域內常設機構營業資產中之動產而取得之利得，或一方領域之居住者轉讓其於他方領域內執行業務固定處所之動產而取得之利得，包括轉讓該常設機構（單獨或連同整個企業）或固定處所而取得之利得，他方領域得予課稅。

三、一方領域之企業轉讓經營國際運輸業務之船舶或航空器，或附屬於該等船舶或航空器營運之動產而取得之利得，僅由該領域課稅。

四、一方領域居住者轉讓公司股份（該股份於雙方領域同意之證券交易所掛牌者除外）或其他公司權利，且該公司之資產超過百分之五十係直接或間接由位於他方領域內[1]合於第六條所稱不動產所構成，其轉讓利得，他方領域得予課稅。但下列情形之一者不適用前段規定：

（一）該取得利得之人於轉讓前持有該公司股份或其他公司權利未達百分之五。

[1] 2011年7月14日換函增列「位於他方領域內」文字。

（二）因公司重組、合併、分割或類似交易而取得之利得。

（三）公司從事營業所使用之不動產。

五、轉讓前四項以外之任何財產而取得之利得，僅由該轉讓人之居住地領域課稅。

第十四條　　執行業務

一、一方領域之居住者因執行業務或其他具有獨立性質活動而取得之所得，僅由該一方領域課稅，但有下列情況之一者，他方領域亦得課稅：

（一）該居住者為執行該等活動而於他方領域內設有固定處所，但他方領域僅得就歸屬於該固定處所之所得課稅。

（二）該居住者於任何十二個月期間內，於他方領域持續居留或合計居留期間達一百八十三天，但他方領域僅得就該居住者於其領域內執行該等活動而取得之所得課稅。

二、所稱「執行業務」，包括具有獨立性質之科學、文學、藝術、教育或教學等活動，及醫師、律師、工程師、建築師、牙醫師及會計師等獨立性質之活動。

第十五條　　個人受僱勞務

一、除第十六條、第十八條及第十九條規定外，一方領域之居住者因受僱而取得之薪津、工資及其他類似報酬，除其勞務係於他方領域提供者外，應僅由該一方領域課稅。前述受僱勞務如於他方領域內提供，他方領域得對該項勞務取得之報酬課稅。

二、一方領域之居住者於他方領域內提供勞務而取得之報酬，符合下列各款規定者，應僅由該一方領域課稅，不受前項規定之限制：

（一）該所得人於一會計年度內，於他方領域內持續居留或合計居留期間不超過一百八十三天。

（二）該項報酬非由他方領域居住者之雇主所給付或代表雇主給付

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（三）該項報酬非由該雇主於他方領域內之常設機構或固定處所負擔。

三、因受僱於經營國際運輸業務之船舶或航空器上提供勞務而取得之報酬，該經營船舶或航空器企業之居住地領域得予課稅，不受前二項規定之限制。

第十六條　　董事報酬

一方領域之居住者因擔任他方領域之居住者公司董事會之董事職務而取得之董事報酬及其他類似給付，他方領域得予課稅。

第十七條　　表演人及運動員

一、一方領域之居住者為劇院、電影、廣播或電視演藝人員、音樂家等表演人，或為運動員，於他方領域內從事個人活動而取得之所得，他方領域得予課稅，不受第十四條及第十五條規定之限制。

二、表演人或運動員以該身分從事個人活動之所得，如不歸屬於該表演人或運動員本人而歸屬於其他人者，該活動舉行地領域對該項所得得予課稅，不受第七條、第十四條及第十五條規定之限制。

三、表演人或運動員為一方領域居住者，於他方領域從事該等個人活動所取得之所得，如其訪問他方領域係完全或主要由一方領域、其所屬機關或地方機關之公共基金所資助者，該所得應僅由表演人或運動員之居住地領域課稅，不適用第一項及第二項規定。

第十八條　　養老金及類似報酬

因過去僱傭關係，源自一方領域而給付予他方領域居住者之養老金或其他類似報酬，如決定其課稅所得時已扣除相關保費，該一方領域得予課稅。

第十九條　　公共勞務

一、（一）一方領域之行政機關、其所屬機關或地方機關給付予為該等機關提供勞務之個人之薪津、工資或其他類似報酬（養老金除外），應僅由該一方領域課稅。

（二）但該等勞務如係由他方領域之居住者個人於他方領域提供，且該個人係他方領域之國民，或非專為提供上述勞務之目的而成為他方領域之居住者，該項報酬應僅由他方領域課稅。

二、（一）一方領域、其所屬行政機關或地方機關，或經由其所籌設之基金，給付予為該等機關提供勞務之個人之養老金或其他類似報酬，應僅由該一方領域課稅。

（二）但如該個人係他方領域之居住者，且為他方領域之國民，該養老金或其他類似報酬應僅由他方領域課稅。

三、為第一項規定之機關所經營之事業提供勞務而取得之薪津、工資、養老金及其他類似報酬，應適用第十五條至第十八條之規定。

第二十條　　學生

學生或企業見習生專為教育或訓練目的而於一方領域停留，且於訪問該一方領域之前，係為他方領域之居住者，其為生活、教育或訓練目的而取得源自該一方領域以外之給付，該一方領域應予免稅。

第二十一條　　其他所得

一、一方領域之居住者取得非屬本協定前述各條規定之所得，不論其來源為何，應僅由該領域課稅。

二、所得人如係一方領域之居住者，經由其於他方領域內之常設機構從事營業或固定處所執行業務，且與該所得給付有關之權利或財產與該常設機構或固定處所有實際關聯時，除第六條第二項定義之不動產所產生之所得外，不適用前項規定，而視情況適用第七條或第十四條規定。

第二十二條　　雙重課稅之消除

一、於第二條第三項第一款所稱領域之情況，應依下列規定避免雙重課稅：

（一）第二條第三項第一款所稱領域之居住者取得之所得，依據本協定規定，得由第二條第三項第二款所稱領域課稅者，除第二款規定外，第二條第三項第一款所稱領域應對該等所得予以免稅，但於計算該居住者其餘所得之稅額時，得適用該免稅所得未免稅時所應適用之稅率。第十三條第四項所稱之利得適用前述免稅規定時，應以第二條第三項第二款所稱領域就該利得實際課稅者為限。

（二）第二條第三項第一款所稱領域之居住者取得股利、利息或權利金，依據本協定第十條、第十一條及第十二條規定，得由第二條第三項第二款所稱領域課稅者，第二條第三項第一款所稱領域應視其居住者之請求，同意對其減免。前述減免得採下列方式：

1. 依本協定第十條、第十一條及第十二條規定，第二條第三項第二款所稱領域所課徵之稅額，准予扣抵該居住者就該等所得所課徵之稅額。但扣抵之數額，不得超過扣抵前所計算之第二條第三項第一款所稱領域稅額中，屬於第二條第三項第二款得課稅之所得相關之稅額。
2. 第二條第三項第一款所稱領域規定之稅額定額減除。
3. 第二條第三項第一款所稱領域對該等股利、利息或權利金給予部分免稅，其部分免稅之金額，不得少於第二條第三項第二款所稱領域就該等股利、利息及權利金總額所課徵之稅額。

第二條第三項第一款所稱領域為避免雙重課稅，應依該領域執行國際協定有關之適當條款，決定適當之減免，並訂定其程序。

（三）第二條第三項第一款所稱領域之居住者公司，取得第二條第三項第二款所稱領域之居住者公司之股利，基於第二條第三

項第一款所稱領域對該等股利課稅之目的，應與其取得第二條第三項第一款所稱領域之居住者公司之股利，適用相同之租稅減免。

二、於第二條第三項第二款所稱領域之情況，應依下列規定避免雙重課稅：

第二條第三項第二款所稱領域之居住者，取得源自他方領域之所得，依據本協定規定，其於他方領域繳納之稅額（如係股利所得，不包括用以發放該股利之利潤所繳納之稅額），應准予扣抵前述第二條第三項第二款所稱領域對該居住者所課徵之稅額。但扣抵之數額，不得超過該領域依其稅法及施行細則規定對該所得課徵之稅額。

第二十三條　　無差別待遇

一、一方領域之國民於他方領域內，不應較他方領域之國民於相同情況下，特別是基於居住之關係，負擔不同或較重之任何租稅或相關之要求。本項規定亦應適用於非一方領域居住者或非為雙方領域居住者之人，不受第一條規定之限制。

二、一方領域之企業於他方領域內有常設機構，他方領域對該常設機構之課稅，不應較經營相同業務之他方領域之企業作更不利之課徵。本項規定不應解釋為一方領域基於國民身分或家庭責任而給予其居住者個人之免稅額或減免等課稅規定，應同樣給予他方領域之居住者。

三、除適用第九條第一項、第十一條第七項或第十二條第六項規定外，一方領域之企業給付他方領域居住者之利息、權利金及其他款項，於計算該企業之應課稅利潤時，應與給付該一方領域之居住者之情況相同而准予減除。

四、一方領域之企業，其資本之全部或部分由一個或一個以上之他方領域居住者直接或間接持有或控制者，該企業不應較該一方領域之其他類似企業，負擔不同或較重之任何租稅或相關之要求。

五、本條規定僅適用於本協定所規定之租稅。

六、本條不得解釋為適用於下列情形之一：

（一）一方領域基於租稅目的，不准適用其法律條文中有關該一方領域居住者公司所給付股利之退稅、扣抵或免稅規定。

（二）一方領域基於促進經濟發展所制定之法律條文。

第二十四條　　相互協議之程序

一、任何人如認為一方或雙方領域之行為，對其發生或將發生不符合本協定規定之課稅，不論各該領域國內法之救濟規定，得向其本人之居住地領域主管機關提出申訴；如申訴案屬第二十三條第一項規定之範疇，得向其本人為國民所屬領域之主管機關提出申訴。此項申訴應於首次接獲不符合本協定規定課稅之通知起三年內為之。

二、主管機關如認為該申訴有理，且其本身無法獲致適當之解決，應致力與他方領域之主管機關相互協議解決，以避免發生不符合本協定規定之課稅。

三、雙方領域之主管機關應相互協議，致力解決有關本協定之解釋或適用上發生之任何困難或疑義。雙方並得共同磋商，以消除本協定未規定之雙重課稅問題。

四、雙方領域之主管機關為達成前述各項規定之協議，得直接相互聯繫，包括經由雙方或其代表組成之聯合委員會。

第二十五條[2]　　資訊交換

一、雙方領域之主管機關於不違反本協定之範圍內，應相互交換所有可能有助於實施本協定之規定或為本協定適用租稅有關國內法之行政或執行之資訊。資訊交換不以第一條規定之範圍為限。

[2] 2011年7月14日修約換函修訂。

二、一方領域依前項規定取得之任何資訊，應按其依該領域國內法規定取得之資訊同以密件處理，且僅能揭露予與前項所述租稅之核定、徵收、執行、起訴或上訴之裁定有關人員或機關（包括法院及行政部門）。上開人員或機關僅得為前述目的而使用該資訊，但得於公開法庭之訴訟程序或司法判決中揭露之。

三、前二項規定不得解釋為一方領域有下列義務：

（一）執行與一方或他方領域之法律及行政慣例不一致之行政措施。

（二）提供依一方或他方領域之法律規定或正常行政程序無法獲得之資訊。

（三）提供可能洩露任何貿易、營業、工業、商業或專業秘密或交易方法之資訊，或其揭露將有違公共政策(公序)之資訊。

四、一方領域依據本條規定所要求提供之資訊，他方領域雖基於本身課稅目的無需此等資訊，亦應利用其資訊蒐集措施以獲得該等資訊。前述義務應受前項規定之限制，但不得解釋為他方領域得僅因該等資訊無國內利益而引用前項規定不提供是項資訊。

五、第三項之規定無論在任何情況下均不得解釋為准許一方領域，僅因資訊為銀行、其他金融機構、被委任人或具代理或受託身分之人所持有、或涉及一人所有權利益為由，而拒絕提供資訊。受請求領域之稅捐機關為符合本項規定之義務，應具有取得並提供本項所涵蓋資訊之執行能力，不受第三項或其國內法規定之限制。

第二十六條　　利益限制

一、股利、利息或權利金之全部或部分係經由導管協議給付者，不適用第十條、第十一條及第十二條規定。

二、「導管協議」，指一項或一系列交易，其建構方式係經由有權享有本協定利益之一方領域居住者取得源自他方領域之所得，而以直接

或間接方式將該所得之全部或主要部分（於任何時間或任何形式）給付予未具任一方領域居住者身分之他人；且該他人如係直接自他方領域取得所得，依其居住地領域與他方領域之避免雙重課稅協定，或以其他方式，均無法享有本協定對於一方領域居住者之所得項目所給予之利益，或較其更為優惠之利益；且此一建構方式之主要目的係為獲取本協定之利益者。

三、一方領域之居住者或與該居住者有關之人，以取得本協定之利益為其主要目的者，該居住者不得享有他方領域依本協定所提供之減稅或免稅利益。本條之適用，不受第一項與第二項及本協定任何其他條文規定之限制。

第二十七條　　生效

一、瑞士商務辦事處與駐瑞士臺北文化經濟代表團，於依各自領域法律完成使本協定生效之必要程序後，應以書面相互通知對方。本協定應於收到後書面通知之日起生效。

二、本協定之規定，其生效適用於：

（一）就源扣繳稅款，為本協定生效日所屬年度之一月一日以後實際給付或應付金額。

（二）其他稅款，為其課稅年度始於本協定生效日所屬年度之一月一日以後者。

（三）[3]第二十五條，為其課稅年度始日於本協定生效日所屬年度之次年一月一日以後之資訊。

第二十八條　　終止

本協定應繼續有效至瑞士商務辦事處或駐瑞士臺北文化經濟代表團提出終止為止。瑞士商務辦事處或駐瑞士臺北文化經濟代表團得於任一曆年結束至少六個月之前，以書面通知他方終止本協定。其終止適用於：

[3] 2011年7月14日修約換函修訂。

（一）就源扣繳稅款，為終止通知發出日之次一曆年一月一日以後實際給付或應付金額。

（二）其他稅款，為課稅年度始於終止通知發出日之次一曆年一月一日以後者。

為此，雙方代表業經合法授權於本協定簽字，以昭信守。

本協定以英文繕製兩份，公元二００七年十月八日於柏恩簽署。

駐瑞士臺北文化經濟代表團	瑞士商務辦事處
代表	處長
王世榕	費爾

議定書

駐瑞士臺北文化經濟代表團與瑞士商務辦事處於公元二００七年十月八日在柏恩簽署避免所得稅雙重課稅協定之同時，同意下列條款構成本協定之一部分。

一、附加於第二條

本協定不影響在臺北之財政部賦稅署主管之稅法所適用之領域，對土地增值稅之課徵。

二、附加於第四條

關於第四條第四項所稱「養老基金」，指於一方領域建立之任一計畫、方案、基金、信託或其他協議，且其營運之主要目的，係為管理及提供養老金或退休利益，或為一個或一個以上類此協議之利益賺取所得。

三、附加於第七條

關於第七條第一項及第二項規定，一方領域之企業經由其於他方領域內之常設機構銷售貨物、商品或從事營業，應僅以總收入中可歸屬於該常設機構實際為該等銷售或營業所從事活動部分為基礎，計算該常設機構之利潤，不得以該企業取得之收入總額為基礎計算之。

有關工業、商業或科學設備或廠房、或公共工程之測量、供應、安裝或建造合約，如一企業有常設機構，應僅以合約中實際由該常設機構於其所在地領域執行部分為基礎，計算該常設機構之利潤，不得以合約總額為基礎計算之。

合約中實際由該企業之總機構執行部分之利潤，應僅由該企業之居住地領域課稅。

四、附加於第七條及第十二條

以使用或有權使用工業、商業或科學設備為對價而取得之給付，構成第七條所稱之營業利潤。

五、附加於第十條

第二條第三項第二款[4]所稱領域於本協定簽署後，與經濟合作暨發展組織會員之第三領域所簽署之避免雙重課稅協定或修正協定之議定書，給予股利免稅，或對股利適用之稅率低於百分之十者，該免稅或較低稅率，應如同已於本協定中特別規定而自動適用之，並自上開協定或議定書與本協定之生效日，以二者較後之日起生效。但此項規定應僅適用於股利受益所有人為公司（合夥除外），且持有該給付股利公司之資本百分之二十以上所獲配之股利。

六、附加於第十二條

第二條第三項第二款[5]所稱領域於本協定簽署後，與經濟合作暨發展組織會員之第三領域所簽署之避免雙重課稅協定或修正協定之議定書，給予權利金免稅，或對權利金適用之稅率低於百分之十者，該免稅或較低稅率，應如同已於本協定中特別規定而自動適用之，並自上開協定或議定書與本協定之生效日，以二者較後之日起生效。

七、附加於第十八條及第十九條

第十八條及第十九條所稱養老金，包括定期給付及一次給付。

八、附加於第二十五條[6]

（一）提出請求領域已依其國內租稅程序查盡所有一般可得資訊來源後，始得請求資訊交換。

（二）提出請求領域之稅捐機關依本協定第二十五條請求資訊交換時，應提供下列資訊予受請求領域之稅捐機關：

1. 受查核或調查之人之身分。

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[4] 2011年7月14日修訂為參照第二條第三項第二款。
[5] 2011年7月14日修訂為參照第二條第三項第二款。
[6] 2011年7月14日修約換函修訂。

2. 所請求資訊之期間。

3. 所請求資訊內容之描述，包括提出請求領域期自受請求領域收到之資訊性質及格式。

4. 請求該等資訊之租稅目的。

5. 已知持有所請求資訊之人之姓名及地址。

所稱可能有助於之資訊，其意旨係為提供最大可能範圍之租稅資訊交換，但不允許雙方領域從事探索性調查或請求與特定納稅義務人之課稅事項無關之資訊。本款包括確保不發生探索性調查之重要程序規定，但有關第一目至第五目之解釋，不得妨礙有效資訊交換之進行。

（三）本協定第二十五條規定並未使雙方領域承諾執行自動資訊交換或自發性資訊交換。

（四）進行資訊交換時，受請求領域傳送資訊予提出請求領域前，應適用受請求領域有關納稅義務人權利之行政程序規定。本項規定係保障納稅義務人享有公正之行政程序，而非用於妨礙或延遲資訊交換。

[7]

本議定書以英文繕製兩份，公元二００七年十月八日於伯恩簽署。

駐瑞士臺北文化經濟代表團	瑞士商務辦事處
代表	處長
王世榕	費爾

[7] 2011年7月14日修約換函刪除第九點。