

AGREEMENT

BETWEEN

THE TAIPEI ECONOMIC AND CULTURAL OFFICE IN TEL-AVIV

AND

THE ISRAEL ECONOMIC AND CULTURAL OFFICE IN TAIPEI

FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE
PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

The Taipei Economic and Cultural Office in Tel-Aviv and the Israel Economic and Cultural Office in Taipei

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

HAVE AGREED as follows:

Article 1
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 by either of the territories or by their 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 Taxation Agency, Ministry of Finance, Taipei is applied:
 - (i) the profit seeking enterprise income tax;
 - (ii) the individual consolidated income tax;
 - (iii) the income basic tax;
 - b) in the territory in which the taxation law administered by Israeli Tax Authority or State Revenue Administration is applied:
 - (i) the income tax and company tax (including tax on capital gains);
 - (ii) the tax imposed on gains from the alienation of real property according to the Real Estate Taxation Law.
4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the territories shall notify each other of any significant changes that have been made in their 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 of this Agreement, as the context requires, and “the other territory” and “territories” shall be construed accordingly;

- b) the term "person" includes an individual, a company and any other body of persons;
 - c) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - d) the 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 territory in which the taxation law administered by the Taxation Agency, Ministry of Finance, Taipei is applied, the Director-General of Taxation Agency or his authorized representative;
 - (ii) in the territory in which the taxation law administered by the Israeli Tax Authority or State Revenue Administration is applied, the General Directors of Revenues and Taxes or their authorized representative.
2. As regards the application of the Agreement at any time by a territory, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that territory for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that territory prevailing over a meaning given to the term under other laws of that territory.

Article 4 RESIDENT

1. For the purposes of this Agreement, the term "resident of a territory" means any person who, under the laws of that territory, is liable to tax therein by reason of his domicile, residence, place of incorporation, place of management or any other criterion of a similar nature and also includes the authority administering a territory or any subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that territory in respect only of income from sources in that territory.
2. 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 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, he shall be

- deemed to be a resident only of the territory in which he has a permanent home available to him;
- c) if he has a permanent home available to him in both territories 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;
 - d) if he has a an habitual abode in both territories or in neither of them, the competent authorities of the territories shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both 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, assembly or installation project or a supervisory activity connected therewith constitutes a permanent establishment only if it lasts more than 6 months.
4. An enterprise of a territory shall be deemed to have a permanent establishment in the other territory if:
 - a) it 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;
 - b) it furnishes services, including consultancy services, through employees or other personnel or persons engaged by the enterprise for such purpose, but only where activities of that nature continue for the same or a connected project, for a period or periods aggregating more than 183 days within any twelve-month period.
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 carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
 - f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
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 those mentioned in paragraph 5 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.
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 derived by 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 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 and related equipment 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 paragraph 1 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 competent authority of a territory includes in the profits of an enterprise of that territory – and taxes accordingly – profits on which an enterprise of the other territory has been charged to tax in that other territory and the profits so included are profits which would have accrued to the enterprise of the first-mentioned territory if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other territory shall make an appropriate adjustment to the amount of the tax charged therein on those profits if that other territory considers the adjustment justified. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the territories shall if necessary consult each other.

Article 10 DIVIDENDS

1. Dividends paid by a company which is a resident of a territory to a resident of the other territory may be taxed in that other territory.
2. However, such dividends may also be taxed in the territory of which the company paying the dividends is a resident and according to the laws of that territory, but if the beneficial owner of the dividends is a resident of the other territory, the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

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, 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 a 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:
 - a) 7 per cent of the gross amount of the interest arising in a territory and paid on any loan of whatever kind granted by a bank of the other territory.
 - b) 10 per cent of the gross amount of the interest in all other cases.

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 shall be exempt from tax in that territory if it is paid:
 - a) to the authority administering the other territory or a local authority or the Central Bank thereof in relation to any loan, debt-claim or credit granted by any such bodies;
 - b) in respect to a loan, debt-claim or credit guaranteed or insured by an institution for insurance or financing of international trade transactions which is wholly owned by the other territory or the authority administering the other territory.
4. The provisions of paragraphs 1 and 2 shall not apply if an interest arising in a territory is paid to a resident of the other territory, and the recipient is the beneficial owner of the interest, and the interest is paid with respect to indebtedness arising on the sale on credit, by that resident, of any merchandise or industrial, commercial or scientific equipment to a resident of the first-mentioned territory. In such case the provisions of Article 7 shall apply.
5. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from 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.
6. 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.

7. Interest shall be deemed to arise in a territory when the payer is a resident of that territory. Where, however, the person paying the interest, whether he is a resident of a territory or not, has in a territory a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the territory in which the permanent establishment or fixed base is situated.
8. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last mentioned amount. In such case, the excess part of the payments shall remain taxable 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.

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

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 (including copyright of literary, artistic work or cinematograph films), any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience, or for the use or the right to use a person's name, picture or any other similar personality right.
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 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 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^l 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, or from the alienation of any option or similar right to acquire such an immovable property, may be taxed in that other territory.
2. Gains derived by a resident of a territory from the alienation of shares or of a comparable interest of any kind deriving more than 50 percent of their value, directly or indirectly, from immovable property situated in the other territory may be taxed in that other territory.
3. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a territory has in the other territory or of movable property pertaining to a fixed base available to a resident of a territory in the other territory for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other territory.
4. Gains 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.
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, if that resident is the beneficial owner of such capital gains.

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:
 - 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
INCOME FROM EMPLOYMENT

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^{ly} 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 calendar 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 by an enterprise of a territory, may be taxed in that territory.

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 SPORTSPERSONS

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

Article 18

PENSIONS

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a territory in consideration of past employment shall be taxable only in that territory.
2. Notwithstanding the provisions of paragraph 1, pensions and other payments made under the social security legislation of a territory shall be taxable only in that 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 any subdivision or a local authority thereof to an individual in respect of services rendered to that administering authority 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 citizen or 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, an authority administering a territory or any subdivision or a local authority thereof to an individual in respect of services rendered to that administering authority or subdivision or local 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 resident of, and a citizen or national of, that territory.
3. The provisions of Articles 15, 16, 17, and 18 shall apply to salaries, wages and other similar remuneration, and to pensions in respect of services rendered in connection with a business carried on by an authority administering a territory or any subdivision or a local authority thereof.

Article 20
PROFESSORS AND RESEARCHERS

1. A resident of a territory who, at the invitation of a university, college, school or other similar institution, situated in the other territory and recognized by the authority administering that other territory, is temporarily present in that other territory solely for the purpose of teaching, or engaging in research, or both, at the educational institution shall, for a period not exceeding two years from the date of his first arrival in that other territory, be exempt from tax in that other territory for his remuneration for such teaching or research.
2. The provisions of paragraph 1 shall not apply to any remuneration for research if such research is undertaken not in the public interest but for the private benefit of a specific person or persons.

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 or Article 14, as the case may be, shall apply.

Article 23

ELIMINATION OF DOUBLE TAXATION

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

Where a resident of that territory derives income from the other territory, the amount of tax on that income paid in the last-mentioned 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 first-mentioned territory tax on that income computed in accordance with its taxation laws and regulations.
2. In the case of the territory referred to in paragraph 3(b) of Article 2 of this Agreement double taxation shall be avoided as follows:

Where a resident of that territory derives income which, in accordance with the provisions of this Agreement, may be taxed in the other territory, the first-mentioned territory shall (subject to the laws

of the first-mentioned territory regarding the allowance of a credit of foreign taxes, which shall not affect the general principle contained in this paragraph) allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in the last-mentioned territory. Such deduction shall not, however, exceed that part of the income tax as computed before the tax credit is given, which is attributable, as the case may be, to the income which may be taxed in the last-mentioned territory.

Article 24 NON-DISCRIMINATION

1. Citizens or 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 citizens or nationals of that other territory in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the territories.
2. The taxation on a permanent establishment which an enterprise of a territory has in the other territory shall not be less favorably 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 8 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.

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 the territory, 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 citizen or 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 endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other territory, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the territories.
3. The competent authorities of the territories shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.
4. The competent authorities of the territories may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 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 of the domestic laws concerning taxes covered by this Agreement imposed on behalf of the territories, or of their subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1. Any information received 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 the first sentence. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a territory the obligation:
 - a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other territory;
 - b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other territory;
 - c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.

Article 27

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 tax provided for in the 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.
2. The Agreement shall not prevent a territory from applying its domestic law on the prevention of tax evasion or tax avoidance.
3. The benefits under this Agreement shall not be granted to a person who is not the beneficial owner of the item of income.

Article 28

ENTRY INTO FORCE

1. This Agreement shall enter into force on the date of the last signature.
2. This Agreement shall be applicable to income derived on or after 1 January of the calendar year following the year in which the Agreement enters into force. On that date, the Memorandum of Understanding Concerning Reciprocal Exemption with Respect to Income Tax on Shipping Enterprises between the Taipei Economic and Cultural Office in Tel-Aviv and the Israel Economic and Cultural Office in Taipei shall cease to have effect.

Article 29
TERMINATION

1. This Agreement shall remain in force until terminated by the Taipei Economic and Cultural Office in Tel-Aviv or the Israel Economic and Cultural Office in Taipei. Either of them may terminate the Agreement by giving notice of termination at least six months before the end of any calendar year beginning after the expiration of a period of five years from the date of its entry into force.
2. The Agreement shall cease to have effect on income derived on or after 1 January of the calendar year following that in which such notice has been given.

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

Done at Taipei this 18th, day of December 2009 in duplicate in the English language.

Done at Tel Aviv this 24th day of December 2009 in duplicate in the English language.

Gan Cheng Ting

For the Taipei Economic and Cultural Office in
Tel-Aviv

R. Gamzou

For the Israel Economic and Cultural Office in
Taipei

ANNEX

Upon signing the Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income between the Taipei Economic and Cultural Office in Tel-Aviv and the Israel Economic and Cultural Office in Taipei have agreed that the following provisions shall form an integral part of the Agreement:

1. Ad Paragraph 1 of Article 4

It is understood that as long as residents individuals of the territory referred to in paragraph 3(a) of Article 2 of this Agreement are taxed only in respect to income from sources in that territory, the term "resident of a territory" includes a person who is liable to tax in that territory in respect only of income from sources in that territory.

2. Ad Paragraph 3 of Article 7

It is understood that the provisions of this paragraph do not apply to expenses which would not be deductible if the permanent establishment was a separate enterprise of the territory in which it is located.

3. Ad Article 10

If, an agreement for the avoidance of double taxation or a protocol amending such an agreement is signed after the signature of this Agreement between the territory referred to in paragraph 3(a) of Article 2 and a third territory, being a member of the Organisation for Economic Co-operation and Development (OECD), (hereinafter in this paragraph and paragraph 4 referred as "the other agreement"), and the first-mentioned territory would exempt dividends from tax or reduce the rate of tax on dividends below 10 per cent according to the other agreement, such exemption or reduced rate shall automatically apply, as if it had been specified in this Agreement, with effect from the date on which the provisions of the other agreement enter into force or from the date on which this agreement enters into force, whichever is later.

This provision shall apply to dividends if the beneficial owner of the dividends shall meet the same requirements for the exemption or the reduced rate of the other agreement.

4. Ad Article 12

If, in the other agreement, 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 this Agreement, with effect from the date on which the provisions of the

other agreement enter into force or from the date on which this agreement enters into force, whichever is later.

5. Ad Paragraph 1 of Article 14

If income derived by a resident of a territory in respect of professional services or other activities of an independent character is taxed in the other territory, there shall be allowed as deductions expenses which are incurred for the purposes of performing such services in determining the taxable income.

6. Tax relief

Relief provided in this Agreement to a resident of a territory by the tax authorities of the other territory shall be conditioned upon the presentation of a certificate of residence indicating the relevant income, signed by the tax authorities of the first-mentioned territory.

7. Partnerships

- a) This Agreement shall not prevent a territory from taxing resident partners on their share of the income of a partnership that is treated as a resident of the other territory.
- b) Each territory shall allow credit for tax paid in the other territory in respect to income derived in that other territory even if that income is regarded in one territory as an income of a partnership and in the other territory as an income of the partners.

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

Done at Taipei this 18th day of December 2009 in duplicate in the English language.

Done at Tel Aviv this 24th day of December 2009 in duplicate in the English language.

Gan Cheng Ting

For the Taipei Economic and Cultural Office
in Tel-Aviv

R. Gamzou

For the Israel Economic and Cultural Office
in Taipei

駐台拉維夫台北經濟文化辦事處與駐台北以色列經濟文化辦事處

避免所得稅雙重課稅及防杜逃稅協定

(中文譯文)

駐台拉維夫台北經濟文化辦事處與駐台北以色列經濟文化辦事處 避免所得稅雙重課稅及防杜逃稅協定

駐台拉維夫台北經濟文化辦事處與駐台北以色列經濟文化辦事處，咸欲締結避免所得稅雙重課稅及防杜逃稅協定，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或其地方機關對所得所課徵之租稅，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：

(一) 在臺北財政部賦稅署主管之稅法所適用之領域，指：

- 1、營利事業所得稅。
- 2、個人綜合所得稅。
- 3、所得基本稅額。

(二) 在以色列稅務局或國稅署主管之稅法所適用之領域，指：

- 1、所得稅及公司稅（包括資本利得稅）。
- 2、依據不動產稅法課徵之不動產利得稅。

四、本協定亦適用於協定簽署後新開徵或替代現行各項租稅，其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。

第三條 一般定義

一、除上下文另有規定外，本協定稱：

(一) 「領域」，視情況指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、在臺北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；

2、在以色列稅務局或國稅署主管之稅法所適用之領域，指稅務局局長或國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，包括該領域之政府機關、其所屬機關或地方機關。但不包括僅因有源自該領域之所得而負有該領域納稅義務之人。

二、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) 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，視其為有永久住所之領域之居住者。
- (三) 如其於雙方領域內均有永久住所，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。
- (四) 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相互協議解決之。

三、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、裝配、安裝工程或相關之監督活動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，應視為於他方領域有常設機構：

- (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。
- (二) 透過其員工、其他僱用之人員或人提供服務（包括諮詢服務），為相同或

相關計畫案從事該等性質活動，於任何十二個月期間內持續或合計超過一百八十三天。

五、前四項之「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) 專為該企業從事其他具有準備或輔助性質之活動而設置固定營業場所。
- (六) 專為從事前五款任一組合之活動而設置固定營業場所。但以因該組合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。但該人經由固定營業場所僅從事第五項之活動，依第五項規定，該固定營業場所不視為常設機構。

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，及有權取得因開採或有權開採礦產、資源與其他天然資源所給付變動或固定報酬之權利。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常設機構所屬企業從事交易時，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、本條稱以船舶或航空器經營國際運輸業務之利潤，包括下列項目，並以該出租、使用或維護係與以船舶或航空器經營國際運輸業務有附帶關係者為限：
 - (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、一方領域之主管機關將業經他方領域課稅之他方領域企業之利潤，調整為該一方領域企業之利潤並予以課稅，如該項調整之利潤係按該兩企業間所訂定之條件與互為獨立企業所訂定之相同條件歸屬於該一方領域企業之利潤，且該他方領域認為該項調整合理時，該他方領域應就該調整之利潤所課徵之稅額作適當之調整。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股利總額之百分之十。

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。

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、本條稱「股利」，指自股份、受益股份或權利、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，及自公司其他權利取得而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，其課徵之稅額如下：
 - (一) 源自一方領域，且因他方領域之銀行所提供各種貸款所給付之利息，不得超過利息總額之百分之七。
 - (二) 其他情況，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此種限制之適用方式。

- 三、源自一方領域之利息符合下列規定之一者，利息來源領域應予免稅，不適用第二項規定：
 - (一) 因他方領域之政府機關、地方機關或中央銀行提供貸款、債權或授信所給付之利息。
 - (二) 因他方領域或其政府機關完全持有從事國際貿易之保險或融資業務之機構提供保證或保險之貸款、債權或信用所給付之利息。
- 四、源自一方領域而給付予他方領域居住者因銷售商品、工業、商業或科學設備予前者領域居住者所產生賒銷債權之利息，如其收受者為該利息之受益所有

人，不適用第一項及第二項規定，而應適用第七條規定。

- 五、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利息。
- 六、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權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。
- 七、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。
- 八、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，其債權有關之利息數額，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。

雙方領域之主管機關應共同協議決定此種限制之適用方式。
- 三、本條稱「權利金」，指使用或有權使用任何著作權（包括文學作品、藝術作品或電影）、任何專利權、商標權、設計或模型、計畫、秘密處方或製程或有關工業、商業或科學經驗之資訊，或使用或有權使用個人姓名、照片或其他類似之個人權利，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，或因處分取得該等不動產之選擇權或類似權利之利得，他方領域得予課稅。
- 二、一方領域之居住者轉讓股份或其他類似權益，如該股份或權益之百分之五十以上價值直接或間接來自於他方領域內之不動產，其取得之利得，他方領域得予課稅。
- 三、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。
- 四、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。
- 五、轉讓前四項以外之任何財產而取得之利得，如轉讓人為一方領域之居住者且為該利得之受益所有人，僅由該轉讓人為居住者之領域課稅。

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，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，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 受僱所得

- 一、除第十六條、第十八條、第十九條及第二十條規定外，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) 該所得人於一曆年度之內開始或結束之任何十二個月期間內，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。

(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、因受僱於一方領域之企業，而於該企業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，該一方領域得予課稅，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、表演人或運動員於一方領域從事活動所取得之所得，如其訪問該一方領域完全或主要由雙方領域或其中一方領域之政府機關、其所屬機關或地方機關之公共基金所資助，不適用前二項規定，而視情況適用第七條、第十四條或第十五條規定。

第十八條 養老金

一、除第十九條第二項規定外，因過去僱傭關係，給付予一方領域居住者之養老金及其他類似報酬，僅由該一方領域課稅。

二、養老金及其他給付係依據一方領域之社會安全法規所給付者，應僅由該領域課稅，不受第一項規定之限制。

第十九條 公共勞務

一、(一) 一方領域之政府機關、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），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公民或國民，或非專為提供上述勞務之目的而成為他方領域之居住者，該項報酬僅由他方領域課稅。

二、(一) 一方領域之政府機關、其所屬機關或地方機關，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，僅由該一方領域課稅。

(二) 但如該個人係他方領域之居住者，且為他方領域之公民或國民，該養老金僅由他方領域課稅。

三、為一方領域之政府機關、其所屬機關或地方機關所經營之事業提供勞務而取得之薪津、工資、其他類似報酬及養老金，應適用第十五條至第十八條之規定。

第二十條 教授及研究人員

一、一方領域之居住者，應他方領域之大學、學院、學校或其他位於該他方領域且經其政府機關認可之類似機構之邀請，專為教學、研究目的或兼具二者而於該教育機構短暫停留，自首次訪問之日起為期不超過兩年者，其自該教學或研究所取得之報酬，該他方領域應予免稅。

二、為特定人之私人利益，非為公共利益從事研究所取得之任何報酬，不適用前項規定。

第二十一條 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期間或訪問之前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。

第二十二條 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，僅由該領域課稅。

二、所得人如係一方領域之居住者，經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。

第二十三條 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：

該領域之居住者，取得源自他方領域之所得，依據本協定規定於後者領域就該所得繳納之稅額（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），應准予扣抵前者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。

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：

該領域之居住者，取得依據本協定規定他方領域得予課稅之所得，其於後者領域就該所得繳納之稅額，應准予自前者領域就該居住者之該項所得所課徵之稅額中減除（依前者領域不影響本項一般原則之國外稅額扣抵規定）。但減除之金額，不得超過減除該稅額扣抵前，視情況歸屬於後者領域

得予課稅之所得所計算之所得稅額。

第二十四條 無差別待遇

- 一、一方領域之公民或國民於他方領域內，不應較他方領域之公民或國民於相同情況下，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、第十一條第八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。

第二十五條 相互協議之程序

- 一、任何人如認為一方或雙方領域之行爲，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；如申訴案屬第二十四條第一項規定之範疇，得向其本人為公民或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。達成之任何協議應予執行，不受各該領域國內法任何期間規定之限制。
- 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。

第二十六條 資訊交換

- 一、雙方領域之主管機關為執行本協定之規定或雙方領域、其所屬機關或地方機關為執行本協定所指租稅國內法之規定，於不違反本協定之範圍內，應相互交換必要之資訊，資訊交換不以第一條規定之範圍為限。一方領域所取得之任何資訊，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)。上該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。

二、前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或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，或有違公共政策之資訊。

第二十七條 利益限制

- 一、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或主要目的之一者，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，不受本協定任何其他條文規定之限制。
- 二、本協定不得排除一方領域依其國內法律防杜逃漏稅之適用。
- 三、非各該所得項目之受益所有人不得享有本協定之利益。

第二十八條 生效

- 一、本協定自後簽署之日起生效。
- 二、本協定適用於本協定生效年度之次一曆年一月一日起取得之所得。「駐特拉維夫台北經濟文化辦事處與駐台北以色列經濟文化辦事處互免海運事業所得稅瞭解備忘錄」應自該日起終止適用。

第二十九條 終止

- 一、駐台拉維夫台北經濟文化辦事處或駐台北以色列經濟文化辦事處終止本協定前應繼續有效，任一辦事處得於本協定生效日起滿五年後之任一曆年末日前至少六個月，通知對方終止本協定。
- 二、本協定自發出終止通知日所屬年度之次一曆年一月一日起取得之所得終止適用。

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 2009 年 12 月 18 日於臺北簽署。

本協定以英文繕製兩份，公元 2009 年 12 月 24 日於台拉維夫簽署。

駐台拉維夫台北經濟文化辦事處
丁干城

駐台北以色列經濟文化辦事處
甘若飛

附件

駐台拉維夫台北經濟文化辦事處與駐台北以色列經濟文化辦事處簽署之避免所得稅雙重課稅及防杜逃稅協定，雙方同意下列條款構成本協定之一部分：

一、附加於第四條第一項

本協定第二條第三項第一款所稱領域，如僅對居住者個人源自該領域之所得課稅，本協定稱一方領域之居住者，包括源自該領域之所得負納稅義務之個人。

二、附加於第七條第三項

本項不適用於常設機構如於其所在地領域為一獨立企業時不得減除之費用。

三、附加於第十條

本協定第二條第三項第一款所稱領域於本協定簽署後，與屬經濟合作暨發展組織會員之第三領域簽署之避免雙重課稅協定或修正協定之附件（於本項及第四項簡稱其他協定），給予股利免稅，或對股利適用之稅率低於百分之十者，該免稅或較低之稅率，應視同已於本協定規定而自動適用之，並自其他協定或本協定之生效日，二者較後之日起生效。本項規定，僅於股利之受益所有人符合其他協定所規定適用免稅或較低稅率之要件時，始得適用之。

四、附加於第十二條

前者領域如於其他協定給予權利金免稅，或對權利金適用之稅率低於百分之十者，該免稅或較低之稅率，應視同已於本協定規定而自動適用之，並自其他協定或本協定之生效日，二者較後之日起生效。

五、附加於第十四條第一項

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，如於他方領域課稅，於決定其課稅所得時，應准予減除其因提供該勞務之目的而發生之相關費用。

六、租稅減免

一方領域之居住者適用本協定所規定他方領域應提供之租稅減免時，應出具經前者領域稅務機關簽章載明相關所得之居住者證明。

七、合夥組織

(一) 本協定不得禁止一方領域對其居住者合夥人自他方領域視為居住者之合夥組織應分配之所得課稅。

(二) 即使一方領域將所得視為合夥組織之所得，而他方領域視為合夥人之所得，任一方領域對於該所得於所得來源之他方領域所繳納之所得稅，應准予扣抵。

為此，雙方代表業經合法授權於本附件簽字，以昭信守。

本附件以英文繕製兩份，公元 2009 年 12 月 18 日於臺北簽署。

本附件以英文繕製兩份，公元 2009 年 12 月 24 日於台拉維夫簽署。

駐台拉維夫台北經濟文化辦事處
丁干城

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甘若飛