

No. 19004

**BELGIUM
and
REPUBLIC OF KOREA**

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). Signed at Brussels on 29 August 1977

Authentic text: English.

Registered by Belgium on 18 July 1980.

**BELGIQUE
et
RÉPUBLIQUE DE CORÉE**

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole). Signée à Bruxelles le 29 août 1977

Texte authentique: anglais.

Enregistrée par la Belgique le 18 juillet 1980.

CONVENTION¹ BETWEEN THE KINGDOM OF BELGIUM AND
THE REPUBLIC OF KOREA FOR THE AVOIDANCE OF
DOUBLE TAXATION AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the Kingdom of Belgium and the Government of the Republic of Korea,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed as follows:

I. SCOPE OF THE CONVENTION

Article 1. PERSONAL SCOPE

This Convention shall apply to persons who are residents of one or both of the Contracting States.

Article 2. TAXES COVERED

§ 1. The taxes which are the subject of this Convention are:

(a) In Belgium:

- (i) The individual income tax (*impôt des personnes physiques—personenbelasting*);
- (ii) The corporate income tax (*impôt des sociétés—vennootschapsbelasting*);
- (iii) The income tax on legal entities (*impôt des personnes morales—rechtspersonenbelasting*);
- (iv) The income tax on non-residents (*impôt des non-résidents—belasting van de niet-verblijfhouders*),

including the prepayments, the surcharges on these taxes and prepayments, and the communal supplement to the individual income tax (hereinafter referred to as “Belgian tax”);

(b) In Korea:

- (i) The income tax;
- (ii) The corporation tax;
- (iii) The inhabitant tax

(hereinafter referred to as “Korean tax”).

§ 2. The Convention shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify to each other any changes which have been made in their respective taxation laws.

¹ Came into force on 19 September 1979, i.e., the fifteenth day following the date of the exchange of the instruments of ratification, which took place at Seoul on 4 September 1979, in accordance with article 28 (2).

II. DEFINITIONS

Article 3. GENERAL DEFINITIONS

§ 1. In this Convention, unless the context otherwise requires:

(a) The term “Belgium” means the Kingdom of Belgium and, when used in a geographical sense, it includes any area outside the Belgian national sovereignty which has been or may hereafter be designated, under the Belgian laws concerning the continental shelf and in accordance with international law, as an area within which the rights of Belgium with respect to the seabed and subsoil and their natural resources may be exercised;

(b) The term “Korea” means the Republic of Korea and, when used in a geographical sense, means all the territory in which the laws relating to Korean tax are in force. The term also includes the territorial sea thereof, and the seabed and subsoil of the submarine areas adjacent to the coast thereof, but beyond the territorial sea, over which Korea exercises sovereign rights, in accordance with international law, for the purpose of exploration and exploitation of the natural resources of such area;

(c) The terms “a Contracting State” and “the other Contracting State” mean Belgium or Korea, as the context requires;

(d) The term “person” comprises an individual, a company and any other body of persons;

(e) The term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes in the Contracting State of which it is a resident;

(f) The terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(g) The term “nationals” means:

- (i) All individuals possessing the nationality of a Contracting State;
- (ii) All legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State;

(h) The term “tax” means Belgian tax or Korean tax, as the context requires;

(i) The term “competent authority” means:

- (i) In the case of Belgium, the Minister of Finance or his authorised representative;
- (ii) In the case of Korea, the Minister of Finance or his authorised representative.

§ 2. As regards the application of the Convention by a Contracting State, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

Article 4. FISCAL DOMICILE

§ 1. For the purposes of this Convention, the term “resident of a Contracting State” means any person whose income under the law of that State is subject to tax therein by reason of his domicile, residence, place of management, place of head or main office or any other criterion of a similar nature. But this

term does not include any person who is liable to tax in that Contracting State in respect only of income from sources therein.

§ 2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

- (a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);
- (b) If the Contracting State 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) If he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- (d) If he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States 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 Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated. In case of doubts the competent authorities of the Contracting States shall settle the question by mutual agreement.

Article 5. PERMANENT ESTABLISHMENT

§ 1. For the purposes of this Convention, the term “permanent establishment” means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

§ 2. The term “permanent establishment” shall include especially:

- (a) A place of management;
- (b) A branch;
- (c) An office;
- (d) A factory;
- (e) A workshop;
- (f) A mine, quarry or other place of extraction of natural resources;
- (g) A building site or construction, installation or assembly project or activities of providing personal services such as supervisory, technical or any other professional services in connection therewith, where such site, project or activity exists for more than six months.

§ 3. The term “permanent establishment” shall not be deemed to include:

- (a) The use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

- (c) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
- (e) The maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

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

§ 5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

§ 6. Notwithstanding the provisions of paragraphs 4 and 5, an insurance enterprise of one of the Contracting States shall be deemed to have a permanent establishment in the other State if it collects premiums in that other State or insures risks situated therein through an agent as is mentioned in paragraph 4 or an agent of an independent status who has and habitually exercises an authority to conclude contracts in the name of the enterprise.

§ 7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself make either company a permanent establishment of the other.

III. TAXATION OF INCOME

Article 6. INCOME FROM IMMOVABLE PROPERTY

§ 1. Income from immovable property including income from agriculture or forestry may be taxed in the Contracting State in which such property is situated.

§ 2. The term “immovable property” shall be defined in accordance with the law of the Contracting State 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 professional services.

Article 7. BUSINESS PROFITS

§ 1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State 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 State 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 Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

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

§ 4. 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.

§ 5. Where profits include items of income which are dealt with separately in other articles of this Convention, then the provisions of these articles shall not be affected by the provisions of this article.

Article 8. SHIPPING AND AIR TRANSPORT

§ 1. Profits from the operation of ships or aircraft in international traffic carried on by an enterprise of a Contracting State shall be exempt from tax in the other Contracting State.

§ 2. The provisions of paragraph 1 shall also apply to profits derived from the participation in a pool, a joint business or in an international operating agency.

§ 3. In respect of the operation of ships or aircraft in international traffic carried on by an enterprise of a Contracting State, that enterprise, if an enterprise of Belgium, shall also be exempt from the business tax in Korea and if an enterprise of Korea, shall also be exempt from any tax similar to the business tax in Korea which may hereafter be imposed in Belgium.

Article 9. ASSOCIATED ENTERPRISES

Where:

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

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be

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

Article 10. DIVIDENDS

§ 1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

§ 2. However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

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

§ 3. The term "dividends" as used in this article means income from shares, *jouissance* shares or *jouissance* rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the taxation law of the State of which the company making the distribution is a resident. This term means also income, even when paid in the form of interest, which is taxable as income from capital invested by the members of a company other than a company with share capital, which is a resident of Belgium.

§ 4. The provisions of paragraphs 1 and 3 shall not apply if the recipient of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such a case the provisions of article 7 shall apply.

§ 5. Where a company is a resident of a Contracting State, the other Contracting State may not impose any tax on the dividends paid by the company to a resident of the first-mentioned State, except insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11. INTEREST

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

§ 2. However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 15 per cent of the amount of the interest.

§ 3. Notwithstanding the provisions of paragraph 2 of this article, interest arising in a Contracting State and paid to the Government of the other Contracting State, or a political subdivision or local authority thereof, the central bank of that

other State or any institution wholly owned by that Government or that central bank, or by both shall be exempt from tax in the first-mentioned State.

§ 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, as well as income assimilated to income from money lent by the taxation law of the State in which the income arises. However, the term “interest” does not include income dealt with in paragraph 3 of article 10.

§ 5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such a case, the provisions of article 7 shall apply.

§ 6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

§ 7. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In that case, the excess part of the interest may be taxed in the Contracting State in which the interest arises according to the law of that State.

Article 12. ROYALTIES

§ 1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

§ 2. However such royalties may be taxed in the Contracting State in which they arise, and according to the law of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed:

- (a) 10 per cent of the gross amount of such royalties in the case of industrial investment, and
- (b) 15 per cent of the gross amount of such royalties in all other cases.

§ 3. The term “royalties” as used in this article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and tapes for television or broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment (including ships or aircraft leased under a bare boat charter contract), or for information concerning industrial, commercial or scientific experience.

§ 4. The provisions of paragraph 1 shall not apply if the recipient of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such a case, the provisions of article 7 shall apply.

§ 5. Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a political subdivision, a local authority or a resident of that Contracting State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and the royalties are borne by such permanent establishment, then the royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

§ 6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In that case, the excess part of the royalties may be taxed in the Contracting State in which the royalties arise, according to the law of that State.

Article 13. CAPITAL GAINS

§ 1. Gains from the alienation of immovable property, as defined in paragraph 2 of article 6, may be taxed in the Contracting State in which such property is situated.

§ 2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) may be taxed in the other State. However, gains from the alienation of ships or aircraft operated in international traffic by an enterprise of a Contracting State and of movable property pertaining to the operation of such ships or aircraft shall be exempt from tax in the other Contracting State.

§ 3. Gains from the alienation of any property other than those mentioned in paragraphs 1 and 2, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14. PERSONAL SERVICES

§ 1. Subject to the provisions of articles 15, 17, 18, 19 and 20, income or remuneration derived by a resident of a Contracting State in respect of personal services (including professional services) shall be taxable only in that State unless the services are rendered in the other Contracting State. If the services are so rendered, such income or remuneration as is derived therefrom may be taxed in that other State.

§ 2. Notwithstanding the provisions of paragraph 1, income or remuneration derived by a resident of a Contracting State in respect of services rendered in the other Contracting State shall be taxable only in the first-mentioned State if:

- (a) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned, and
- (b) The income or remuneration is paid by, or on behalf of, a person who is not a resident of the other State, and
- (c) The income or remuneration is not borne by a permanent establishment which the person paying the remuneration has in the other State.

§ 3. Notwithstanding the preceding provisions of this article, remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State, shall be taxable only in that State.

Article 15. DIRECTORS' FEES

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

§ 2. The remuneration which a person to whom paragraph 1 applies derives from the company in respect of the discharge of day-to-day functions of a managerial or technical nature may be taxed in accordance with the provisions of article 14.

Article 16. ARTISTES AND ATHLETES

§ 1. Notwithstanding the provisions of article 14, income derived by entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

§ 2. Where income in respect of personal activities as such of an entertainer or athlete accrues not to that entertainer or athlete himself but to another person that income may, notwithstanding the provisions of articles 7 and 14, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

§ 3. Notwithstanding the provisions of paragraphs 1 and 2 income derived from activities exercised in a Contracting State by entertainers and athletes shall be exempt from tax in that Contracting State if the visit to that State is substantially supported by public funds or sponsored by the other Contracting State or by any political subdivision, local authority or statutory body thereof, or if such activities are exercised for a non-profit organization no part of the income of which was payable to, or was otherwise available, for the personal benefit of any proprietor, member or shareholder thereof, if the organization is certified as qualifying under this provision by the competent authority of the other Contracting State.

Article 17. PENSIONS

Subject to the provisions of paragraph 2 of article 18, pensions and similar remuneration from sources within a Contracting State and paid to a resident of the other Contracting State in consideration of past employment may be taxed in the first-mentioned State.

Article 18. GOVERNMENT SERVICE

§ 1. (a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof shall be taxable only in that State.

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the recipient is a resident of that State who:

- (i) Is a national of that State; or
- (ii) Did not become a resident of that State solely for the purpose of performing the services.

§ 2. (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof shall be taxable only in that State.

(b) However, such pension shall be taxable only in the other Contracting State if the recipient is a national of and a resident of that State.

§ 3. The provisions of articles 14, 15 and 17 shall apply to remuneration and pensions in respect of services rendered in connection with any business carried on by one of the Contracting States or a political subdivision or a local authority thereof.

§ 4. Notwithstanding the provision of paragraph 3, the provisions of paragraphs 1 and 2 shall likewise apply to remuneration and pensions paid by the Bank of Korea, the Korea Exchange Bank, the Korea Trade Promotion Corporation and other Government-owned institution performing functions of a Governmental nature, provided that such remuneration or pensions are not paid in respect of services rendered in Belgium in connection with any business carried on therein.

Article 19. PROFESSORS AND TEACHERS

§ 1. An individual who is a resident of a Contracting State at the beginning of his visit to the other Contracting State and who, at the invitation of the Government of that other State or of a university or other accredited educational institution situated in that other State, visits that other State for the primary purpose of teaching or engaging in research, or both, at a university or other accredited educational institution shall be exempt from tax in that other State on his income from such teaching or research for a period not exceeding two years from the date of his arrival in that other State.

§ 2. The provisions of paragraph 1 shall not apply to income from personal services for research if such research is undertaken primarily for the private benefit of a specific person or persons.

Article 20. STUDENTS AND TRAINEES

§ 1. An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State and is temporarily present in the other Contracting State solely as a student at a recognised university, college, school or other similar recognised educational institution in that other Contracting

State or as a business or technical apprentice therein, for a period not exceeding five years from the date of his first arrival in that other Contracting State in connection with that visit, shall be exempt from tax in that other Contracting State on:

- (a) All remittances from abroad for the purposes of his maintenance, education or training; and
- (b) Any remuneration not exceeding 120,000 Belgian francs or the equivalent in Korean currency during any calendar year in respect of services rendered in that other Contracting State with a view to supplementing the resources available to him for such purposes.

§ 2. An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State and is temporarily present in the other Contracting State for the purposes of study, research or training solely as a recipient of a grant, allowance or award from the Government of either of the Contracting States or from a scientific, educational, religious or charitable organisation or under a technical assistance programme entered into by the Government of either of the Contracting States for a period not exceeding three years from the date of his first arrival in that other Contracting State in connection with that visit, shall be exempt from tax in that other Contracting State on:

- (a) The amount of such grant, allowance or award;
- (b) All remittances from abroad for the purposes of his maintenance, education or training; and
- (c) Any remuneration not exceeding 150,000 Belgian francs or the equivalent in Korean currency during any calendar year in respect of services rendered in that other Contracting State if such services are performed in connection with his study, research, training or incidental thereto.

§ 3. An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State and is temporarily present in that other Contracting State solely as an employee of, or under contract with, the Government or an enterprise of the first-mentioned Contracting State solely for the purpose of acquiring technical, professional or business experience for a period not exceeding two years from the date of his first arrival in that other Contracting State in connection with that visit, shall be exempt from tax in that other Contracting State on:

- (a) All remittances from abroad for the purposes of his maintenance, education or training; and
- (b) Any remuneration not exceeding 200,000 Belgian francs or the equivalent in Korean currency during any calendar year in respect of services rendered in that other Contracting State if such services are in connection with his studies or training or incidental thereto.

Article 21. OTHER INCOME

Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing articles of this Convention shall be taxable only in that State except that if such income is derived from sources within the other Contracting State, it may also be taxed in that other State.

IV. ELIMINATION OF DOUBLE TAXATION

Article 22

§ 1. In the case of Belgium, double taxation shall be avoided as follows:

- (a) Where a resident of Belgium derives income which may be taxed in Korea in accordance with this Convention and which is not subject to the provisions of subparagraphs (b) and (c) below, Belgium shall exempt such income from tax but may, in calculating the amount of tax on the remaining income of that resident, apply the rate of tax which would have been applicable if such income had not been exempted.
- (b) Where a resident of Belgium derives:
- Dividends dealt with in paragraph 2 of article 10 and not exempt from Belgian tax according to subparagraph (c) below,
 - Interest dealt with in paragraph 2 or 7 of article 11, or
 - Royalties dealt with in paragraph 2 or 6 of article 12,
- Belgium shall allow a credit against its tax charged on such income of an amount equal to 20 per cent of the gross amount of the dividends, interest or royalties which is included in the taxable base of the said resident.
- (c) Where a company which is a resident of Belgium owns shares or other rights in a company with share capital which is a resident of Korea and which is subject to Korean tax on its profits, the dividends which are paid to it by the latter company and which may be taxed in Korea in accordance with paragraph 2 of article 10 shall be exempt from the corporate income tax in Belgium to the extent that exemption would have been accorded if the two companies had been residents of Belgium.
- (d) Where, in accordance with Belgian law, losses of an enterprise carried on by a resident of Belgium which are attributable to a permanent establishment situated in Korea have been effectively deducted from the profits of that enterprise for its taxation in Belgium, the exemption provided in subparagraph (a) shall not apply in Belgium to the profits of other taxable periods attributable to that establishment to the extent that those profits have also been exempted from tax in Korea by reason of compensation for the said losses.

§ 2. In the case of Korea, double taxation shall be avoided as follows: Korea shall allow to a resident of Korea as a credit against Korean tax the appropriate amount of tax paid or to be paid to Belgium. Such appropriate amount shall be based upon the amount of tax paid or to be paid to Belgium but shall not exceed that proportion of Korean tax which the income from sources within Belgium bears to the entire income subject to Korean tax.

V. SPECIAL PROVISIONS

Article 23. NON-DISCRIMINATION

§ 1. The nationals of a Contracting State, whether or not they are residents of one of the Contracting States, shall not be subjected in the other Contracting State 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 State in the same circumstances are or may be subjected.

§ 2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State 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 article 9, of paragraph 7 of article 11 or of paragraph 6 of article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same condition as if they had been paid to a resident of the first-mentioned State.

§ 4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

§ 5. Nothing in this article shall be construed as preventing Belgium from taxing the total amount of the profits attributable to a permanent establishment in Belgium of a company being a resident of Korea or of an association having its place of effective management in Korea at the rate of tax provided by the Belgian law, but this rate may not exceed the maximum rate applicable to the whole or a portion of the profits of companies which are residents of Belgium.

§ 6. In this article the term "taxation" means taxes of every kind and description.

Article 24. MUTUAL AGREEMENT PROCEDURE

§ 1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of article 23, to that of the Contracting State of which he is a national. This case must be presented within three years from the first notification of the action giving rise to taxation not in accordance with the Convention.

§ 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 an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention.

§ 3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the application of the Convention.

§ 4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs or for the purpose of giving effect to the provisions of the Convention.

Article 25. EXCHANGE OF INFORMATION

§ 1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention, insofar as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons, authorities or courts other than those concerned with the assessment or collection of the taxes which are the subject of this Convention or the determination of appeals or the prosecution of offences in relation thereto.

§ 2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

- (a) To carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;
- (b) To supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) To supply information which would disclose any trade, business, industrial, commercial or professional secret or trade processing, or information, the disclosure of which would be contrary to public policy.

Article 26. AID IN RECOVERY OF TAXES

§ 1. The Contracting States shall lend aid and assistance to each other in order to notify and recover taxes mentioned in article 2 as well as surcharges, additions, interest, costs and fines of a non-penal nature.

§ 2. On the request of the competent authority of a Contracting State, the competent authority of the other Contracting State shall secure, in accordance with the legal provisions and regulations applicable to the notification and recovery of the said taxes of the latter State, the notification and recovery of fiscal debt-claims referred to in paragraph 1 which are due in the first-mentioned State. Such debt-claims shall not be considered as preferential claims in the requested State and that State shall not be obliged to apply any means of enforcement which are not authorised by the legal provisions and regulations of the requesting State.

§ 3. Requests referred to in paragraph 2 shall be supported by an official copy of the instrument permitting the execution in the requesting State and, where appropriate, by an official copy of any final administrative or judicial decision.

§ 4. With regard to fiscal debt-claims which are open to appeal, the competent authority of a Contracting State may, in order to safeguard its rights, request the competent authority of the other Contracting State to take the protective measures provided for in its legislation. The provisions of paragraphs 1 to 3 shall apply, *mutatis mutandis*, to such measures.

§ 5. The second sentence of paragraph 1 of article 25 shall also apply to any information which, by virtue of this article, is supplied to the competent authority of the requested State.

Article 27. DIPLOMATIC AND CONSULAR OFFICIALS

Nothing in this Convention shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.

VII. FINAL PROVISIONS

Article 28. ENTRY INTO FORCE

§ 1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Seoul as soon as possible.

§ 2. The Convention shall enter into force on the fifteenth day after the date of exchange of the instruments of ratification and its provisions shall have effect:

- (i) With respect of taxes due (or withheld) at source, on income credited or payable on or after 1 January in the calendar year in which the Convention enters into force;
- (ii) With respect to other taxes, to taxes chargeable for any taxable year beginning on or after 1 January in the calendar year immediately following that in which the Convention enters into force.

Article 29. TERMINATION

This Convention shall remain in force indefinitely but either of the Contracting States may, on or before 30 June in any calendar year from the fifth year following that in which the instruments of ratification have been exchanged, give to the other Contracting State, through diplomatic channels, written notice of termination and, in such event, this Convention shall cease to have effect:

- (i) With respect to taxes due (or withheld) at source, on income credited on or after 1 January in the calendar year next following the year in which the notice of termination is given;
- (ii) With respect to other taxes, to taxes chargeable for any taxable year beginning on or after 1 January of the second calendar year following the year in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Convention.

DONE at Brussels, this 29th day of August 1977, in duplicate, in the English language.

For the Government
of the Kingdom of Belgium:

H. SIMONET

For the Government
of the Republic of Korea:

Y. J. CHANG

PROTOCOL

At the moment of signing the Convention between the Kingdom of Belgium and the Republic of Korea for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed that the following provisions shall form an integral part of the Convention:

1. It is understood that the term "Korean tax" in article 2 (b) of the Convention includes the Korean defense surtax.

2. It is understood that royalties in the meaning of subparagraph (a) of paragraph (2) of article 12 are those which are paid for the use of, or the right to use, any patent, design, model, plan, secret formula or process for industrial purposes, or for information concerning industrial or scientific experience.

3. It is understood that, as regards a company which is a resident of Belgium, the provisions of the Convention shall not limit its taxation in accordance with the Belgian law in the event of the repurchase of its own shares or in the event of the distribution of its assets.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Protocol.

DONE at Brussels, this 29th day of August 1977, in duplicate, in the English language.

For the Government
of the Kingdom of Belgium:
H. SIMONET

For the Government
of the Republic of Korea:
Y. J. CHANG
