

# **Supplementary convention amending the convention and deleting the protocol 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, signed at Brussels on august 29, 1977**

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

Desiring to amend the Convention and to delete the Protocol 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, signed at Brussels on August 29, 1977 (hereinafter respectively referred to as "the Convention" and "the Protocol"),

Have agreed as follows :

## **Article 1.**

Article 2 of the Convention shall be deleted and replaced by the following :

"Article 2"

Taxes Covered

§ 1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

§ 2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

§ 3. The existing taxes to which the Convention shall apply are in particular :

(a) in the case of Korea :

- (i) the income tax;
- (ii) the corporation tax;
- (iii) the inhabitant tax,  
(hereinafter, referred to as "Korean tax");

(b) in the case of Belgium :

- (i) the individual income tax ;
- (ii) the corporate income tax;
- (iii) the income tax on legal entities;
- (iv) the income tax on non-residents;
- (v) the special levy assimilated to the individual income tax, including the prepayments, the surcharges on these taxes and prepayments, and the supplements to the individual income tax, (hereinafter referred to as "Belgian tax").

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

**Art. 2.**

Paragraph 3 of Article 8 of the Convention shall be deleted and replaced by the following :

§ 3. In respect of the operation of ships or aircraft in international traffic carried on by an enterprise of a Contracting State, that enterprise shall also be exempt from the value added tax in the other Contracting State. »

**Art. 3.**

Paragraph 2 of Article 11 of the Convention shall be deleted and replaced by the following :

§ 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 10 per cent of the gross amount of the interest. »

**Art. 4.**

Paragraph 2 of Article 12 of the Convention shall be deleted and replaced by the following :

§ 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 10 per cent of the gross amount of the royalties. »

**Art. 5.**

Paragraph 2 of Article 15 of the Convention shall be deleted and replaced by the following :

§ 2. Remuneration derived by a person referred to in paragraph 1 from the company in respect of the discharge of day-to-day functions of a managerial or technical nature and income received by a resident of a Contracting State in respect of his personal activity as a partner of a company, other than a company with share capital, which is a resident of the other Contracting State, may be taxed in the Contracting State where such person or resident exercises his activity. »

**Art. 6.**

Article 17 of the Convention shall be deleted and replaced by the following :

**Article 17 Pensions**

§ 1. Subject to the provisions of paragraph 2 of Article 18, pensions and other similar payments, periodic or non periodic, 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.

§ 2. The provisions of paragraph 1 shall also apply to pensions and other similar payments received under a public scheme organised by a Contracting State in order to supplement the benefits of its social security legislation. »

**Art. 7.**

Paragraph 4 of Article 18 of the Convention shall be deleted and replaced by the following :

§ 4. Notwithstanding the provisions 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, the Export-Import Bank of Korea, the Korea Development Bank, and other Government owned institutions 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. »

#### **Art. 8.**

In Article 20 of the Convention. the amounts of 120,000, 150,000 and 200,000 Belgian francs respectively mentioned in subparagraph (b) of paragraph 1, subparagraph (c) of paragraph 2 and subparagraph (b) of paragraph 3 shall be deleted and replaced respectively by the amounts of 180,000, 225,000 and 300,000 Belgian francs.

#### **Art. 9.**

Article 22 of the Convention shall be deleted and replaced by the following :

##### Article 22

§ 1. 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.

§ 2. 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) Subject to the provisions of the Belgian law regarding the deduction from Belgian tax of taxes paid abroad. where a resident of Belgium derives items of his aggregate income for Belgian tax purposes which are dividends taxable in accordance with paragraph 2 of Article 10, and not exempt from Belgian tax according to subparagraph (c) hereinafter, interest taxable in accordance with paragraphs 2 or 7 of Article 11, or royalties taxable in accordance with paragraphs 2 or 6 of Article 12, the Korean tax levied on that income shall be allowed as a credit against Belgian tax relating to such income.

(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, dividends which are paid to it by the latter company shall be exempt from the corporate income tax in Belgium under the conditions and within the limits provided for in Belgian law.

(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. »

**Art. 10.**

Paragraph 5 of Article 23 of the Convention shall be deleted and replaced by the following:

§ 5. Nothing in this Article shall be construed as preventing Belgium from taxing in accordance with its law income attributable to a permanent establishment in Belgium of a company being a resident of Korea, but it is understood that the rate of the income tax on non-residents due by that company may not exceed the maximum rate of the tax applicable to the whole or a portion of the profits of companies which are residents of Belgium. »

**Art. 11.**

Article 26 of the Convention shall be deleted and Articles 27, 28 and 29 shall be renumbered respectively as Article 26, 27 and 28.

**Art. 12.**

The Protocol shall be deleted.

**Art. 13.**

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

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

**Art. 14.**

This Supplementary Convention shall form an integral part of the Convention and shall remain in force as long as the Convention itself remains in force.

IN WITNESS WHEREOF the undersigned,

being duly authorised thereto by their respective Governments, have signed this Supplementary Convention.

DONE at Brussels, this 20 April 1994, in duplicate, in the English language.

FOR THE GOVERNMENT OF THE KINGDOM OF BELGIUM :  
Willy CLAES

FOR THE GOVERNMENT OF THE REPUBLIC OF KOREA :  
Ei Myung KIM