

AGREEMENT BETWEEN

THE GOVERNMENT OF THE KINGDOM OF CAMBODIA

AND

THE GOVERNMENT OF THE REPUBLIC OF KOREA

FOR THE ELIMINATION OF DOUBLE TAXATION WITH RESPECT TO

TAXES ON INCOME

AND THE PREVENTION OF TAX EVASION AND AVOIDANCE

NOTE

Date of Signing this Agreement: 25th November 2019
Promulgated on: 14th November 2020

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

Desiring to further develop their economic relationship and to enhance their co-operation in tax matters,

Intending to conclude an Agreement for the elimination of double taxation with respect to taxes on income without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third States),

Have agreed as follows:

Article 1
Persons Covered

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

Article 2

Taxes Covered

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or its 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.
3. The existing taxes to which the Agreement shall apply are in particular:
 - (a) in Cambodia:
 - (i) Tax on Income including Withholding Tax, Minimum Tax, Additional Profit Tax on Dividend Distribution and Capital Gains Tax;
 - (ii) Tax on Salary;(hereinafter referred to as "Cambodian tax"); and
 - (b) in Korea:
 - (i) the income tax;
 - (ii) the corporation tax;
 - (iii) the special tax for rural development; and
 - (iv) the local income tax;(hereinafter referred to as "Korean tax").
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 Contracting States shall notify each other of any significant changes that have been made in their taxation laws.

Article 3
General Definitions

1. For the purposes of this Agreement, unless the context otherwise requires:
 - (a) the terms “a Contracting State” and “the other Contracting State” mean Cambodia or Korea, as the context requires;
 - (b) the term “Cambodia” means the territory of the Kingdom of Cambodia, as well as those maritime areas, including the seabed and subsoil adjacent to the outer limits of the territorial sea and airspace over which the Kingdom of Cambodia exercises, in accordance with international law, sovereign rights or jurisdiction;
 - (c) the term "Korea" means the Republic of Korea, and when used in a geographical sense, the territory of the Republic of Korea including its territorial sea, and any area adjacent to the territorial sea of the Republic of Korea which, in accordance with international law, has been or may hereafter be designated under the laws of the Republic of Korea as an area within which the sovereign rights or jurisdiction of the Republic of Korea with respect to the sea-bed and sub-soil, and their natural resources may be exercised;
 - (d) the term “tax” means Cambodian tax or Korean tax, as the context requires;
 - (e) the term "person" includes an individual, a company and any other body of persons;
 - (f) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - (g) the term “enterprise” applies to the carrying on of any business;
 - (h) 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;
 - (i) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

- (j) the term "competent authority" means:
 - (i) in the case of Cambodia, the Minister of Economy and Finance or the Minister's authorised representative; and
 - (ii) in the case of Korea, the Minister of Economy and Finance or the Minister's authorised representative;

- (k) the term "national", in relation to a Contracting State, means:
 - (i) any individual possessing the nationality of that Contracting State; and
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State;

- (l) the term "business" includes the performance of professional services and of other activities of an independent character.

2. As regards the application of the Agreement at any time by a Contracting State, 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 State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4

Resident

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of that person's domicile, residence, place of incorporation, place of head or main office, place of management, principal place of business or any other criterion of a similar nature, and also includes that State and any local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

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

(a) that individual shall be deemed to be a resident only of the State in which that individual has a permanent home available to that individual; if that individual has a permanent home available to that individual in both States, that individual shall be deemed to be a resident only of the State with which that individual's personal and economic relations are closer (centre of vital interests);

(b) if the State in which that individual has that individual's centre of vital interests cannot be determined, or if that individual has not a permanent home available to that individual in either State, that individual shall be deemed to be a resident only of the State in which that individual has an habitual abode;

(c) if that individual has an habitual abode in both States or in neither of them, that individual shall be deemed to be a resident only of the State of which that individual is a national;

(d) if that individual is a national of both 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 State in which its place of effective management is situated. In case of doubt, the competent authorities of the Contracting States shall resolve the question by mutual agreement.

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;
 - (f) a warehouse, in relation to a person providing storage facilities for others;
 - (g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources; and
 - (h) a farm or plantation.

3. The term "permanent establishment" also encompasses:
 - (a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities last more than nine months.

 - (b) the carrying on of activities (including the operation of substantial equipment) in the other Contracting State for the exploration or for exploitation of natural resources for more than six months.

4. 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; and
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e),

provided that such activity or, in the case of subparagraph (f), the overall activity of the fixed place of business, is of a preparatory or auxiliary character.

5. 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 in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:

- (a) has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 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; or
- (b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which that person regularly delivers goods or merchandise on behalf of the enterprise.

6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.

7. 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, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost

wholly on behalf of that enterprise, and conditions are made or imposed between that enterprise and the agent in their commercial and financial relations which differ from those which would have been made between independent enterprises, such person will not be considered an agent of an independent status within the meaning of this paragraph.

8. 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 constitute either company a permanent establishment of the other.

Article 6
Income from Immovable Property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under 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 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.

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 determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business 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. 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.

5. 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
International Transport

1. Profits from the operation of aircraft in international traffic carried on by an enterprise of a Contracting State shall be taxable only in that State.
2. Profits derived by an enterprise of a Contracting State from the operation in international traffic of ships may be taxed in the other Contracting State, but the tax imposed in that other State shall be reduced by an amount equal to 50 per cent thereof.
3. The provisions of paragraphs 1 and 2 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9
Associated Enterprises

1. 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.

2. Where a Contracting State includes in the profits of an enterprise of that State—and taxes accordingly—profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall, if necessary, consult each other.

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 also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 10 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 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 State 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 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 case the provisions of Article 7 shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except in so far as such dividends are paid to a resident of that other State or in so far 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 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 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 also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be taxable only in the other Contracting State if the interest is beneficially owned by that other Contracting State or local authority thereof, or the central bank of that other Contracting State or any institution performing functions of a governmental nature and the capital of which is wholly owned by that other Contracting State.
4. For the purposes of paragraph 3, the terms "any institution performing functions of a governmental nature and the capital of which is wholly owned by that other Contracting State" mean:
 - (a) in the case of Cambodia:
 - (i) the Central Bank or any local authority;
 - (ii) the Rural Development Bank; and
 - (iii) a statutory body or any institution, as may be agreed upon between the competent authorities of the Contracting States.
 - (b) in the case of Korea:
 - (i) the Korea Development Bank;
 - (ii) the Korea Export-Import Bank of Korea;
 - (iii) the Trade Insurance Corporation; and
 - (iv) other similar institution as may be specified and agreed upon between the competent authorities of the Contracting States.
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, as well as any other income assimilated to income from money lent by the taxation laws of the Contracting State in which the income arises. 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 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 case the provisions of Article 7 shall apply.

7. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether that person 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 State in which the permanent establishment 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 Contracting State, due regard being had to the other provisions of this Agreement.

Article 12

Royalties and Fees for Technical Services

1. Royalties or fees for technical services 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 or fees for technical services may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties or fees for technical services is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties or fees for technical services.
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, or films or tapes used for radio or television 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, or for information concerning industrial, commercial or scientific experience. The term "fees for technical services" means payments of any kind received as a consideration for the rendering of any managerial, technical or consultancy services, including the provision of technical services by an enterprise or other personnel.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties or fees for technical services, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties or fees for technical services arise through a permanent establishment situated therein and the right or property in respect of which the royalties or fees for technical services are paid is effectively connected with such permanent establishment. In such cases the provisions of Article 7 shall apply.
5. Royalties or fees for technical services shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties or fees for technical services, whether that person 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 or fees for technical services was incurred, and such royalties or fees for technical services are borne by such permanent establishment, then such royalties or fees for technical services shall be deemed to arise in the State in which the permanent establishment 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 or fees for technical services 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 Contracting State, due regard being had to the other provisions of this Agreement.

Article 13

Capital Gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
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 with the whole enterprise), may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State of which the enterprise is a resident.
4. Gains derived by a resident of a Contracting State from the alienation of shares deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.
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 Contracting State of which the alienator is a resident.

Article 14
Income from Employment

1. Subject to the provisions of Articles 15, 17, 18 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised 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 any twelve month period commencing or ending in the fiscal year concerned; and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- (c) the remuneration is not borne by a permanent establishment which the employer has in the other State.

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 Contracting State shall be taxable only in that State.

Article 15
Directors' Fees

Directors' fees and other similar payments derived by a resident of a Contracting State in that person's capacity as a member of the Board of Directors of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 16
Entertainers and Sportspersons

1. Notwithstanding the provisions of Article 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from that resident's personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson acting as such accrues not to the entertainer or sportsperson but to another person, that income may, notwithstanding the provisions of Article 14, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from activities referred to in paragraphs 1 and 2 shall not be taxed in the Contracting State in which the activities are exercised if the visit to that State is wholly or substantially supported by funds of either Contracting State, a local authority or public institution thereof, or takes place under a cultural agreement or arrangement between the governments of the Contracting States.

Article 17
Pensions and Social Security Payments

1. Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State. However, such pensions and other similar remuneration may also be taxed in the other Contracting State if the payment is made by a resident of that other State or a permanent establishment situated therein.

2. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under public schemes, which are part of the social security system of a Contracting State or a local authority thereof, shall be taxable only in that Contracting State.

Article 18
Government Service

1. (a) Salaries, wages and other similar remuneration paid by a Contracting State or a local authority thereof to an individual in respect of services rendered to that State or authority shall be taxable only in that State.

(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual 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 rendering the services.

2. (a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or a local authority thereof to an individual in respect of services rendered to that State or authority shall be taxable only in that State.

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

3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a local authority thereof.

Article 19
Students

Payments which a student or business trainee or apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of that person's education or training receives for the purpose of that person's maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 20
Professors, Teachers and Researchers

1. An individual who visits a Contracting State for the purpose of teaching or carrying out research at an university, college, school, or other similar educational institution recognised by the government of that Contracting State and who is or was immediately before that visit a resident of the other Contracting State shall be exempted from taxation in the first-mentioned Contracting State on any remuneration for such teaching or research for a period not exceeding two years from the date of that individual's first visit for that purpose.

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

Article 21
Other Income

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

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 Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case, the provisions of Article 7 shall apply.

3. Where, by reason of a special relationship between the person referred to in paragraph 1 and some other person, or between both of them and some third person, the amount of income referred to in paragraph 1 exceeds the amount (if any) which would have been agreed upon between them in the absence of such a relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payment shall remain taxable according to the law of each Contracting State, due regard being had to the other applicable provisions of this Agreement.

Article 22
Methods for Elimination of Double Taxation

Double taxation shall be eliminated as follows:

(a) in the case of Cambodia:

where a resident of Cambodia derives income which, in accordance with the provisions of this Agreement, may be taxed in Korea, Cambodia shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Korea. Such deduction shall not, however, exceed that part of the Cambodian tax, as computed before the deduction is given, which is attributable to that income;

(b) in the case of Korea:

subject to the provisions of Korean tax law regarding the allowance as a credit against Korean tax of tax payable in any country other than Korea (which shall not affect the general principle thereof):

(i) where a resident of Korea derives income from Cambodia which may be taxed in Cambodia under the laws of Cambodia in accordance with the provisions of this Agreement, in respect of that income, the amount of Cambodian tax payable shall be allowed as a credit against the Korean tax payable imposed on that resident. The amount of credit shall not, however, exceed that part of Korean tax as computed before the credit is given, which is appropriate to that income;

(ii) where the income derived from Cambodia is dividends paid by a company which is a resident of Cambodia to a company which is a resident of Korea which owns at least 25 per cent of the voting shares issued by or the capital stock of the company paying the dividends, the credit shall take into account the Cambodian tax payable by the company in respect of the profits out of which such dividends are paid;

(iii) for the purpose of subparagraph (i) above, the term "Cambodian tax payable" shall be deemed to include the amount of Cambodian tax which, under the laws of Cambodia and in accordance with this Agreement, would have been paid had the Cambodian tax not been exempted or reduced in accordance with the laws of Cambodia and connected regulations or any other special incentive measures designed to promote economic development in Cambodia. The provisions of this subparagraph shall be effective for a period of ten years starting from the entry

into force of this Agreement. However, the period may be extended by mutual agreement of the competent authorities of the Contracting States; and

- (iv) for the purpose of subparagraph (i) of this Article, the term “Cambodian tax payable” in case of Cambodia, does not include additional profit tax on dividend distribution payable in respect of income to which the provisions of subparagraph (iii) of this Article apply.

Article 23
Non-Discrimination

1. Nationals of a Contracting State 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, 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 Contracting States.

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 paragraph 1 of Article 9, paragraph 8 of Article 11, or paragraph 6 of Article 12 apply, interest, royalties or fees for technical services 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 conditions 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 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 the first-mentioned State are or may be subjected.

5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 24
Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for that person in taxation not in accordance with the provisions of this Agreement, that person may, irrespective of the remedies provided by the domestic law of those States, present that case to the competent authority of either Contracting State. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 25

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- (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 Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank,

other financial institution, nominee or person acting in an agency or a fiduciary capacity or because the information relates to ownership interests in a person.

Article 26

Members of Diplomatic Missions and Consular Posts

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

Article 27
Entitlement to Benefits

Notwithstanding the other provisions of this Agreement, a benefit under this Agreement shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Agreement.

Article 28

Entry into Force

1. Each Contracting State shall notify to the other in writing through diplomatic channels the completion of the procedures required by its legislation for the entry into force of this Agreement. This Agreement shall enter into force thirty days after the date of receipt of the later of these notifications.

2. This Agreement shall have effect:

(a) in Cambodia:

- (i) in respect of taxes withheld at source, in relation to taxable amounts as derived on or after the first day of January following the calendar year in which the Agreement enters into force and in subsequent calendar years; and
- (ii) in respect of other taxes, in relation to income arising on or after the first day of January following the calendar year in which the Agreement enters into force, and in subsequent calendar years;

(b) in Korea:

- (i) in respect of taxes withheld at source, for amounts payable on or after the first day of January in the first calendar year following the year in which the Agreement enters into force; and
- (ii) in respect of other taxes, for the taxable year beginning on or after the first day of January in the first calendar year following the year in which the Agreement enters into force.

Article 29

Termination

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year following after the period of five years from the date on which the Agreement enters into force. In such event, the Agreement shall cease to have effect:

(a) in Cambodia:

- (i) in respect of taxes withheld at source, in relation to taxable amounts as derived on or after the first day of January following the calendar year in which the notice of termination is given; and
- (ii) in respect of other Cambodian taxes, in relation to income arising on or after the first day of January following the calendar year in which the notice of termination is given;

(b) in Korea:

- (i) in respect of taxes withheld at source, for amounts payable on or after the first day of January in the first calendar year following the year in which the notice is given; and
- (ii) in respect of other taxes, for the taxable year beginning on or after the first day of January in the first calendar year following the year in which the notice is given.

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

DONE in duplicate at Busan this 25th day of November 2019, in the Khmer, Korean and English languages, all texts being equally authentic. In the event of any divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF
THE KINGDOM OF CAMBODIA

FOR THE GOVERNMENT OF
THE REPUBLIC OF KOREA

PRAK SOKHONN
Deputy Prime Minister
Minister of Foreign Affairs and
International Cooperation

KANG, KYUNG-WHA
Minister of Foreign Affairs

PROTOCOL

At the moment of signing the Agreement between the Government of the Kingdom of Cambodia and the Government of the Republic of Korea for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance, both Governments have agreed that the following provisions shall form an integral part of the Agreement:

1. With reference to Article 7, it is understood that nothing in this Article shall affect the application of any law of a Contracting State relating to the method of taxation for income that an insurance company of the other Contracting State derives from the first-mentioned Contracting State through a permanent establishment situated therein.
2. In respect of paragraphs 1 and 2 of Article 7, it is understood that, in determining profits attributable to the permanent establishment of an enterprise of a Contracting State, only those profits arising from the activities of the permanent establishment may be attributed to that permanent establishment. This means, in particular, that in determining the profits arising from the activities of a building site or construction or installation project which constitutes a permanent establishment, profits arising from activities performed outside the Contracting State in which the permanent establishment is located, shall not be attributed to that permanent establishment.
3. With reference to Article 8, it is understood that profits from the operation of ships or aircraft in international traffic shall be interpreted in accordance with the Commentary on Article 8 of the Organisation for Economic Co-operation and Development (OECD) Model Tax Convention as it read on 21 November 2017.

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

DONE in duplicate at Busan this 25th day of November 2019, in the Khmer, Korean and English languages, all texts being equally authentic. In the event of any divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF
THE KINGDOM OF CAMBODIA

FOR THE GOVERNMENT OF
THE REPUBLIC OF KOREA

PRAK SOKHONN
Deputy Prime Minister
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