

खण्ड ५१ संख्या ४८ नेपाल राजपत्र भाग ५ मिति २०५८।१२।१२

a Contracting State and an enterprise carried on by a resident of the other Contracting State;

h) the term "national" means:

- (i) any individual possessing the nationality of a Contracting State;
- (ii) any legal person, partnership and association deriving its status as such from the laws in force in a 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 Korea, the Minister of Finance and Economy or his authorized representative;
- (ii) in Nepal, the Minister of Finance or his authorized representative.

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 which it has at that time under the law of that State for the purpose 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 his domicile, residence, place of head or main office, place of management, or any other criterion of a similar nature and also includes that State and any political subdivision or 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 his status shall be determined as follows:

(४)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

- a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (center of vital interests);
- b) if the State in which he has his center of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
- c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
- d) if he 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 only of the 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 Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

- a) a place of management;
- b) a branch;
- c) an office;
- d) a factory;
- e) a workshop, and

(५)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. A building site or a construction, assembly or installation project, or supervisory or consultancy activities in connection therewith constitute a permanent establishment only if such site, project or activities continue for a period or periods aggregating more than 183 days within any twelve month period.
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 purposes of processing by another enterprise;
 - d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
 - e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
 - f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
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 on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed

खण्ड ५१ संख्या ४८ नेपाल राजपत्र भाग ५ मिति २०५८।१२।१२

place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to reinsurance, be deemed to have a permanent establishment in the other State if it collects premiums in the territory of that other State or insures risks situated therein through an employee or through a representative who is not an agent of an independent status within the meaning of paragraph 7.

7. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that 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.

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

(७)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

खण्ड ५१ संख्या ४८ नेपाल राजपत्र भाग ५ मिति २०५८।१२।१२

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

Article 7
BUSINESS PROFITS

1. The profits of an enterprise of a 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 under the provisions of domestic law 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.

(८)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

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. For the purposes of the preceding paragraphs of this Article, 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.
6. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

SHIPPING AND AIR TRANSPORT

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.
2. The provisions of paragraph 1 shall also apply to profits derived 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 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 recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

- a) 5 percent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 25 percent of the shares of the company paying the dividends;
- b) 10 percent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 10 percent of the shares of the company paying the dividends;
- c) 15 percent of the gross amount of the dividends in all other cases.

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, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a 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 insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other 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 percent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and derived by the Government of the other Contracting State including political subdivisions and local authorities thereof, the Central Bank of that other State or any financial institution performing functions of a governmental nature or by any resident of the other Contracting State with respect to debt-claim guaranteed or indirectly-financed by the Government of that other State including political subdivisions and local authorities thereof, the Central Bank of that other State or any financial institution performing functions of a governmental nature shall be exempt from tax in the first-mentioned Contracting State.

4. For the purposes of paragraph 3, the terms "the Central Bank and financial institution performing functions of a governmental nature" mean:

a) in Korea:

- (i) the Bank of Korea;
- (ii) the Korea Export-Import Bank;
- (iii) the Korea Development Bank, and
- (iv) such other financial institution performing functions of a governmental nature as may be specified and agreed upon in letters exchanged between the competent authorities of the Contracting States;

b) in Nepal:

- (i) Nepal Rastra Bank (Central Bank of Nepal);
- (ii) Nepal Industrial Development Corporation;
- (iii) Agriculture Development Bank, and
- (iv) such other financial institution performing functions of a governmental nature as may be specified and agreed upon in letters exchanged 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, bond or debentures.

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, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

7. Interest shall be deemed to arise in a 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 or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

8. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply 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

1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State may be taxed in that other State.

खण्ड ५१ संख्या ४८ नेपाल राजपत्र भाग ५ मिति २०५८।१२।१२

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 15 percent of the gross amount of the royalties.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films or tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a 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 royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties,

having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each 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 or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other 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 from the alienation of shares of the capital stock of a company the property of which consists directly or indirectly principally of immovable property situated in a Contracting State may be taxed in that 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

INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless:

- a) he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; or
- b) he is present in that other Contracting State for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned.

If he has such a fixed base or is present in that other Contracting State for aforesaid period or periods, the income may be taxed in the other Contracting State but only so much of the income as is attributable to that fixed base or is derived in that other Contracting State during the aforesaid period or periods.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21, salaries, wages and other similar remuneration derived by an individual who is 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 an individual who is 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;
 - 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 or a fixed base 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 16

DIRECTORS' FEES

Directors' fees and other similar payments derived by an individual who is a resident of a Contracting State in his 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 17

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15, income derived by an individual who is 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 sportsman, from his 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 sportsman in his capacity as such accrues not to the entertainer or sportsman himself

but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, income derived by entertainers or sportsmen who are residents of a Contracting State from the activities exercised in the other Contracting State under a special program of cultural exchange agreed upon between the Governments of both Contracting States, shall be exempt from tax in that other State.

Article 18

PENSIONS, ANNUITIES & SOCIAL SECURITY PAYMENTS

1. Subject to the provisions of paragraph 2 of Article 19, pensions, annuities or other similar remuneration paid to an individual who is a resident of the Contracting State in consideration of past employment shall be taxable only in that State.

2. The term "annuities" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

3. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under a public scheme which is part of the social security systems of a Contracting State shall be taxable only in that State.

Article 19

GOVERNMENT SERVICE

1. a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of

(१८)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

खण्ड ५१ संख्या ४८ नेपाल राजपत्र भाग ५ मिति २०५८।१२।१२

services rendered to that State or subdivision or authority 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 individual is a resident of that State who:

(i) is a national of that other State; or

(ii) did not become a resident of that State solely for the purpose of rendering 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 an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

b) However, such pension 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 15, 16, 17 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or local authority thereof.

4. The provisions of paragraphs 1 and 2 shall likewise apply in respect of remuneration or pensions paid by:

a) in Korea:

(i) the Bank of Korea;

(ii) the Korea Export-Import Bank;

(iii) the Korea Development Bank;

(iv) the Korea Trade-Investment Promotion Agency, and

(v) other institution performing functions of a governmental nature as may be specified and agreed upon in letters exchanged between the competent authorities of the Contracting States;

b) in Nepal:

(i) Nepal Rastra Bank (Central Bank of Nepal);

(ii) Nepal Industrial Development Corporation;

(iii) Agriculture Development Bank, and

- (iv) such other financial institution performing functions of a governmental nature as may be specified and agreed upon in letters exchanged between the competent authorities of the Contracting States.

Article 20 STUDENTS

1. A student or business apprentice who is or was a resident of a Contracting State immediately before visiting the other Contracting State and who is present in that other State solely for the purpose of his education or training, shall be exempt from tax in that other State on:

- a) payments made to him by persons residing outside that other State for the purposes of his maintenance, education or training; and
- b) remuneration from employment in that other State, in an amount not exceeding 10,000 United States dollars or its equivalent in Korean currency or in Nepalese currency during any calendar year provided that such employment is directly related to his studies or is undertaken for the purpose of his maintenance.

2. The benefits of this Article shall extend only for such period of time as may be reasonably or customarily required to complete the education or training undertaken, but in no event shall any individual have the benefits of this Article for more than five consecutive years from the date of his first arrival in that other Contracting State.

Article 21 TEACHERS AND RESEARCHERS

1. A professor, teacher or researcher who makes a temporary visit to a Contracting State for the purpose of teaching or conducting research at a university, college, school or other recognized educational institution and who is, or immediately before such visit was, a resident of the other Contracting State shall be exempted from tax in the first-mentioned State for a period not exceeding two years in respect of remuneration for such teaching or research.

2. This Article shall not apply to remuneration which a professor or teacher receives for conducting research if the research is undertaken primarily for the private benefit of a specific person or persons.

Article 22

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, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 23

RELIEF FROM DOUBLE TAXATION

1. 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:

- a) Where a resident of Korea derives income from Nepal, which may be taxed in Nepal in accordance with the provisions of this Agreement, Korea shall allow, subject to its laws, an amount equal to income tax paid or payable in Nepal as a credit from the tax on the income of that resident. The amount of credit shall not, however, exceed that part of income tax as computed before the credit is given, which is appropriate to that income taxed in Nepal.

- b) Notwithstanding the provisions of sub-paragraph a), there shall be deemed to have been paid by the Korean resident the amount which would have been paid as Nepal tax under the laws of Nepal and in accordance with this Agreement if the Nepal tax had not been reduced or exempted in Nepal in accordance with any special incentive measures designed to promote economic development in Nepal, which are effective on the date of signature of this Agreement or which may be introduced in the future in laws relating to Nepal tax in place of, or in addition to, the existing measures, provided that an agreement is made between the competent authorities of the two Contracting States in respect of the scope of the benefit accorded to the taxpayer by the said measures.
- c) Where a company which is a resident of Korea owns not less than 20 per cent of the total shares issued by a company which is a resident of Nepal, Korea shall take into account, in determining the tax to be paid in Korea, the tax paid or payable by the second-mentioned company in respect of the profits out of which the dividend is paid.

2. Subject to the provisions of Nepal tax law regarding the allowance as a credit against Nepal tax of tax payable in any country other than Nepal:

- a) Where a resident of Nepal derives income from Korea, which may be taxed in Korea in accordance with the provisions of this Agreement, Nepal shall allow, subject to its laws, an amount equal to income tax paid or payable in Korea as a credit from the tax on the income of that resident. The amount of credit shall not, however, exceed that part of income tax as computed before the credit is given, which is appropriate to that income taxed in Korea.
- b) Where a company which is a resident of Nepal owns not less than 20 per cent of the total shares issued by a company which is a resident of Korea, Nepal shall take into account, in determining the tax to be paid in Nepal, the tax paid or payable by the second-mentioned company in respect of the profits out of which the dividend is paid.

Article 24

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 or connected requirements to which nationals of that other State in the same circumstances, 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 or a fixed base which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably 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 reduction 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 4 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 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 requirements 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.

(२३)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

Article 25

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those 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 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.
2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Agreement.
3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach an agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 26

EXCHANGE OF INFORMATION

खण्ड ५१ संख्या ४८ नेपाल राजपत्र भाग ५ मिति २०५८।१२।१२

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1. Any information received 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 covered by the Agreement. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a 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 (order public).

Article 27

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.

(२५)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

Article 28

ENTRY INTO FORCE

1. Each Contracting State shall notify the other of the completion of the procedures required by its law for the entering into force of this Agreement. The Agreement shall enter into force on the later of the notifications.
2. The provisions of this Agreement shall have effect:
 - a) 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 that in which this Agreement enters into force;
 - (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 that in which this Agreement enters into force;
 - b) in Nepal:
 - (i) in respect of taxes withheld at source or advance tax, for amounts payable on or after the first day of Nepalese fiscal year next following the date of the entry into force of this Agreement;
 - (ii) in respect of taxes on income derived on or after the first day of the Nepalese fiscal year next following the date of the entry into force of this Agreement.

Article 29

TERMINATION

1. This Agreement shall continue in effect indefinitely but either Contracting State may, on or before the thirtieth day of June of any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State a notice of termination in writing through diplomatic channels.
2. The provisions of this Agreement shall cease to have effect:

(२६)

खण्ड ५१ संख्या ४८ नेपाल राजपत्र भाग ५ मिति २०५८।१२।१२

a) 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 that in which the notice is given;
- (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 that in which the notice is given;

b) in Nepal:

- (i) in respect of taxes withheld at source or advance tax, for amounts payable on or after the first day of Nepalese fiscal year next following the date on which the notice is given;
- (ii) in respect of taxes on income derived on or after the first day of the Nepalese fiscal year next following the date on which the notice is given.

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

Done in duplicate at Seoul this 5th day of October 2001, in the Nepali, Korean, and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

Narayan S. Shrestha
FOR HIS MAJESTY'S GOVERNMENT
OF NEPAL

이희호
FOR THE GOVERNMENT OF
THE REPUBLIC OF KOREA

(२७)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

**PROTOCOL TO THE AGREEMENT BETWEEN
THE REPUBLIC OF KOREA AND
THE KINGDOM OF NEPAL
FOR THE AVOIDANCE OF DOUBLE TAXATION AND
THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME**

On signing the Agreement between the Republic of Korea and the Kingdom of Nepal 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 Agreement.

With reference to paragraph 2 of Article 5,

The term "permanent establishment" includes a warehouse in relation to a person habitually providing storage facilities for others.

With reference to paragraph 3 of Article 7,

The deduction shall not be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by a permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on monies lent to the permanent establishment. Likewise no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar

(२८)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

खण्ड ५१ संख्या ४८ नेपाल राजपत्र भाग ५ मिति २०५८।१२।१२

payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on monies lent to the head office of the enterprise or any of its other offices.

With reference to paragraph 2 of Article 10 and paragraph 2 of Article 12,

There shall be immediately substituted for the rate of 5, 10, or 15 per cent specified in paragraph 2 of Article 10 and for the rate 15 percent specified in paragraph 2 of Article 12 such lower rates as may be agreed upon between Nepal and any other country in any Agreement for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income concluded between Nepal and that other country subsequent to this Agreement.

With reference to sub-paragraph 1 b) of Article 23,

The special incentive measures designed to promote economic development in Nepal are the measures under the Income Tax Act, the Industrial Enterprise Act, the Foreign Investment and Technology Transfer Act, the Electricity Act and other related laws. It is understood that the provisions of sub-paragraph 1 b) of Article 23 shall not be applied to a resident of Korea whose income is derived from engaging in the business activities in the financial sector or from third states. This provision shall cease to have effect in respect of income derived by a resident of Korea in any taxable year beginning after December 31, 2003. However, the competent authorities of both Contracting States may consult each other and agree upon extending this period up to any further period.

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

(२९)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

खण्ड ५१ संख्या ४८ नेपाल राजपत्र भाग ५ मिति २०५८।१२।१२

Done in duplicate at Seoul this 5th day of October 2001, in the Nepali, Korean, and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

Navaraj S. Shrestha
FOR HIS MAJESTY'S GOVERNMENT
OF NEPAL

이희호
FOR THE GOVERNMENT OF
THE REPUBLIC OF KOREA

सिद्ध

विभाग

मुद्रण

(३०)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

खण्ड ५१ संख्या ४८ नेपाल राजपत्र भाग ५ मिति २०५८।१२।१२

नेपाल अधिराज्य

तथा

गणतन्त्र कोरिया बीच

आयमा लाग्ने करहरूका सम्बन्धमा

द्वैध कराधान मुक्ति तथा वित्तीय छल निरोधका लागि सम्पन्न

सम्झौता

(३१)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

खण्ड ५१ संख्या ४८ नेपाल राजपत्र भाग ५ मिति २०५८।१२।१२

श्री ५ को सरकार, नेपाल र गणतन्त्र कोरिया सरकार, आयमा लाग्ने करहरूका सम्बन्धमा द्वैध कराधान मुक्ति र वित्तीय छल निरोधका लागि सम्झौता गर्न इच्छुक हुदै,

देहाय बमोजिम गर्न सहमत भएका छन् :

धारा १

समेटाएका व्यक्तिहरू

यो सम्झौता सर्वाधिकारी राष्ट्रहरू मध्ये एक वा दुवै राष्ट्रहरूका वासिन्दाहरूलाई लागू हुनेछ।

धारा २

समेटाएका करहरू

१. यो सम्झौता लागू हुने विद्यमान करहरू देहाय बमोजिम छन् :

(क) कोरियामा :

- (१) आयकर;
- (२) कर्पोरेट कर;
- (३) आवासीय कर ; र
- (४) ग्रामीण विकासका लागि विशेष कर
(यसपछि "कोरियाली कर" भनिएको);

(ख) नेपालमा :

- (१) आयकर ऐन अन्तरगत लगाइएका आयकर; र
- (२) स्थानीय निकायहरूबाट आयमा लगाइएका अन्य कुनै करहरू (यसपछि "नेपाल कर" भनिएको)।

२. यो सम्झौता विद्यमान करहरूका अतिरिक्त वा तिनीहरूको बदलामा सम्झौतामा हस्ताक्षर भएको मिति पश्चात लगाइएका कुनै समान वा मूलभूत रूपमा उस्तै करहरूका हकमा समेत लागू हुनेछ। सर्वाधिकारी राष्ट्रहरूका सक्षम अधिकारीहरूले आ-आफ्ना कर कानूनहरूमा गरिएका मूलभूत परिवर्तनहरूको जानकारी एक अर्कालाई दिनेछन्।

धारा ३

सामान्य परिभाषाहरू

१. प्रसंगले अर्को अर्थ नलागेमा, यस सम्झौताको प्रयोजनका लागि :

(क) "कोरिया" भन्नाले गणतन्त्र कोरिया, र भौगोलिक अर्थमा प्रयोग गरिदा, गणतन्त्र कोरियाको प्रादेशिक क्षेत्र, प्रादेशिक समुद्र र गणतन्त्र कोरियाको प्रादेशिक समुद्रसंग जोडिएको कुनै अन्य क्षेत्र, जुन अन्तर्राष्ट्रिय कानून अनुसार गणतन्त्र कोरियाको कानून अन्तरगत पानी, सामुद्रिक पिंथ र जमिन तलको माटो सम्बन्धमा गणतन्त्र कोरियाको सार्वभौम अधिकार वा क्षेत्राधिकार

(३२)
आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागू हुनेछ।

खण्ड ५१ संख्या ४८ नेपाल राजपत्र भाग ५ मिति २०५८।१२।१२

भएको क्षेत्रको रूपमा तोकिएको वा यस पश्चात तोकिन सकिने र तिनको प्राकृतिक स्रोतहरू प्रयोग गर्न सकिनेछ, लगायत गणतन्त्र कोरियाको इलाका सम्झनु पर्छ ।

- (ख) "नेपाल" भन्नाले नेपाल अधिराज्य सम्झनुपर्छ ।
- (ग) "एउटा संविदाकारी राष्ट्र" र "अर्को संविदाकारी राष्ट्र" भन्नाले सन्दर्भ अनुसार कोरिया वा नेपाल सम्झनुपर्छ ।
- (घ) "कर" भन्नाले सन्दर्भ अनुसार कोरियाली कर वा नेपाल कर सम्झनुपर्छ ।
- (ङ) "व्यक्ति" भन्नाले व्यक्ति, कम्पनी र व्यक्तिहरूको अन्य कुनै निकाय समेतलाई जनाउँछ ।
- (च) "कम्पनी" भन्नाले कर प्रयोजनहरूका लागि संगठित संस्थाको रूपमा व्यवहार गरिने कुनै संगठित संस्था वा निकाय सम्झनुपर्छ ।
- (छ) "एउटा संविदाकारी राष्ट्रको प्रतिष्ठान" र "अर्को संविदाकारी राष्ट्रको प्रतिष्ठान" भन्नाले क्रमशः एउटा संविदाकारी राष्ट्रको वासिन्दाबाट संचालित प्रतिष्ठान र अर्को संविदाकारी राष्ट्रको वासिन्दाबाट संचालित प्रतिष्ठान सम्झनुपर्छ ।
- (ज) "नागरिक" भन्नाले :
 - (१) एउटा संविदाकारी राष्ट्रको राष्ट्रियता धारण गरेको कुनै प्राकृतिक व्यक्ति;
 - (२) एउटा संविदाकारी राष्ट्रमा बहाल रहेका कानून अन्तरगत सो हैसियत प्राप्त कुनै कानूनी व्यक्ति, साभेदारी र संस्था सम्झनुपर्छ ।
- (झ) "अन्तर्राष्ट्रिय आवत जावत" भन्नाले अर्को संविदाकारी राष्ट्रका स्थानहरू बीच मात्र कुनै पानीजहाज वा हवाईजहाज संचालन गरिएकोमा बाहेक एउटा संविदाकारी राष्ट्रको कुनै प्रतिष्ठानबाट संचालित पानीजहाज वा हवाईजहाजबाट गरिने कुनै यातायात सम्झनु पर्छ ।
- (ञ) "सक्षम अधिकारी" भन्नाले :
 - (१) कोरियामा, अर्थ र आर्थिक व्यवस्था मन्त्री वा निजको अख्तियार प्राप्त प्रतिनिधि;
 - (२) नेपालमा, अर्थ मन्त्री वा निजको अख्तियार प्राप्त प्रतिनिधि सम्झनु पर्छ ।

२. एउटा संविदाकारी राष्ट्रबाट कुनै पनि समयमा यस सम्झौताको प्रयोगका सम्बन्धमा, प्रसंगले अन्यथा अर्थ लागेकोमा बाहेक, यस सम्झौतामा परिभाषित नगरिएका कुनै शब्दको अर्थ यो सम्झौता लागू हुने करहरूको प्रयोजनहरूका लागि सो राष्ट्रको कानून अनुसार सो समयमा गरिएको परिभाषा बमोजिम हुनेछ, र सो राष्ट्रको प्रचलित कर कानून अन्तरगतको कुनै परिभाषा/अर्थ सो राष्ट्रका अन्य कानूनहरू अन्तरगत गरिएको परिभाषा भन्दा उच्च हुनेछ ।

धारा ४

वासिन्दा

१. यस सम्झौताको प्रयोजनकालागि, "एउटा संविदाकारी राष्ट्रको वासिन्दा" भन्नाले सो राष्ट्रको कानून अन्तरगत निजको निवास, बसोबास, प्रधान वा मुख्य कार्यालयको स्थान, व्यवस्थापनको स्थान वा यस्तै प्रकृतिको अन्य कुनै शर्तको कारणबाट कर तिर्नुपर्ने दायित्व भएको कुनै व्यक्ति सम्झनुपर्छ र सो शब्दले राष्ट्र र कुनै राजनीतिक उप-खण्ड वा त्यसको स्थानीय निकाय समेतलाई जनाउँछ । तर, प्रस्तुत शब्दले सो राष्ट्रमा स्रोतहरूबाट आर्जन गरेको आयको हकमा मात्र सो राष्ट्रमा कर तिर्नुपर्ने दायित्व भएको कुनै व्यक्तिलाई जनाउनेछैन ।

(३३)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागू हुनेछ।

खण्ड ५१ संख्या ४८ नेपाल राजपत्र भाग ५ मिति २०५८।१२।१२

रोयल्टी भुक्तानी गर्ने तथा प्राप्त गर्ने व्यक्तिहरु बीच त्यस्तो विशेष सम्बन्ध नभएको अवस्थामा मञ्जूर गरिने रकम भन्दा बढी हुन गएको अवस्थामा यो धाराका प्रावधानहरु पछिल्लो रकमको सम्बन्धमा मात्र लागू हुनेछन् । यस अवस्थामा, त्यस्तो बढी रकममा अन्य धाराका व्यवस्थाहरुलाई मध्ये नजर राख्दै प्रत्येक संविदाकारी राष्ट्रको कानून अनुसार कर लगाइनेछ ।

धारा १३

पूँजीगत लाभ

१. एउटा संविदाकारी राष्ट्रको वासिन्दाले धारा ६ बमोजिमको तथा अर्को संविदाकारी राष्ट्रमा अवस्थित अचल सम्पत्तिको बेचबिखनबाट प्राप्त गरेको लाभमा सो अर्को राष्ट्रमा कर लगाउन सकिनेछ ।
२. एउटा संविदाकारी राष्ट्रको प्रतिष्ठानको अर्को संविदाकारी राष्ट्रमा रहेको स्थायी संस्थापनको व्यापारिक सम्पत्ति हिस्साको रूपमा रहेको चल सम्पत्तिको वा स्वतन्त्र वैयक्तिक सेवाहरु सञ्चालन गर्ने प्रयोजनका लागि एउटा संविदाकारी राष्ट्रको नागरिकलाई अर्को संविदाकारी राष्ट्रमा उपलब्ध निश्चित स्थलसंग सम्बन्धित चल सम्पत्तिको बेचबिखनबाट प्राप्त लाभहरु एवं त्यस्तो स्थायी संस्थापन (एकल वा सम्पूर्ण प्रतिष्ठान सहित) को वा त्यस्तो निश्चित स्थलको बेचबिखनबाट प्राप्त त्यस्ता लाभहरु समेतमा सो अर्को राष्ट्रमा कर लगाउन सकिनेछ ।
३. अन्तर्राष्ट्रिय परिवहनमा संचालित पानीजहाज वा वायुयानको वा त्यस्ता पानीजहाज वा वायुयानको सञ्चालनसंग सम्बन्धित चल सम्पत्तिको बेचबिखनबाट प्राप्त लाभमा सो प्रतिष्ठान जुन संविदाकारी राष्ट्रको वासिन्दा हो सो राष्ट्रमा मात्र कर लगाइनेछ ।
४. कम्पनी, जसको सम्पत्तिमा मूलतः प्रत्यक्ष वा अप्रत्यक्ष रूपमा संविदाकारी राष्ट्रमा अवस्थित अचल सम्पत्ति समावेश छ, को पूँजीगत स्टकको शेयरहरुको बेचबिखनबाट प्राप्त लाभमा सो राष्ट्रमा कर लगाउन सकिनेछ ।
५. प्रकरणहरु १, २, ३ र ४ बमोजिमका सम्पत्ति बाहेक अन्य सम्पत्तिको बेचबिखनबाट प्राप्त लाभहरु बेचबिखनकर्ता जुन संविदाकारी राष्ट्रको वासिन्दा हो सो राष्ट्रमा मात्र कर योग्य हुनेछन् ।

धारा १४

स्वतन्त्र वैयक्तिक सेवाहरु

१. पेशागत सेवाहरु वा स्वतन्त्र प्रकृतिका अन्य क्रियाकलापहरुका सम्बन्धमा एउटा संविदाकारी राष्ट्रको वासिन्दा भएको प्राकृतिक व्यक्तिबाट आर्जित आय देहायको अवस्थामा सो राष्ट्रमा मात्र करयोग्य हुनेछ :
 - (क) निजका क्रियाकलापहरु सञ्चालन गर्ने प्रयोजनका लागि अर्को संविदाकारी राष्ट्रमा निजलाई निश्चित स्थल नियमित रूपमा उपलब्ध छैन, वा
 - (ख) सम्बन्धित आर्थिक वर्षमा शुरु वा अन्त्य भएको कुनै १२ (बाह्र) महिनाको अवधि भित्र कूल १८३ दिन वा सो भन्दा बढी दिनको अवधि वा अवधिहरुसम्म सो अर्को संविदाकारी राष्ट्रमा निज उपस्थित छैन ।

यदि निजको त्यस्तो निश्चित स्थल वा निज सो अर्को संविदाकारी राष्ट्रमा उल्लिखित अवधि वा अवधिभर उपस्थित छ भने सो आयमा अर्को संविदाकारी राष्ट्रमा कर लगाउन

(४१)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागू हुनेछ।

सकिनेछ, तर यसरी कर लगाउन सो निश्चित स्थलबाट हुने आय वा उपर्युक्त अवधि वा अवधिभर सो अर्को संविदाकारी राष्ट्रमा आर्जन गरिने आय जतिसम्म मात्र कर लगाइनेछ।

२. "व्यावसायिक सेवाहरु" भन्नाले खासगरी स्वतन्त्र वैज्ञानिक, साहित्यिक, कलात्मक, शैक्षिक वा अध्यापन क्रियाकलापहरु एवं चिकित्सक, वकील, इन्जिनियर, वास्तुविद, दन्त चिकित्सक र लेखापालका स्वतन्त्र क्रियाकलापहरु समेत सम्भन्तुपर्छ।

धारा १५

आश्रित वैयक्तिक सेवाहरु

१. धारा १६, १८, १९, २० र २१ का व्यवस्थाहरुको अधिनमा रही एउटा संविदाकारी राष्ट्रको वासिन्दाले रोजगारीको सम्बन्धमा प्राप्त गरेको तलब, ज्याला, वा यस्तै अन्य पारिश्रमिक सो रोजगारी अर्को संविदाकारी राष्ट्रमा नगरेसम्म मात्र करयोग्य हुनेछ। यदि त्यसरी रोजगारी गरिएमा, सोबाट प्राप्त पारिश्रमिकमा सो अर्को राष्ट्रमा कर लगाउन सकिनेछ।
२. प्रकरण १ मा जुनसुकै व्यवस्था गरिएको भएतापनि, एउटा संविदाकारी राष्ट्रको वासिन्दाले अर्को संविदाकारी राष्ट्रमा गरिएको रोजगारीका सम्बन्धमा प्राप्त गरेको पारिश्रमिक देहायको अवस्थामा पहिलो उल्लिखित राष्ट्रमा मात्र करयोग्य हुनेछ, यदि :
- (क) प्राप्तकर्ता सम्बन्धित आर्थिक वर्षको शुरु वा अन्त्यको कुनै १२ (बाह्र) महिनाको अवधि भित्र जम्मा १८३ दिन भन्दा बढी नहुने गरी अर्को राष्ट्रमा निज उपस्थित छ;
 - (ख) अर्को राष्ट्रको वासिन्दा नभएको कुनै रोजगारदाताबाट वा निजको तर्फबाट पारिश्रमिक भुक्तानी गरिएको छ; र
 - (ग) रोजगारदाताको अर्को राष्ट्रमा रहेको कुनै स्थायी संस्थापन वा निश्चित स्थानद्वारा पारिश्रमिक व्यहोरिदैन।
३. यस धाराका उपर्युक्त व्यवस्थाहरुमा जुनसुकै कुरा लेखिएको भएतापनि, एउटा संविदाकारी राष्ट्रको प्रतिष्ठानद्वारा अन्तर्राष्ट्रिय यातायातमा सञ्चालित पानीजहाज वा हवाईजहाजमा गरिएको रोजगारी का सम्बन्धमा प्राप्त पारिश्रमिक सो राष्ट्रमा मात्र करयोग्य हुनेछ।

धारा १६

सञ्चालकहरुको शुल्क

एउटा संविदाकारी राष्ट्रको वासिन्दा भएको कुनै व्यक्तिले अर्को संविदाकारी राष्ट्रको वासिन्दा भएको कुनै कम्पनीको सञ्चालक समितिको सदस्यको हैसियतले प्राप्त गरेको सञ्चालकको शुल्क र अन्य त्यस्तै भुक्तानीहरुमा सो अन्य राष्ट्रमा कर लगाउन सकिनेछ।

धारा १७

कलाकार र खेलाडीहरु

१. धारा १४ र १५ मा जुनसुकै व्यवस्था गरिएको भएतापनि एउटा संविदाकारी राष्ट्रको वासिन्दा भएको कुनै प्राकृतिक व्यक्तिले नाट्यशाला, चलचित्र, रेडियो वा टेलिभिजन कलाकार वा संगीतकार वा खेलाडी जस्तै प्रमोदकको हैसियतमा अर्को संविदाकारी राष्ट्रमा व्यक्तिगत क्रियाकलापहरु गरी आर्जन गरेको आयमा सो अर्को राष्ट्रमा कर लगाउन सकिनेछ।

(४२)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

२. एउटा प्रमोदक वा खेलाडीले आफ्नो सो हैसियतमा गरेको व्यक्तिगत क्रियाकलापहरूको सम्बन्धमा आर्जित आय प्रमोदक वा खेलाडी स्वयंलाई प्राप्त नहुने तर अर्को व्यक्तिलाई प्राप्त हुने भएमा धारा ७, १४ र १५ मा जुनसुकै व्यवस्था गरिएको भएतापनि, सो आयमा जुन संविदाकारी राष्ट्रमा प्रमोदक वा खेलाडीका क्रियाकलापहरू सञ्चालन गरिन्छन् सो राष्ट्रमा कर लगाउन सकिनेछ ।
३. यस धाराको प्रकरण १ र २ मा जुनसुकै व्यवस्था गरिएको भएतापनि, दुवै संविदाकारी राष्ट्रहरूका सरकारहरू बीच स्वीकृत सांस्कृतिक आदानप्रदानको विशेष कार्यक्रम अन्तरगत अर्को संविदाकारी राष्ट्रमा गरिएका क्रियाकलापहरूबाट एउटा संविदाकारी राष्ट्रका नागरिक, प्रमोदक वा खेलाडीहरूबाट आर्जित आयमा सो अर्को राष्ट्रमा कर छुट दिइनेछ ।

धारा १८

निवृत्तिभरण, वार्षिक वृत्ति भत्ता र सामाजिक सुरक्षा सम्बन्धी भुक्तानीहरू

१. धारा १९ को प्रकरण २ मा गरिएका व्यवस्थाहरूको अधिनमा रही संविदाकारी राष्ट्रको वासिन्दालाई निजको विगतको रोजगारीको प्रतिफल स्वरूप भुक्तानी गरिएका निवृत्तिभरण, वार्षिक वृत्ति र/वा अन्य त्यस्तै पारिश्रमिक सो राष्ट्रमा मात्र करयोग्य हुनेछ ।
२. "वार्षिक वृत्ति" भन्नाले नगद वा नगदको मूल्यमा पूर्ण र पर्याप्त प्रतिफल वापत भुक्तानी गर्नुपर्ने दायित्व अन्तरगत जीवनभर वा कुनै निश्चित वा निर्दिष्ट समयावधि भर आवधिक रूपमा निर्दिष्ट समयहरूमा भुक्तानी गर्नुपर्ने तोकिएको रकम सम्मनुपर्छ ।
३. प्रकरण १ मा जुनसुकै व्यवस्था गरिएको भएतापनि, एउटा संविदाकारी राष्ट्रको सामाजिक सुरक्षा प्रणालीहरूको भागको रूपमा रहेको सार्वजनिक कार्यक्रम अन्तरगत भुक्तानी गरिएका निवृत्तिभरण र अन्य भुक्तानीहरू सो राष्ट्रमा मात्र करयोग्य हुनेछन् ।

धारा १९

सरकारी सेवा

१. (क) एउटा संविदाकारी राष्ट्र वा सोको राजनीतिक उप-खण्ड वा स्थानीय निकायले सो राष्ट्र वा उपखण्ड वा निकायलाई प्रदान गरिएको सेवाका सम्बन्धमा कुनै व्यक्तिलाई भुक्तानी गरेको निवृत्तिभरण बाहेकको, पारिश्रमिक सो राष्ट्रमा मात्र करयोग्य हुनेछ ।
(ख) तर, त्यस्ता सेवाहरू अर्को संविदाकारी राष्ट्रमा उपलब्ध गराइएको र सो व्यक्ति सो राष्ट्रको वासिन्दा हो जो :
(१) सो अर्को राष्ट्रको नागरिक हो; वा
(२) सो सेवा उपलब्ध गराउने प्रयोजनको लागि मात्रै सो राष्ट्रको वासिन्दा भएको थिएन, भने
त्यस्तो पारिश्रमिक सो अर्को संविदाकारी राष्ट्रमा मात्र करयोग्य हुनेछ ।
२. (क) एउटा संविदाकारी राष्ट्र वा सोको राजनीतिक उप-खण्ड वा स्थानीय निकायलाई उपलब्ध गराइएको सेवाका सम्बन्धमा कुनै व्यक्तिलाई सो संविदाकारी राष्ट्र वा राजनीतिक उप-खण्ड वा स्थानीय निकायबाट भुक्तानी गरिएको वा त्यस्तो राष्ट्र उप-खण्ड वा निकायबाट सिर्जना गरिएको कोषबाट भुक्तानी गरिएको कुनै निवृत्तिभरण सो राष्ट्रमा मात्रै करयोग्य हुनेछ ।

खण्ड ५१ संख्या ४८ नेपाल राजपत्र भाग ५ मिति २०५८।१२।१२

- (ख) तर, सो व्यक्ति सो राष्ट्रको वासिन्दा र नागरिक भएमा, त्यस्तो निवृत्तिभरण अर्को संविदाकारी राष्ट्रमा मात्रै करयोग्य हुनेछ ।
३. धारा १५, १६, १७ र १८ का व्यवस्थाहरु एउटा संविदाकारी राष्ट्र वा सोको राजनीतिक उप-खण्ड वा स्थानीय निकायबाट सञ्चालित व्यवसायका सम्बन्धमा उपलब्ध गराइएको सेवाका सम्बन्धमा दिइएको पारिश्रमिक र निवृत्तिभरणका हकमा लागू हुनेछन् ।
४. यसैगरी प्रकरण १ र २ का व्यवस्थाहरु देहायका बैंक वा संस्थाबाट भुक्तानी गरिएका पारिश्रमिक वा निवृत्तिभरणका सम्बन्धमा लागू हुनेछन् :

(क) कोरियामा :-

- (१) बैंक अफ कोरिया;
(२) कोरिया आयात निर्यात बैंक;
(३) कोरियाली विकास बैंक;
(४) कोरिया व्यापार लगानी प्रवर्द्धन एजेन्सी; र
(५) संविदाकारी राष्ट्रहरुका सक्षम अधिकारीहरु बीच आदान प्रदान गरिएका पत्रहरुमा तोकिएका र मञ्जूर गरिए बमोजिमका सरकारी प्रकृतिका कार्यहरु गर्ने अन्य वित्तीय संस्था;

(ख) नेपालमा :-

- (१) नेपाल राष्ट्र बैंक (नेपालको केन्द्रीय बैंक);
(२) नेपाल औद्योगिक विकास निगम;
(३) कृषि विकास बैंक; र
(४) संविदाकारी राष्ट्रहरुका सक्षम अधिकारीहरु बीच आदान प्रदान गरिएका पत्रहरुमा तोकिएका र मञ्जूर गरिए बमोजिमका सरकारी प्रकृतिका कार्यहरु गर्ने अन्य वित्तीय संस्था ।

धारा २०

विद्यार्थीहरु

१. कुनै विद्यार्थी वा व्यवसायिक प्रशिक्षार्थी, जो अर्को संविदाकारी राष्ट्रको भ्रमण गर्नु भन्दा तत्काल अघि एउटा संविदाकारी राष्ट्रको वासिन्दा हो/वा थियो र जो सो अर्को राष्ट्रमा निजको शिक्षा वा तालीमको प्रयोजनका लागि मात्रै उपस्थित छ, लाई देहायका सम्बन्धमा सो अर्को राष्ट्रमा कर छुट दिइनेछ :

- (क) निजको भरण-पोषण, शिक्षा र तालीमको प्रयोजनका लागि सो अर्को राष्ट्र बाहिर बसोबास गर्ने व्यक्तिहरुबाट निजलाई गरिएका भुक्तानी; र
- (ख) सो अर्को राष्ट्रमा रोजगारीबाट प्राप्त पारिश्रमिक, कुनै क्यालेण्डर वर्षभर १०,००० अमेरिकी डलरसम्मको रकममा वा सो बराबरको कोरियाली मुद्रामा वा नेपाली मुद्रामा सम्बन्धित हुनुपर्नेछ वा त्यस्तो रोजगारी निजको अध्ययनसंग प्रत्यक्ष रूपमा सम्बन्धित हुनु पर्नेछ । तर त्यस्तो रोजगारी निजको भरणपोषणको प्रयोजनका लागि गरिएको हुनुपर्नेछ ।

(४४)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागू हुनेछ।

खण्ड ५१ संख्या ४८ नेपाल राजपत्र भाग ५ मिति २०५८।१२।१२

२. यस धाराका फाइदाहरु हासिल गर्न खोजिएको शिक्षा वा तालीम पूरा गर्नका लागि मनासिव वा सोको लागि परम्परागत रुपमा आवश्यक समयावधि भरको लागि मात्र उपलब्ध हुनेछन् । तर कुनै व्यक्तिले कुनै पनि अवस्थामा आफू सो अर्को संविदाकारी राष्ट्रमा पहिलो पटक पुगेको मितिले लगातार पाँच वर्षको अवधि भन्दा बढी समयको लागि यस धाराका फाइदा लिन सक्नेछैन ।

धारा २१

अध्यापक र अनुसन्धानकर्ताहरु

१. कुनै विश्वविद्यालय, महाविद्यालय, विद्यालय वा अन्य मान्यता प्राप्त शैक्षिक संस्थामा अध्यापन वा अनुसन्धान कार्य गर्ने प्रयोजनका लागि एउटा संविदाकारी राष्ट्रको अस्थायी भ्रमण गर्ने र अर्को संविदाकारी राष्ट्रको वासिन्दा छु, वा त्यस्तो भ्रमण गर्नुभन्दा तत्काल अघि सो राष्ट्रको वासिन्दा भएको कुनै प्राध्यापक, शिक्षक वा अनुसन्धानकर्तालाई त्यस्तो शिक्षण वा अनुसन्धान वापतको पारिश्रमिकका सम्बन्धमा दुई वर्ष सम्मको अवधिका लागि पहिला उल्लिखित राष्ट्रमा कर छुट दिइनेछ ।
२. त्यस्तो अनुसन्धान मूलतः कुनै खास व्यक्ति वा व्यक्तिहरुको निजी लाभको लागि गरिएको भएमा, त्यस्तो अनुसन्धान गरे वापत प्राध्यापक वा शिक्षकले प्राप्त गरेको पारिश्रमिकका हकमा यो धारा लागू हुनेछैन ।

धारा २२

अन्य आय

१. यस सम्झौताका माथि उल्लेखित धाराहरुमा व्यवस्था नगरिएका, जहाँसुकै उत्पन्न भएका एउटा संविदाकारी राष्ट्रको वासिन्दा वा आयका कलमहरु सो राष्ट्रमा करयोग्य हुनेछन् ।
२. यदि धारा ६ को उपधारा २ मा परिभाषित अचल सम्पत्तिको आय बाहेक अरु आय प्राप्त गर्ने व्यक्ति, एउटा संविदाकारी राष्ट्रको वासिन्दा भई अर्को संविदाकारी राष्ट्रमा रहेको स्थायी संस्थापनको माध्यमबाट सो राष्ट्रमा कारोवार सञ्चालन गर्दछ भने अथवा अर्को राष्ट्रमा रहेको निश्चित स्थानबाट स्वतन्त्र वैयक्तिक सेवाहरु प्रदान गर्दछ भने र यस्तो निश्चित स्थान वा स्थायी संस्थापनसंग घनिष्ट रुपले सम्बन्धित अधिकार वा सम्पत्तिसंग सम्बन्धित आय तिर्दछ भने त्यस्तो आयमा उपधारा १ को व्यवस्थाहरु लागू हुने छैनन् । यस्तो परिस्थितिमा अवस्था अनुसार धारा ७ र धारा १४ का व्यवस्थाहरु लागू हुनेछन् ।

धारा २३

द्वैध कराधानबाट मुक्ति

१. कोरियामा बाहेक अन्य कुनै देशमा भुक्तानीयोग्य गरेको कोरियाली कर वापत दिइने करकट्टी बारेको कोरियन कर सम्बन्धी कानूनी व्यवस्थाहरुको अधिनमा रही -

(क) कोरियाको कुनै वासिन्दाले यस सम्झौताका व्यवस्थाहरु अनुसार नेपालमा कर लाग्न सक्ने आय नेपालबाट आर्जन गरेकोमा, कोरियाले आफ्नो कानूनको अधिनमा रही, सो वासिन्दाको आयमा लाग्ने करबाट नेपालमा भुक्तानी गरिएको वा भुक्तानीयोग्य आयको रकम बराबरको रकम (क्रेडिट) करकट्टी रुपमा कट्टा गर्न दिनेछ । तर सो करकट्टी (क्रेडिट) को रकम नेपालमा कर लगाइएको आयका हकमा सो करकट्टी (क्रेडिट) दिनु भन्दा अगाडि हिसाब गरिएको आयको सो हिस्सा भन्दा बढी हुनेछैन ।

(४५)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागू हुनेछ।

- (ख) उप-प्रकरण (१) मा जुनसुकै व्यवस्था गरिएको भएतापनि, नेपालमा आर्थिक विकास प्रबर्द्धनका लागि लक्षित यस सम्झौतामा हस्ताक्षर भएको मितिमा लागू रहेका वा विद्यमान उपायहरूको सट्टामा वा ती उपायहरूका अतिरिक्त नेपाल कर सम्बन्धी कानूनमा भविष्यमा लागू गर्न सकिने कुनै विशेष सुविधा व्यवस्था भएकोमा नेपालमा नेपाल कर कम नगरिएको वा छुट नदिएको सरह नेपालको कानून अन्तरगत र यस सम्झौता अनुसार नेपाल करको रूपमा जुन दर भुक्तानी गर्नु पर्ने थियो सो रकम कोरियाली वासिन्दाबाट भुक्तानी गरिएको मानिनेछ। तर उपर्युक्त उपायहरूबाट करदातालाई दिइने फाइदाको क्षेत्रका सम्बन्धमा दुई सविदाकारी राष्ट्रहरूका सक्षम अधिकारीहरू बीच सम्झौता गरिएको हुनुपर्नेछ।
- (ग) नेपालको वासिन्दा कम्पनीबाट जारी गरिएको कूल शेयरको कम्तीमा २० प्रतिशत शेयर कोरियाको वासिन्दा कम्पनीले लिएकोमा, कोरियामा तिनुपर्ने कर निर्धारण गर्दा दोस्रो उल्लिखित कम्पनीले जुन मुनाफा मध्येबाट लाभांशको भुक्तानी गरिन्छ, सो मुनाफाका सम्बन्धमा दोस्रो उल्लिखित कम्पनीबाट भुक्तानी गरिएको वा भुक्तानीयोग्य करलाई कोरियाले मध्यनजर राख्नेछ।
२. नेपालमा बाहेक अन्य कुनै देशमा भुक्तानीयोग्य करको नेपाल कर वापत दिइने कर कट्टी बारेको नेपाल कर सम्बन्धी कानूनी व्यवस्थाहरूको अधिनमा रही -
- (क) नेपालको कुनै वासिन्दाले यस सम्झौताका व्यवस्थाहरू अनुसार नेपालमा कर लाग्न सक्ने आय नेपालबाट आर्जन गरेकोमा, नेपालले आफ्नो कानूनको अधिनमा रही, सो वासिन्दाको आयमा लाग्ने करबाट नेपालमा भुक्तानी गरिएको वा भुक्तानीयोग्य आयकरको रकम बराबरको रकम करकट्टी (क्रेडिट) रूपमा कट्टा गर्न दिनेछ। तर सो करकट्टी (क्रेडिट) को रकम नेपालमा कर लगाइएको आयका हकमा उपयुक्त सो करकट्टी (क्रेडिट) दिनु भन्दा अगाडि हिसाब गरिएको आयकरको सो हिस्सा करकट्टी (क्रेडिट) भन्दा बढी हुनेछैन।
- (ख) कोरियाको वासिन्दा कम्पनीबाट जारी गरिएको कूल शेयरको कम्तीमा २० प्रतिशत शेयर नेपालको वासिन्दा कम्पनीले लिएकोमा, कोरियाले नेपालमा तिनुपर्ने कर निर्धारण गर्दा दोस्रो उल्लिखित कम्पनीबाट जुन मुनाफा मध्येबाट लाभांशको भुक्तानी गरिन्छ, सो मुनाफाका सम्बन्धमा दोस्रो उल्लिखित कम्पनीबाट भुक्तानी गरिएको वा भुक्तानीयोग्य करलाई मध्यनजर राख्नेछ।

धारा २४

अभेदभाव

१. एउटा सविदाकारी राष्ट्रका नागरिकहरू उपर अर्को सविदाकारी राष्ट्रमा समान परिस्थितिहरूमा सो अर्को राष्ट्रका नागरिकहरू उपर लागू हुने वा लागू गर्न सकिने कराधान व्यवस्था वा तत्सम्बन्धी शर्तहरू भन्दा भिन्न वा बढी भारपूर्ण कुनै कराधान व्यवस्था वा तत्सम्बन्धी कुनै शर्तहरू लागू गरिनेछैनन्। धारा १ का व्यवस्थाहरूमा जुनसुकै कुरा उल्लेख गरिएको भएतापनि, यो व्यवस्था एउटा वा दुवै सविदाकारी राष्ट्रहरूको वासिन्दा नभएका व्यक्तिहरूका हकमा समेत लागू हुनेछ।
२. एउटा सविदाकारी राष्ट्रको प्रतिष्ठानको अर्को सविदाकारी राष्ट्रमा रहेको स्थायी संस्थापन वा निश्चित स्थल उपर लगाइने कर सोही क्रियाकलापहरू सञ्चालन गरिरहेका सो अर्को राष्ट्रका प्रतिष्ठानहरू उपर लगाइने कर भन्दा कम सुविधाजनक हुने गरी सो अर्को राष्ट्रमा कर लगाइने छैन। प्रस्तुत व्यवस्थालाई एउटा सविदाकारी राष्ट्र तथा अर्को सविदाकारी राष्ट्रका वासिन्दाहरूलाई आफ्ना वासिन्दाहरूलाई उपलब्ध गराउने कुनै नागरिक हैसियत वा पारिवारिक जिम्मेवारीका आधारमा कराधान प्रयोजनका लागि व्यक्तिगत छुट, सहूलियत र कटौती उपलब्ध गराउन वाध्य गराउने गरी व्याख्या गरिने छैन।

(४६)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागू हुनेछ।

३. धारा ९ को प्रकरण १, धारा ११ को प्रकरण ८, वा धारा १२ को प्रकरण ४ का व्यवस्थाहरु लागू हुने अवस्थामा बाहेक, एउटा संविदाकारी राष्ट्रको प्रतिष्ठानले अर्को संविदाकारी राष्ट्रको वासिन्दालाई भुक्तानी गरेको व्याज, रोयल्टी र अन्य वितरणहरु त्यस्तो प्रतिष्ठानको करयोग्य मुनाफा निर्धारण गर्ने प्रयोजनका लागि तिनीहरु पहिलो उल्लिखित राष्ट्रको कुनै वासिन्दालाई भुक्तानी गरिएको भए जुन अवस्था लागू हुने थियो वा हुन सक्नेछ सो अवस्थाहरु अन्तरगत कट्टा गर्न योग्य हुनेछन् ।
४. अर्को संविदाकारी राष्ट्रको एउटा वा सो भन्दा बढी वासिन्दाहरुको प्रत्यक्ष वा अप्रत्यक्ष रूपमा पूर्ण वा आंशिक रूपमा स्वामित्व वा नियन्त्रणमा रहेको एउटा संविदाकारी राष्ट्रका प्रतिष्ठानहरु उपर पहिलो उल्लिखित राष्ट्रका अन्य उस्तै प्रतिष्ठानहरु उपर लागू हुने वा हुन सक्ने कराधान र तत्सम्बन्धी शर्तहरु भन्दा भिन्न वा बढी भारपूर्ण कराधान वा तत्सम्बन्धी कुनै पनि शर्तहरु पहिलो उल्लिखित राष्ट्रमा लगाइने छैन ।
५. धारा २ मा जुनसुकै व्यवस्था गरिएको भएतापनि, यस धाराका व्यवस्थाहरु प्रत्येक किसिम र विवरणका करहरुका हकमा लागू हुनेछ ।

धारा २५

पारस्परिक सम्झौताको कार्यविधि

१. कुनै व्यक्तिले एउटा वा दुवै संविदाकारी राष्ट्रहरुका कामकारवाहीको फलस्वरूप निजको लागि यस सम्झौताका व्यवस्थाहरु अनुकूल नभएको कराधान लागेको छ वा लाग्न सक्नेछ भन्ने ठानेमा, निजले ती राष्ट्रहरुका घरेलु कानूनहरुमा जुनसुकै उपायहरुको व्यवस्था गरिएको भएतापनि आफू जुन संविदाकारी राष्ट्रको वासिन्दा हो सो राष्ट्रको सक्षम अधिकारी समक्ष वा निजको मुद्दा (मर्का) धारा २४ को प्रकरण १ अन्तरगत पर्ने भएमा निज जुन संविदाकारी राष्ट्रको वासिन्दा हो सो राष्ट्रको सक्षम अधिकारी समक्ष आफ्नो मुद्दा (मर्का) प्रस्तुत गर्न सक्नेछ । यस सम्झौताका व्यवस्थाहरु अनुकूल नभएको कराधानमा परिणत कारवाहीको पहिलो सूचनाको मितिले तीन वर्ष भित्र सो मुद्दा प्रस्तुत गर्नुपर्नेछ ।
२. सक्षम अधिकारीलाई सो उजुरी न्यायोचित लागेमा र आफू स्वयं सन्तोषप्रद समाधानमा पुग्न असमर्थ भएमा, सो सक्षम अधिकारीले यस सम्झौता अनुकूल नभएको कराधान मुक्ति गराउने उद्देश्यले अर्को संविदाकारी राष्ट्रको सक्षम अधिकारी संगको आपसी सम्झौताबाट सो विवादको समाधान गर्न प्रयत्न गर्नेछ ।
३. संविदाकारी राष्ट्रहरुका सक्षम अधिकारीहरुले यस सम्झौताको व्याख्या वा प्रयोगका सम्बन्धमा उत्पन्न कुनै पनि बाधा अड्काउ वा शंकाहरु आपसी सम्झौताबाट फुकाउन वा निवारण गर्न प्रयत्न गर्नेछन् । यस सम्झौतामा व्यवस्था नभएका द्वैध कराधानको उन्मूलिका लागि परस्पर विचार विमर्श समेत गर्नेछन् ।
४. उपरोक्त प्रकरणहरुको अर्थमा सम्झौतामा पुग्ने उद्देश्यका लागि संविदाकारी राष्ट्रहरुका सक्षम अधिकारीहरुले एक अर्कासंग सीधा संचार सम्पर्क राख्न सक्नेछन् । सहमति/सम्झौतामा पुग्नका लागि विचारहरुको मौखिक आदान प्रदान आवश्यक भएको अवस्थामा, संविदाकारी राष्ट्रहरुका सक्षम अधिकारीहरुका प्रतिनिधिहरु रहेको आयोगको माध्यमबाट त्यस्तो आदान-प्रदान हुन सक्ने छ ।

धारा २६

सूचनाको आदान प्रदान

१. संविदाकारी राष्ट्रहरूका सक्षम अधिकारीहरूले यस सम्झौतामा समेटिएका करहरू सम्बन्धमा कराधान सम्झौताको प्रतिकूल नहुने गरी यस सम्झौताका वा संविदाकारी राष्ट्रहरूका घरेलु कानूनका व्यवस्थाहरू कार्यान्वयन गर्ने आवश्यक जानकारी आदान प्रदान गर्नेछन् । जानकारीको आदान प्रदानलाई धारा १ ले रोक लगाउने छैन । संविदाकारी राष्ट्रले प्राप्त गरेको कुनै पनि जानकारीलाई सो राष्ट्रको घरेलु कानून अन्तरगत प्राप्त जानकारी सरह समान तवरमा गोप्य मानिनेछ र यस सम्झौताबाट समेटिएका करहरूको निर्धारण वा संकलन, तत्सम्बन्धी कार्यान्वयन वा अभियोजन वा तत्सम्बन्धी पुनरावेदनहरूको निर्धारणसंग सम्बन्धित व्यक्ति वा निकायहरू (अदालत र प्रशासकिय निकायहरू समेत) लाई मात्र प्रकट गरिनेछ । त्यस्ता व्यक्ति वा अधिकारीहरूले त्यस्तो प्रयोजनका लागि मात्र सो जानकारी प्रकट गर्न सक्नेछन् ।
२. प्रकरण १ का व्यवस्थाहरूलाई कुनै पनि अवस्थामा संविदाकारी राष्ट्र उपर देहायको कार्य गर्ने दायित्व सिर्जना गर्ने गरी व्याख्या गरिनेछैन :
 - (क) सो संविदाकारी राष्ट्रको वा अर्को संविदाकारी राष्ट्रको कानून र प्रशासनिक प्रचलनबाट विचलित हुने गरी प्रशासनिक उपायहरू अपनाउने;
 - (ख) सो संविदाकारी राष्ट्र वा अर्को संविदाकारी राष्ट्रको कानून अन्तरगत वा प्रशासनको सामान्य क्रममा प्राप्त गर्न नसकिने जानकारी उपलब्ध गराउने;
 - (ग) कुनै व्यापार, व्यवसाय, औद्योगिक, व्यापारिक वा पेशागत गोप्यता वा व्यापारिक प्रक्रिया वा जानकारी, जसको प्रकाश सार्वजनिक नीतिको विरुद्ध हुनसक्छ, को प्रकाश गर्ने जानकारी उपलब्ध गराउने ।

धारा २७

कुटनीतिक नियोगका सदस्यहरू र कन्सुलर पदहरू

यस सम्झौतामा उल्लिखित कुनै पनि कुराले अन्तर्राष्ट्रिय कानूनको सामान्य नियमहरू र विशेष सम्झौताका व्यवस्थाहरू अन्तरगत कुटनीतिक नियोगका सदस्यहरू वा कन्सुलर पदहरूको वित्तीय सुविधा हरूमा प्रभाव पार्ने छैन ।

धारा २८

प्रभावकारिता

१. प्रत्येक संविदाकारी राष्ट्रले यो सम्झौतालाई प्रभावकारी गराउनकोलागि आ-आफ्नो कानून अनुसार आवश्यक कार्यविधिहरू पूरा भएको कुराको सूचना अर्को संविदाकारी राष्ट्रलाई दिनेछ । यो सम्झौता ती सूचनाहरू मध्ये पछिल्लो सूचनाको मितिदेखि लागू हुनेछ ।
२. यस सम्झौताका व्यवस्थाहरू देहाय बमोजिम लागू हुनेछन् -
 - (क) कोरियामा :
 - (१) श्रोतमा कट्टी गर्ने करहरूको सम्बन्धमा, यो सम्झौता लागू भए पछिको पहिलो क्यालेण्डर वर्षमा जनवरीको पहिलो दिनमा वा सो पछि भुक्तानीयोग्य रकमहरूका लागि;

(४८)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागू हुनेछ।

खण्ड ५१ संख्या ४८ नेपाल राजपत्र भाग ५ मिति २०५८।१२।१२

- (२) अन्य करहरूका सम्बन्धमा, यो सम्झौता लागू भएपछिको पहिलो क्यालेण्डर वर्षमा जनवरीको पहिलो दिनमा वा सो दिनपछि प्रारम्भ भएको करयोग्य वर्षका लागि ।

(ख) नेपालमा :

- (१) श्रोतमा कट्टी गर्ने कर वा अग्रिम करका सम्बन्धमा, यो सम्झौता लागू भएको मिति पछिको अर्को नेपाली आर्थिक वर्षको पहिलो दिनमा वा सो पछि भुक्तानीयोग्य रकमहरूका लागि ;
- (२) यो सम्झौता लागू भएको मिति पछिको अर्को नेपाली आर्थिक वर्षको पहिलो दिनमा वा सो दिन पछि आर्जित आयमा लाग्ने करहरूका सम्बन्धमा ।

धारा २९

समाप्ति

१. यो सम्झौता अनिश्चित समयवाधि भर लागू रहनेछ । तर कुनै पनि संविदाकारी राष्ट्रले यो सम्झौता लागू भएका मितिले पाँच वर्षको अवधिको अन्त्य भएपछि शुरु भएको कुनै क्यालेण्डर वर्षको जुन महिनाको तीसौं दिनमा वा सो दिन भन्दा अगाडि अर्को संविदाकारी राष्ट्रलाई कुटनीतिक माध्यमबाट समाप्तिको सूचना लिखित रूपमा दिन सक्नेछ ।
२. यस सम्झौताका व्यवस्थाहरू देहाय बमोजिम निष्प्रभावि हुनेछन् -

(क) कोरियामा :

- (१) श्रोतमा कट्टी गर्ने करहरूको सम्बन्धमा, यो सम्झौता लागू भए पछिको पहिलो क्यालेण्डर वर्षमा जनवरीको पहिलो दिनमा वा सो पछि भुक्तानीयोग्य रकमहरूका लागि सूचना दिए अनुसार;
- (२) अन्य करहरूका सम्बन्धमा, यो सम्झौता लागू भएपछिको पहिलो क्यालेण्डर वर्षमा जनवरीको पहिलो दिनमा वा सो दिनपछि प्रारम्भ भएको करयोग्य वर्षका लागि सूचना दिए अनुसार ।

(ख) नेपालमा :

- (१) श्रोतमा कट्टी गर्ने कर वा अग्रिम करका सम्बन्धमा, यो सम्झौता लागू भएको मिति पछिको अर्को नेपाली आर्थिक वर्षको पहिलो दिनमा वा सो पछि भुक्तानीयोग्य रकमहरूका लागि सूचना दिए अनुसार;
- (२) यो सम्झौता लागू भएको मिति पछिको अर्को नेपाली आर्थिक वर्षको पहिलो दिनमा वा सो दिन पछि आर्जित आयमा लाग्ने करहरूका सम्बन्धमा सूचना दिए अनुसार ।

(४९)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागू हुनेछ।

खण्ड ५१ संख्या ४८ नेपाल राजपत्र भाग ५ मिति २०५८।१२।१२

आ-आफ्ना सरकारहरुबाट विधिवत अख्तियारी पाएका देहायका हस्ताक्षरकर्ताहरुले सोको प्रमाण स्वरूप, यस सम्झौतामा हस्ताक्षर गरेका छन् ।

आज २०५८ साल आश्विन महिना १९ गते शुक्रवारका दिन सिओलमा नेपाली, कोरियाली र अंग्रेजी भाषामा दुई दुई प्रतिहरुमा सवै प्रतिहरु समान रूपले प्रामाणिक हुने गरी सम्झौता सम्पन्न भयो । व्याख्यामा मतभिन्नता भएको अवस्थामा अंग्रेजी प्रति मान्य हुनेछ ।

Narayan S. Thapa

श्री ५ को सरकार, नेपालका तर्फबाट

31/12/58

गणतन्त्र कोरिया सरकारका तर्फबाट

आज्ञाले,
विश्वमंगल आत्रेय
उपसचिव

(५०)

मुद्रण नि. सहदरबार, काठमाडौंमा मुद्रित ।

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागू हुनेछ।