

Exchange of Notes at Seoul December 27, 1999
Entered into force December 27, 1999

(Korean Note)

Seoul, December 27, 1999

Excellency,

I have the honour to refer to the Convention between the Republic of Korea and Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed at Tokyo on the 8th day of October 1998 (hereinafter referred to as "the Convention") and to the Exchange of Notes of the same date between the two Governments concerning paragraph 3 of Article 23 of the Convention (hereinafter referred to as "the Exchange of Notes").

I have further the honour to propose on behalf of the Government of the Republic of Korea the following arrangement to replace the arrangement effected by the Exchange of Notes:

1. The measures set forth in the following articles and paragraphs of Korean taxation laws are "the special incentive measures designed to promote economic development in Korea" referred to in paragraph 3 of Article 23 of the Convention:

- (a) Special Tax Treatment Control Act, Law No.5584, 1998 (hereinafter referred to as "the Special Tax Treatment Control Act of 1998")
 - (i) Paragraphs 1 and 2 of Article 20 -- relating to reduction and exemption from income tax or corporation tax on the income derived from a public loan contract;
 - (ii) Paragraphs 1, 2 and 3 of Article 21 -- relating to exemption from income tax or corporation tax on the income and capital gains from international financial transactions; and
 - (iii) Article 9 of Addenda (only to the extent that the provisions contained therein are relevant to reduction and exemption from income tax or corporation tax under the Tax Reduction and Exemption Control Act, Law No.5534, 1998 (hereinafter referred to as "the Tax Reduction and Exemption Control Act of 1998") and the Public Loan Inducement and Management Act, Law No.5551, 1998 (hereinafter referred to as "the Public Loan Inducement and Management Act of 1998")) -- relating to the transitional measures concerning reduction and exemption from income tax or corporation tax granted in accordance with the relevant provisions of the Tax Reduction and Exemption Control Act of 1998 and the Public Loan Inducement and Management Act of 1998.
- (b) Special Tax Treatment Control Act, Law No.5982, 1999 (hereinafter referred to as "the Special Tax Treatment Control Act of 1999")
 - (i) Paragraphs 1, 2 and 3 of Article 121-2 -- relating to reduction and exemption from income tax or corporation tax on the income of a foreign invested enterprise or foreign investor;
 - (ii) Paragraph 1 of Article 121-4 -- relating to reduction and exemption from income tax or corporation tax in case where a foreign invested enterprise

increases its capital;

- (iii) Paragraph 1 of Article 121-6 -- relating to exemption from income tax or corporation tax on the income derived from a technological inducement contract; and
- (iv) Article 5 of Addenda (only to the extent that the provisions contained therein are relevant to reduction and exemption from income tax or corporation tax under the Foreign Investment Promotion Act, Law No.5559, 1998 (hereinafter referred to as "the Foreign Investment Promotion Act of 1998")) -- relating to the transitional measures concerning reduction and exemption from income tax or corporation tax granted in accordance with the relevant provisions of the Foreign Investment Promotion Act of 1998.

2. The present arrangement shall be effective:

- (1) in respect of such income tax or corporation tax as has been or may be reduced or exempted under the Special Tax Treatment Control Act of 1998 and the Special Tax Treatment Control Act of 1999; and
- (2) in respect of such income tax or corporation tax as has been or may be reduced or exempted under the following articles and paragraphs of Korean taxation laws (only to the extent that the provisions contained therein are relevant to reduction and exemption from income tax or corporation tax under the Special Tax Treatment Control Act of 1998 and the Special Tax Treatment Control Act of 1999 as stated in paragraph 1 above):
 - (a) Foreign Capital Inducement Law, Law No.3691, 1983
 - (i) Paragraphs 1, 2(1) and 3 of Article 14;
 - (ii) Paragraph 1 of Article 16;
 - (iii) Paragraph 1 of Article 24;
 - (iv) Paragraphs 1 and 2 of Article 28; and
 - (v) Article 4 of Addenda (only to the extent that the provisions contained therein are relevant to reduction and exemption from income tax or corporation tax under the Foreign Capital Inducement Law, Law No.1802, 1966).
 - (b) Foreign Investment and Foreign Capital Inducement Act, Law No.5256 1997
 - (i) Paragraphs 1, 2 and 3 of Article 14;
 - (ii) Paragraph 1 of Article 16;
 - (iii) Paragraph 1 of Article 24; and
 - (iv) Paragraphs 1 and 2 of Article 28.
 - (c) Paragraphs 1, 2 and 3 of Article 94 of the Tax Reduction and Exemption Control Act of 1998
 - (d) Foreign Investment and Foreign Capital Inducement Act, Law No.5538, 1998 (hereinafter referred to as "the Foreign Investment and Foreign Capital Inducement Act of 1998")
 - (i) Paragraphs 1, 2 and 3 of Article 14;
 - (ii) Paragraph 1 of Article 16;
 - (iii) Paragraph 1 of Article 24; and
 - (iv) Paragraphs 1 and 2 of Article 28.
 - (e) The Public Loan Inducement and Management Act of 1998
 - (i) Paragraphs 1 and 2 of Article 8; and
 - (ii) Article 5 of Addenda (only to the extent that the provisions contained therein are relevant to reduction and exemption from income tax or corporation tax under the Foreign Investment and Foreign Capital Inducement Act of 1998).

- (f) The Foreign Investment Promotion Act of 1998
 - (i) Paragraphs 1, 2 and 3 of Article 9;
 - (ii) Paragraph 1 of Article 11;
 - (iii) Paragraph 1 of Article 26; and
 - (iv) Article 5 of Addenda (only to the extent that the provisions contained therein are relevant to reduction and exemption from income tax or corporation tax under the Foreign Investment and Foreign Capital Inducement Act of 1998).

3. The arrangement effected by the Exchange of Notes shall terminate on the date of entry into force of the present arrangement.

If this proposal is acceptable to the Government of Japan, this Note and Your Excellency 's Note in reply confirming the acceptance by the Government of Japan of the above proposal shall be regarded as constituting an agreement between the two Governments which will enter into force on the date of Your Excellency 's reply.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

Hong Soon-young
Minister of
Foreign Affairs and Trade

His Excellency
Mr. Kazuo Ogura
Ambassador of Extraordinary and Plenipotentiary
of Japan to the Republic of Korea

(Japanese Note)

Seoul, December 27, 1999

Excellency,

I have the honour to acknowledge the receipt of Your Excellency 's Note of today 's date, which reads as follows:

“(Korean Note)”

I have further the honour to confirm on behalf of the Government of Japan the foregoing arrangement and to agree that Your Excellency 's Note and this Note shall be

regarded as constituting an agreement between the two Governments which will enter into force on the date of this reply.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

Kazuo Ogura,
Ambassador Extraordinary and
Plenipotentiary of Japan

His Excellency
Mr. Hong Soon-young
Minister of the Foreign Affairs and Trade
of the Republic of Korea