

No. 14498

**FRANCE
and
THAILAND**

**Convention for the avoidance of double taxation and the
prevention of income tax evasion (with protocol).
Signed at Bangkok on 27 December 1974**

Authentic texts: French and Thai.

Registered by France on 29 December 1975.

**FRANCE
et
THAÏLANDE**

**Convention tendant à éviter les doubles impositions et à
prévenir l'évasion fiscale en matière d'impôts sur
les revenus (avec protocole). Signée à Bangkok le
27 décembre 1974**

Textes authentiques: français et thaï.

Enregistrée par la France le 29 décembre 1975.

[TRANSLATION—TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE FRENCH
REPUBLIC AND THE GOVERNMENT OF THE KINGDOM OF
THAILAND FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF INCOME TAX EVASION

The Government of the French Republic and the Government of the Kingdom of Thailand,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of income tax evasion,

Have agreed as follows:

Article 1. PERSONS COVERED

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

Article 2. TAXES COVERED

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

2. All taxes imposed on total income or on elements of income, including taxes on gains from the transfer of movable or immovable property and capital gains taxes, shall be deemed to be income taxes.

3. The existing taxes to which this Convention shall apply are:

(a) *In France*

(i) the income tax and

(ii) the corporation tax, including any amounts of the aforesaid taxes deducted at source, prepaid or deducted in advance

(hereinafter referred to as “French tax”);

(b) *In Thailand*

(i) the income tax and

(ii) the tax on petroleum revenue

(hereinafter referred to as “Thai tax”).

4. This Convention shall also apply to any identical or similar taxes which may in future supplement or replace the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective fiscal legislation.

5. Should it be deemed desirable, by reason of changes in the fiscal legislation of either Contracting State, to amend any article of this Convention

¹ Came into force on 29 August 1975, the date of the exchange of the notifications (effected on 23 July and 29 August 1975) confirming the completion of the required constitutional procedures, in accordance with article 29 (1).

without thereby affecting its general principles, the necessary changes may be made by mutual consent by means of an exchange of diplomatic notes or any other procedure compatible with the constitutional provisions of the two States.

Article 3. GENERAL DEFINITIONS

1. In this Convention:

(a) The term “France” means the European and overseas departments (Guadeloupe, Guiana, Martinique and Reunion) of the French Republic and any area adjacent to their territorial waters which, by virtue of French legislation and in accordance with international law, has been or may be declared an area over which France may exercise rights with respect to the sea-bed and its subsoil and the natural resources thereof;

The term “Thailand” means the Kingdom of Thailand and any area adjacent to the territorial waters of the Kingdom of Thailand which, by virtue of Thai legislation and in accordance with international law, has been or may be declared an area over which the Kingdom of Thailand may exercise rights with respect to the sea-bed and its subsoil and the natural resources thereof;

(b) The term “a Contracting State” means France or Thailand as the context requires;

The term “Contracting States” means France and Thailand;

(c) The term “person” means an individual, a company or any other group of persons;

(d) The term “company” means any body corporate or any group of persons which is treated as a body corporate for tax purposes;

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

(f) The term “competent authority” means:

— in the case of France, the Minister of Economic Affairs and Finance or his authorized representative;

— in the case of Thailand, the Minister of Finance or his authorized representative.

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

Article 4. FISCAL DOMICILE

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the legislation of that State, is subject to taxation therein by reason of that person’s domicile, residence, place of registration, head office or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 an individual is deemed to be a resident of both Contracting States, his status shall be determined in accordance with the following rules:

- (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home. If he has a permanent home in both Contracting States, he shall be deemed to be a resident of the Contracting State with which he has the closer personal and economic ties (centre of vital interests);
- (b) if the Contracting State in which he has his centre of vital interests cannot be determined or if he has a permanent home in neither Contracting State, he shall be deemed to be a resident of the Contracting State in which he habitually resides;
- (c) if he habitually resides in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- (d) if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is deemed to be a resident of both Contracting States, the competent authorities of the Contracting States shall settle the question by mutual agreement.

Article 5. PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term “permanent establishment” means a fixed place of business in which the enterprise conducts all or part of its activities.

2. The term “permanent establishment” shall include:

- (a) a head office;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, quarry or other place of extraction of natural resources;
- (g) a building site or assembly site provided it remains in existence for more than:
 - 1. six months, in the case of the installation or erection of a factory, plant or equipment, including any ancillary works required for such an installation;
 - 2. three months in all other cases.

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

- (a) the facilities used solely for the purpose of storage, display or delivery of goods belonging to the enterprise;
- (b) places in which goods belonging to the enterprise are held solely for the purpose of storage, display or delivery;
- (c) places in which goods belonging to the enterprise are held solely for the purpose of processing by another enterprise;
- (d) a fixed place of business used solely for the purpose of purchasing merchandise or collecting information for the enterprise;

(e) a fixed place of business used solely for the purpose of advertising, supplying information, scientific research or similar preparatory or auxiliary activities for the enterprise.

4. Notwithstanding the provisions of paragraph 3, a person, other than an agent having independent status to whom paragraph 5 applies, who is acting in a Contracting State on behalf of an enterprise of the other Contracting State shall be deemed to be a “permanent establishment” in that State if:

- (a) he has and habitually exercises in that State power to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods for the enterprise; or
- (b) he habitually maintains in that Contracting State a stock of goods belonging to the enterprise from which he regularly delivers goods on behalf of the enterprise; or
- (c) he habitually accepts orders in that State either solely for the enterprise or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it conducts business in that other State through a broker, general commission agent or any other agent having an independent status, when such persons are acting in the normal course of business. A broker or other agent shall be deemed not to have independent status if he performs in that other State any of the activities mentioned in paragraph 4 exclusively or almost exclusively for the enterprise itself or for the enterprise and other enterprises controlled by it or having a controlling interest in it.

6. 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 conducts business in that other State (whether through a permanent establishment or otherwise) shall not of itself be sufficient to cause either company to be deemed to be a permanent establishment of the other.

Article 6. INCOME FROM IMMOVABLE PROPERTY

1. Income from immovable property shall be subject to taxation in the Contracting State in which the property is situated.

2. The term “immovable property” shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in all cases include accessories, farm and forestry, livestock or equipment, rights to which the provisions of private law concerning landed property apply, usufruct of immovable property and rights to variable or fixed fees for the exploitation of or exploitation concessions for mineral deposits, springs and other riches of the soil; ships, boats and aircraft shall not be deemed to be immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, the renting or leasing, or any other type of use 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 the income from immovable property used for the performance of professional services.

Article 7. BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be subject to taxation only in that State unless the enterprise conducts its business in the other Contracting State through a permanent establishment situated therein. If the enterprise conducts business as aforesaid, the profits of the enterprise shall be subject to taxation in the other State but only to the extent that they are attributable to the permanent establishment in question.

2. Where an enterprise of a Contracting State conducts its business in the other Contracting State through a permanent establishment situated therein, the profits which would have accrued to that permanent establishment if it had been constituted as a distinct and separate enterprise conducting the same or similar activities under the same or similar conditions and dealing independently with the enterprise of which it is a permanent establishment shall be attributed to that establishment in both Contracting States.

3. In computing the profits of a permanent establishment, deductions may be made for expenses incurred for the purposes of the permanent establishment, including management and overhead expenses so incurred, either in the State in which the permanent establishment is situated or elsewhere.

4. No profits shall be attributed to a permanent establishment by reason of the mere purchase of goods by that permanent establishment for the enterprise.

5. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be computed by the same method every year unless there is good and sufficient reason for doing otherwise.

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

Article 8. SHIPPING AND AIR TRANSPORT

1. Profits from the operation of aircraft in international traffic shall be subject to taxation only in the Contracting State in which the head office of the airline is situated.

2. Profits from the operation of ships in international traffic by an enterprise whose head office is situated in one of the Contracting States shall be subject to taxation in the other Contracting State, but the amount of the tax assessment in that other State shall be reduced by 50 per cent.

3. If the head office of a shipping enterprise is on board ship, it shall be deemed to be situated in the Contracting State in which the home port of the ship is situated, or, if there is no home port, in the Contracting State of which the operator of the ship is a resident.

4. The provisions of paragraphs 1 and 2 shall likewise apply to shares held by enterprises engaged in shipping or air transport in pools or joint ventures.

Article 9. ASSOCIATED ENTERPRISES

Where:

- (a) an enterprise of one 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 one Contracting State and an enterprise of the other Contracting State,

and in either case the two enterprises are bound in their commercial or financial relations by conditions, accepted or imposed, which differ from those which would be agreed upon between independent enterprises, profits which would but for those conditions have accrued to one of the enterprises but, by reason of those conditions, did not so accrue may be included in the profits of that enterprise and be taxed accordingly.

Article 10. DIVIDENDS

1. Dividends paid by a company which is a resident of one Contracting State to a resident of the other Contracting State shall be subject to taxation in that other State.

2. However, the dividends may be taxed in the Contracting State of which the company paying the dividends is a resident in the manner laid down in its legislation, but if the recipient of the dividends is a company (*société*) (excluding associations of individuals (*sociétés de personnes*)) which directly holds at least 25 per cent of the capital of the company paying the dividends, the tax for which it is liable shall not exceed:

- (a) 15 per cent if the company paying the dividends is engaged in an industrial activity;
- (b) 20 per cent in all other cases.

3. In this article:

(a) The term “dividends” means income from shares, *jouissance* shares, mining shares, founders’ shares or other income-yielding holdings, excluding debt claims and income from other corporate holdings which is treated as income from shares by the fiscal legislation of the State of which the distributing company is a resident;

(b) The term “industrial activity” means:

1. any activity embracing:

- (i) manufacture, assembly and processing;
- (ii) construction, civil engineering and ship building;
- (iii) production of electricity, hydraulic energy and gas or water supply; or
- (iv) agriculture, forestry, fishing and plantation operation; and

2. any other activity creating entitlement to the benefits provided for in Thai legislation on the promotion of industrial investment; and

3. any other activity which may be recognized as “an industrial activity” for the purposes of this article by the competent Thai authority.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of one Contracting State, has in the other Contracting State of which the company paying the dividends is a resident, a permanent establishment with which the holding giving rise to the dividends is effectively associated, provided that under the legislation of that other State the dividends

are taxed as part of the profits of the permanent establishment. In such event, the provisions of article 7 shall apply.

5. When a prepayment is made in respect of dividends paid by a company which is a resident of France to a resident of Thailand, the latter shall be entitled to a refund of that prepayment, less the amount of the tax deducted at source on the refunded amount in accordance with the provisions of national legislation and of paragraph 2 of this article.

6. Where a company which is a resident of a Contracting State has a permanent establishment in the other Contracting State, it may be subject in the latter State to deduction of tax at source on the profits of that permanent establishment under the legislation of that other Contracting State, at a rate not exceeding 25 per cent.

Article 11. INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State shall be subject to taxation in that other State.

2. However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that State, but assessed amount of such tax shall not exceed:

(a) 3 per cent of the gross amount of the interest paid on loans or credits granted for a period of not less than four years, with the participation of a public financing agency, to a public establishment or an enterprise of the other Contracting State in connexion with the sale of capital goods or the design, planning or supply of industrial, commercial or scientific installations and of public works;

(b) 10 per cent of the gross amount of interest paid to any financial establishment which is a company of the other Contracting State.

3. Notwithstanding the provisions of paragraph 2, the interest referred to in paragraph 1 shall not be subject to taxation in the Contracting State in which it arises when it is interest paid to the other Contracting State or to a public establishment of that other Contracting State.

4. The term "interest" as used in this article means income from government securities, bonds or debentures, whether or not secured by mortgage or whether or not carrying a right to profit-sharing, debt claims of any kind, and all other income treated by the fiscal legislation of the State in which the income arises as being returns on money lent.

5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt claim from which the interest arises is effectively associated, provided that under the legislation of that other State the interest is taxed as part of the profits of the permanent establishment. In such event, the provisions of article 7 shall apply.

6. Interest shall be deemed to arise in a Contracting State when the source is that State itself or a local authority or resident of that State. Where, however, the source of the interest, whether or not resident in a Contracting State, has in a Contracting State a permanent establishment on behalf of which the loan giving rise to the interest was incurred and which is responsible for paying the interest,

such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

7. Where, owing to a special relationship between the source and the recipient of interest or between both of them and third parties, the amount of the interest paid, having regard to the debt claim for which it is paid, exceeds the amount which would have been agreed upon by the source and the recipient in the absence of such relationship, the provisions of this article shall apply only to the latter amount. In that case, the excess part of the payments shall remain subject to taxation under the legislation of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12. ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be subject to taxation in that other State.

2. However, such royalties may be taxed in the Contracting State in which they arise, but the assessed amount of such tax shall not exceed:

- (a) 5 per cent of the gross amount of royalties paid for the transfer of or for the use of or right to use copyright in a literary, artistic or scientific work;
- (b) 15 per cent of the gross amount of other royalties.

3. Notwithstanding the provisions of paragraph 2, royalties or other similar payments due to a Contracting State or to a State-owned company in respect of films or work recorded on magnetic tape shall be exempt from tax in the other Contracting State.

4. The term "royalties" as used in this article means remuneration of any kind paid for the transfer of or for the use of or right to use copyright in a literary, artistic or scientific work, including cinematographic films, a patent, brand or trade mark, design or model, plan, secret formula or process, or for the use of or right to use information on industrial, commercial or scientific expertise.

5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively associated, provided that under the legislation of that other State royalties are taxed as part of the profits of the permanent establishment. In such event, the provisions of article 7 shall apply.

6. Royalties shall be deemed to arise in a Contracting State when the source is that State itself or a local authority or resident of that State. Where, however, the source of the royalties, whether or not resident in a Contracting State, has in a Contracting State a permanent establishment with which the right or property giving rise to the royalties is effectively associated and which is responsible for paying the royalties, such royalties shall be deemed to arise in the State in which the permanent establishment is situated.

7. Where, owing to a special relationship between the source and the recipient of royalties or between both of them and third parties, the amount of the royalties paid, having regard to the service in respect of which they are paid, exceeds the amount which would have been agreed upon by the source and the recipient in the absence of such relationship, the provisions of this article shall apply only to the latter amount. In that case, the excess part of the payments shall

remain subject to taxation under the legislation of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13. CAPITAL GAINS

1. Gains from the transfer of immovable property, as defined in article 6, paragraph 2, or from the sale or exchange of shares of similar rights in a joint-ownership property company or in a company of which such property forms the principal assets shall be taxed in the Contracting State in which such property is situated.

2. Gains from the transfer of movable property forming part of the assets of a permanent establishment which an enterprise of one Contracting State has in the other Contracting State or of movable property constituting a fixed base from which the resident of one Contracting State exercises a profession in the other Contracting State, including such gains from the transfer of the whole of such permanent establishment (alone or together with the whole enterprise) or fixed base, shall be subject to taxation in that other State. However, gains from the transfer of ships and aircraft operated in international traffic and movable property used in such operation shall be subject to taxation only in the Contracting State in which the head office of the enterprise is situated.

3. Subject to the provisions of article 12, gains from the transfer of any property other than that mentioned in paragraphs 1 and 2 shall be subject to taxation only in the Contracting State of which the transferor is a resident.

Article 14. SELF-EMPLOYED OCCUPATIONS

1. Income derived by a resident of a Contracting State from a profession or other self-employment of a similar nature shall be subject to taxation only in that State unless the activities are conducted in the other Contracting State. Income derived from a profession or self-employed activities conducted in that other State shall be subject to taxation in that other State.

2. Notwithstanding the provisions of paragraph 1, income derived by a resident of a Contracting State from a profession or other self-employed activities conducted in the other Contracting State shall not be subject to taxation in that other State if:

- (a) the recipient lives in the other State for a period or periods totalling not more than 183 days during the fiscal year concerned;
- (b) the recipient has no fixed base in that other State for a period or periods totalling more than 183 days during that year; and
- (c) responsibility for payment of the income does not lie with an enterprise or a permanent establishment of that other State.

3. The term "profession" includes, especially, self-employment in scientific, literary, artistic, educational or teaching activities, and the self-employed activities of doctors, lawyers, architects, dentists and accountants.

Article 15. NON-SELF-EMPLOYED OCCUPATIONS

1. Subject to the provisions of articles 16, 18 and 19, wages, salaries and other similar remuneration received by a resident of a Contracting State in respect of paid employment shall be subject to taxation only in that State unless the

occupation is conducted in the other Contracting State. If the occupation is so conducted, the remuneration received for it shall be subject to taxation in the other State.

2. Notwithstanding the provisions of paragraph 1, remuneration received by a resident of a Contracting State in respect of paid employment in the other Contracting State shall be subject to taxation only in the first State if:

- (a) the recipient lives in the other State for a period or periods totalling not more than 183 days 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) responsibility for payment of the remuneration does not lie with a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the foregoing provisions of this article, remuneration in respect of paid employment on board a ship or aircraft in international traffic shall be subject to taxation in the Contracting State in which the head office of the enterprise is situated.

Article 16. PERCENTAGE OF PROFITS

Percentages of profits, attendance fees and other similar payments received by a resident of a Contracting State in his capacity as a member of the board of directors or board of trustees of a company which is a resident of the other Contracting State shall be subject to taxation in that other State.

Article 17. PERFORMING ARTISTS AND SPORTSMEN

1. Notwithstanding the provisions of articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artists and musicians and by sportsmen from their personal activities in such capacities shall be subject to taxation in the Contracting State in which these activities are conducted.

2. The provisions of paragraph 1 shall not apply to the remuneration or profits, salaries, wages or other similar income which public entertainers derive from their activities in one Contracting State when a substantial proportion of their stay in that State is financed, directly or indirectly, from public funds of the other Contracting State.

3. When the services referred to in paragraph 1 are provided in one Contracting State by an enterprise of the other Contracting State, the profits which the enterprise derives from providing such services shall be subject to taxation in the first State, unless the enterprise is financed largely from public funds of the other Contracting State for the purpose of providing such services.

Article 18. PENSIONS

Subject to the provisions of article 19, paragraph 1, income in the form of pensions or other remuneration for past employment arising in one Contracting State and paid to a resident of the other Contracting State shall be subject to taxation in the former State.

Article 19. PUBLIC SERVICE

1. Remuneration, including pensions, paid by a Contracting State or one of its local authorities either directly or out of funds created by it to any individual in respect of services rendered to that State or authority in the performance of government functions shall be subject to taxation in that State.

2. The provisions of articles 15, 16 and 18 shall apply to remuneration or pensions in respect of services rendered in connexion with any trade or business conducted by a Contracting State or one of its local authorities.

Article 20. STUDENTS AND APPRENTICES

An individual of one Contracting State who resides temporarily in the other Contracting State solely:

- (a) as a student at a recognized university, college or school in that other State; or
- (b) as an apprentice; or
- (c) as the recipient of a grant, allowance or award, primarily for the purpose of study or research, from a scientific, educational, religious or charitable organization,

shall not be subject to taxation in that other State in respect of monies received by him to cover maintenance, education or training costs or any amount representing remuneration for services rendered in that other State, provided that such services are connected with his studies or training or are necessary to meet his maintenance costs.

Article 21. PROFESSORS, TEACHERS AND RESEARCHERS

A resident of a Contracting State who, at the invitation of a university, college or other establishment belonging to the other Contracting State or to a non-profit-making organization, temporarily resides in that other State for the sole purpose of teaching or carrying out scientific research at such institution for a period not exceeding two years shall not be subject to taxation in that other State on the remuneration he received for such teaching or research.

Article 22. INCOME NOT EXPRESSLY MENTIONED

Elements of the income of a resident of a Contracting State which are not expressly mentioned in the foregoing articles of this Convention shall be subject to taxation in the State in which the income arises.

Article 23. METHOD FOR ELIMINATING DOUBLE TAXATION

Double taxation shall be avoided in the following manner:

1. *In the case of France*

(a) Income other than that mentioned in subparagraph (b) below shall be exempt from the French taxes mentioned in article 2, paragraph 3 (a), if such income is subject to taxation in Thailand by virtue of this Convention and Thai legislation.

(b) As regards income mentioned in articles 8, 10, 11, 12, 16 and 17 on which Thai tax has been levied in accordance with the provisions of those articles,

France shall grant to a resident of France receiving such income from a Thai source a tax credit equivalent to the amount of tax paid in Thailand, on the understanding that, in the case of the dividends referred to in article 10, the credit shall not exceed 25 per cent of the gross amount.

This tax credit, which shall not exceed the amount of French tax levied on the said income, shall be charged against the taxes mentioned in article 2, paragraph 3 (a), the assessments of which include the said income.

(c) Notwithstanding the provisions of subparagraphs (a) and (b), French tax may be computed on income subject to taxation in France under this Convention at the rate applicable to the total amount of the income subject to taxation under French legislation.

2. *In the case of Thailand*

(a) Income other than that mentioned in subparagraph (b) below shall be exempt from the Thai taxes mentioned in article 2, paragraph 3 (b), if such income is subject to taxation in France by virtue of this Convention and French legislation.

(b) As regards income mentioned in articles 8, 10, 11, 12, 16 and 17 on which French tax has been levied in accordance with the provisions of those articles, Thailand shall grant to a resident of Thailand receiving such income from a French source a tax credit to be charged against the Thai tax. This credit shall be based on the amount of tax paid in France, but shall not exceed that proportion of the Thai tax corresponding to the ratio of the net income arising in France to the global net income subject to Thai tax. In determining that global net income, no account shall be taken of any loss incurred in any country whatsoever.

(c) Notwithstanding the provisions of subparagraphs (a) and (b), Thai tax may be computed on income subject to taxation in Thailand under this Convention at the rate applicable to the global amount of income subject to taxation under the Thai legislation.

Article 24. NON-DISCRIMINATION

1. The nationals of one 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 that to which nationals of that other State in the same circumstances are or may be subjected.

2. The term "nationals" means:

- (a) all individuals possessing the nationality of a Contracting State;
- (b) all bodies corporate, companies and associations constituted in conformity with the legislation in force in a Contracting State.

3. The tax on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably assessed in that other State than the tax 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 the personal deductions, reliefs and rebates by reason of civil status or dependants which it grants to its own residents.

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 to any taxation or any requirement connected therewith which is other or more burdensome than that to which other similar enterprises of that first-mentioned State are or may be subject.

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

Article 25. AMICABLE SETTLEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the measures taken by one or both of the Contracting States result or will result for him in a tax assessment not in conformity with this Convention, he may, notwithstanding the remedies provided by the national legislation of those States, submit his case to the competent authority of the Contracting State of which he is a resident.

2. The competent authority shall endeavour, if the complaint appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to settle the matter by amicable agreement with the competent authority of the other Contracting State, with a view to the avoidance of tax assessments not in conformity with the Convention.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties arising in the application of the Convention. They may also take joint action to avoid double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the manner provided for in the preceding paragraphs. When it seems advisable in order to reach agreement to have a verbal exchange of opinions, such exchange may take place within a commission consisting of representatives of the competent authorities of the Contracting States.

5. The competent authorities shall determine procedures for the application of this Convention.

Article 26. EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary to apply the provisions of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention. Any information so exchanged shall be treated as secret and shall be disclosed only to persons or authorities, including courts, concerned with the assessment or collection of the taxes which are the subject of the Convention.

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

- (a) to carry out administrative measures at variance with its legislation, its administrative practice or that of the other Contracting State;
- (b) to supply information which is not obtainable under its own legislation or as part of its normal administrative practice or that of the other Contracting State;

- (c) to transmit 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*).

*Article 27. DIPLOMATIC AND CONSULAR OFFICIALS
AND INTERNATIONAL ORGANIZATIONS*

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

2. The Convention shall not apply to international organizations, to organs and officials thereof or to persons who, being members of a diplomatic or consular mission of a third State, are present in a Contracting State and are not treated as residents of either Contracting State in respect of taxes on income.

Article 28. TERRITORIAL EXTENSION

1. This Convention may be extended, as it stands or with any necessary modifications, by agreement between the Contracting States, to those Overseas Territories of the French Republic which levy taxes similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be laid down by agreement between the Contracting States by means of an exchange of notes through the diplomatic channel or any other procedure in accordance with their constitutional provisions.

2. Unless otherwise agreed by both Contracting States, on denunciation of the Convention by one of them under article 30, it shall, as provided for in that article, cease to apply to any territory to which it has been extended under this article.

Article 29. ENTRY INTO FORCE

1. This Convention shall be approved in accordance with the constitutional provisions in force in the two Contracting States and shall enter into force on the date of the exchange of notifications of the completion in each State of the required procedure.

2. Its provisions shall apply to:

- (i) in the case of taxes payable by deduction at source, sums transferred for payment on or after the date of entry into force of the Convention;
- (ii) in the case of other taxes on income, the fiscal years and accounting periods beginning on or after 1 January of the calendar year in which the Convention enters into force.

Article 30. DENUNCIATION

This Convention shall remain in force until denounced by a Contracting State. Either Contracting State may denounce the Convention through the diplomatic channel by giving notice of denunciation before the first day of July of any calendar year after the expiry of a period of five years from the date of entry into force of the Convention. In this case, the Convention shall cease to apply to:

- (1) in the case of taxes payable by deduction at source, sums transferred for payment after the first day of January of the calendar year following that in which notice was given;
- (2) in the case of other taxes on income, the fiscal year or accounting period following the year in which notice was given.

IN WITNESS WHEREOF the undersigned, duly authorized for the purpose by their respective Governments, have signed this Convention.

DONE at Bangkok, on 27 December 1974, in two copies in the French and Thai languages, both texts being equally authentic.

For the Government of the French Republic:

[Signed]

JEAN-LOUIS TOFFIN
Ambassador

For the Government of the Kingdom of Thailand:

[Signed]

CHARUN P. ISARANGKUN NA AYUTHAYA
Minister of Foreign Affairs

PROTOCOL

On proceeding to sign this day the Convention for the avoidance of double taxation and the prevention of income tax evasion, the undersigned have agreed on the following provisions:

Addendum to article 6

It is understood that the term "immovable property" as used in this Convention shall be defined in France in accordance with fiscal legislation.

Addendum to article 7

It is understood that the method adopted by Thailand to determine net income or net profit, on the basis of which taxpayers are authorized to subtract from their gross income a commensurate single deduction instead of deducting actual expenditures, does not violate the provisions of article 7, paragraph 2.

Addendum to article 12

It is agreed that as long as the rate of tax provided for in French legislation on royalties received by a French resident for the transfer or sale concession of the use of any patent, process or information in connexion with expertise in the industrial field does not exceed 10 per cent, the tax levied in the Contracting State in which such royalties arise shall not exceed 10 per cent.

IN WITNESS WHEREOF, the undersigned have signed this protocol which shall have the same force and validity as if it had been incorporated in its entirety into the Convention.

DONE at Bangkok, on 27 December 1974, in two copies in the French and Thai languages, both texts being equally authentic.

For the Government of the French Republic:

[Signed]

JEAN-LOUIS TOFFIN

Ambassador

For the Government of the Kingdom of Thailand:

[Signed]

CHARUN P. ISARANGKUN NA AYUTHAYA

Minister of Foreign Affairs
