

No. 22361

PHILIPPINES
and
THAILAND

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Manila on 14 July 1982

Authentic text: English.

Registered by the Philippines on 26 September 1983.

PHILIPPINES
et
THAÏLANDE

Convention en vue d'éviter la double imposition et de prévenir l'évasion fiscale en matière d'impôts sur le revenu. Signée à Manille le 14 juillet 1982

Texte authentique : anglais.

Enregistrée par les Philippines le 26 septembre 1983.

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF THE KINGDOM OF THAILAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

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

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed as follows:

Article 1. PERSONAL SCOPE

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 taxes on income imposed on behalf of each Contracting State, irrespective of the manner in which they are levied.

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

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

(a) In the case of the Philippines: the income taxes imposed under Title II of the National Internal Revenue Code of the Philippines, as amended, and all other taxes on income imposed by the Philippines (hereinafter referred to as "Philippine tax");

(b) In the case of Thailand:

(1) The income tax;

(2) The petroleum income tax

(hereinafter referred to as "Thai tax").

4. The Convention shall apply also to any identical or substantially similar taxes on income which are imposed after the date of signature of this Convention in addition to, or in place of, the existing taxes. At the end of each year, the competent authorities of the Contracting States shall notify each other of any significant change which has been made in their respective taxation laws.

Article 3. GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:

¹ Came into force on 13 April 1983 by the exchange of the instruments of ratification, which took place at Bangkok, in accordance with article 29 (2).

(a) (i) The term “Philippines” means the Republic of the Philippines and when used in a geographical sense means the national territory comprising the Republic of the Philippines;

(ii) The term “Thailand” means the Kingdom of Thailand and any area adjacent to the territorial waters of the Kingdom of Thailand which by Thai legislation has been or may hereafter be designated as an area within which the rights of the Kingdom of Thailand with respect to the seabed and sub-soil and their natural resources may be exercised;

(b) The terms “a Contracting State” and “the other Contracting State” mean, as the context requires, the Philippines or Thailand;

(c) The term “person” includes an individual, an estate, a trust, a company, and any other body of persons;

(d) The term “company” means any body corporate or any entity 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 carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(f) The term “international traffic” means any transport by a ship or aircraft operated by an enterprise of one of the Contracting States, except when the ship or aircraft is operated solely between places in the other Contracting State;

(g) The term “national” means:

(i) Any individual, possessing the citizenship or nationality of a Contracting State;

(ii) Any legal person, partnership or association created, organized or incorporated under the laws of a Contracting State;

(h) The term “competent authority” means:

(i) In the case of the Philippines, the Minister of Finance or his authorized representative;

(ii) In the case of Thailand, the Minister of Finance or his authorized representative;

(i) The term “tax” means the Philippine tax or the Thai tax as the context requires.

2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of that State concerning the taxes to which the Convention applies.

Notwithstanding the preceding paragraph, if the meaning of such term under the laws of one of the Contracting States is different from the meaning of the term under the laws of the other Contracting State, the competent authorities of the Contracting States may, in order to prevent double taxation or to further the purpose of this Convention, establish a common meaning of the term for the purpose of this Convention.

Article 4. RESIDENCE

1. For the purposes of this Convention, 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 incorporation or any other criterion of a similar nature. But this term 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:

- (a) He shall be deemed to be a resident 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 of the State with which his personal and economic relations are closer (centre of vital interests);
- (b) If the State in which he has his centre 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 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 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 of the State where it was incorporated.

Article 5. PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term “permanent establishment” means a fixed place of business through which the business of the enterprise is wholly or partly carried on.

2. The term “permanent establishment” includes especially:

- (a) A place of management;
- (b) A branch;
- (c) An office;
- (d) A factory;
- (e) A workshop;
- (f) A mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- (g) A building site or construction project where such site or project continues for a period of more than six months;
- (h) An assembly or installation project which exists for more than three months;
- (i) Premises used as a sales outlet;
- (j) A warehouse, in relation to a person providing storage facilities for others;
- (k) The furnishing of services, including consultancy services, by a resident of one of the Contracting States through employees or other personnel, provided activities of that nature continue (for the same or a connected project) within the other Contracting State for a period or periods aggregating more than 183 days.

3. Notwithstanding the preceding provisions of this article, the term “permanent establishment” shall be deemed not to include:

- (a) The use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- (e) The maintenance of a fixed place of business solely for the purpose of carrying on activities which have a preparatory or auxiliary character, for the enterprise, such as, advertising or scientific research.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State (other than an agent of an independent status to whom paragraph 5 applies) shall be deemed to be a permanent establishment in the first-mentioned State if:

- (a) He has, and habitually exercises in that State, an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for that enterprise; or
- (b) He habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise; or
- (c) He habitually secures orders in the first-mentioned State wholly or almost wholly for the enterprise or for the enterprise and other enterprises which control or are controlled by the former.

5. 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. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of the enterprise or for the enterprise and other enterprises which control or are controlled by the former, he shall not be considered an agent of an independent status within the meaning of this paragraph. In such a case, the provisions of paragraph 4 shall apply.

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 which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6. INCOME FROM IMMOVABLE PROPERTY

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

2. The term “immovable property” shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats 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 or has carried 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 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 deduction expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred whether in the State in which the permanent establishment is situated or elsewhere.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of a certain reasonable percentage of the gross receipts of the enterprise or on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this article.

5. Notwithstanding the provisions of paragraph 3, no deduction shall be allowed in respect of amounts paid or charged (other than reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of:

- (a) Royalties, fees or other similar payments in return for the use of patents or other rights;

- (b) Commission for specific services performed or for management; and
- (c) Interest on money lent to the permanent establishment.

6. 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.

7. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

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

Article 8. SHIPPING AND AIR TRANSPORT

1. Profits derived by an enterprise of a Contracting State from the operation in international traffic of ships or aircraft shall be taxable in that State.

2. Notwithstanding the provisions of paragraph 1, profits from sources within a Contracting State derived by an enterprise of the other Contracting State from the operation of ships or aircraft in international traffic may be taxed in the first-mentioned State but the tax so charged shall not exceed the lesser of

- (a) One and one-half per cent of the gross revenues derived from sources in that State; and
- (b) The lowest rate of Philippine tax that may be imposed on profits of the same kind derived under similar circumstances by a resident of a third State.

3. However, the tax so charged under paragraph 2, in the case of operation of ships in international traffic, shall not be less than fifty per cent of the tax which is chargeable under the laws of Thailand in force on the date of signature of this Convention.

4. The provisions of paragraphs 1, 2 and 3 shall also apply to profits derived from the participation in a pool, a joint business or an international operating agency.

Article 9. INSURANCE

Notwithstanding the provisions of articles 5 and 7, an insurance enterprise of a Contracting State, except in regard to reinsurance, shall be taxable in the other Contracting State according to the laws of that State, if it collects premiums in the territory of that other State or insures risks situated therein.

Article 10. 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 reasons 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 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 Convention and the competent authorities of the Contracting State shall, if necessary, consult each other.

3. A Contracting State shall not change the profits of an enterprise in the circumstances referred to in paragraph 1 after the expiry of the time limits provided in its national laws and, in any case, after five years from the end of the year in which the profits which would be subject to such change would have accrued to an enterprise of that State.

Article 11. 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 of the dividends is a company which holds directly at least 15 per cent of voting shares of the company paying the dividends, the tax so charged shall not exceed:

- (a) 15 per cent of the gross amount of the dividends if the company paying the dividends is a Philippine company or if the company paying the dividends is a Thai company engaged in an industrial undertaking;
- (b) 20 per cent of the gross amount of the dividends if the company paying the dividends is a Thai company not engaged in an industrial undertaking.

3. The provisions of paragraphs 1 and 2 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

4. (a) The term “dividends” as used in this article means income from shares, *jouissance* shares or *jouissance* rights, mining shares, founder’s shares or other rights, not being debt-claims, participating in profits as well as income assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident.

(b) The term “Thai company engaged in an industrial undertaking” means:

- (1) Any enterprise engaged in
 - (i) Manufacturing, assembling and processing,
 - (ii) Construction, civil engineering and shipbuilding,

- (iii) Production of electricity, hydraulic power, gas or the supply of water, or
- (iv) Agriculture, forestry and fishery and the carrying on of a plantation, or
- (2) Any other enterprise entitled to the privileges accorded under the laws of Thailand on the promotion of industrial investment, or
- (3) Any other enterprise which may be declared to be engaged in an industrial undertaking for the purpose of this article by the competent authority of Thailand.

5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, carries on in the other Contracting State of which the company paying the dividends is a resident, trade or business through a permanent establishment situated therein, or performs in that other State professional services from a fixed base situated therein, and the holding by virtue of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of article 7 or article 15, as the case may be, shall apply.

6. Where a company which is a resident of a Contracting State derived profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to persons who are resident of that State, 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 undistributed profits consist wholly or partly of profits or income arising in such other State.

7. Nothing in this Convention shall be construed as preventing a Contracting State from imposing a tax on the profits or any other sum which was set aside from profits or which may be regarded as profits remitted or disposed of by a permanent establishment of a company which is a resident of the other Contracting State, in addition to the ordinary corporate income tax which is chargeable against the profits of the said permanent establishment.

Article 12. 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 recipient is the beneficial owner of the interest the tax so charged shall not exceed:

- (a) 10 per cent of the gross amount of interest if:
 - (i) It arises in Thailand and is received by Philippine financial institutions (including insurance companies);
 - (ii) It arises in the Philippines in respect of public issues of bonds debentures or similar obligations;
- (b) 15 per cent of the gross amount of interest if it arises in the Philippines; and
- (c) 25 per cent of the gross amount of interest if it arises in Thailand.

3. The term "interest" as used in this article means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not

carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as income assimilated to income from money lent by the taxation law of the State in which the income arises, including interest on deferred payment sales. Penalty charges for late payment shall not be regarded as interest for purposes of this article.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, carries on in the other Contracting State in which the interest arises a trade or business through a permanent establishment situated therein, or performs in that other State professional 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 a case, the provisions of article 7 or article 15, as the case may be, shall apply.

5. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority, a statutory 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 that interest is borne by that permanent establishment or fixed base, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of interest paid, 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 recipient in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In that 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 Convention.

7. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to the Government of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State.

8. For the purposes of paragraph 7, the term "Government"

(a) In the case of the Philippines, means:

- (i) The Government of the Republic of the Philippines;
- (ii) The Central Bank of the Philippines;
- (iii) The Development Bank of the Philippines; and
- (iv) Such other institutions, the capital of which is wholly owned by the Government of the Republic of the Philippines or any local authorities, as may be agreed from time to time between the competent authorities of the two Contracting States;

(b) In the case of Thailand, means:

- (i) The Royal Government of Thailand;

- (ii) The Bank of Thailand;
- (iii) The local authorities; and
- (iv) Such institutions, the capital of which is wholly owned by the Royal Government of Thailand or any local authorities, as may be agreed from time to time between the competent authorities of the two Contracting States.

Article 13. ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties 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:

- (a) 15 per cent of the gross amount of the royalties if the royalties are paid:
 - (i) By an enterprise registered with the Philippine Board of Investments and engaged in preferred areas of activities; or
 - (ii) By an enterprise under the promotion of the Board of Investments of Thailand; or
 - (iii) In respect of cinematographic films or tapes for television or broadcasting;
- (b) 25 per cent of the gross amount of the royalties in all other cases.

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 cinematographic films or tapes for television or broadcasting, any patent, trade mark, design or model, plan secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 of this article shall not apply if the recipient 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 professional 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 a case, the provisions of article 7 or article 15 of this Convention, 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, statutory 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 in connection with which the contract under which the royalties are paid was concluded, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the

royalties paid 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 recipient in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In that 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 Convention.

Article 14. GAINS FROM THE ALIENATION OF PROPERTY

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 together with the whole enterprise) or of such a fixed base, may be taxed in that other State.

3. Gains derived by an enterprise of a Contracting State 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 that State.

4. Gains from the alienation of shares of a company, the property of which consists principally of immovable property situated in a Contracting State, may be taxed in that State. Gains from the alienation of an interest in a partnership or a trust, the property of which consists principally of immovable property situated in a Contracting State, may be taxed in that State.

5. Income derived from the alienation of intangible property or information mentioned in paragraph 3 of article 13 may be taxed in the Contracting State in which such income arises.

6. Income mentioned in paragraph 5 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 income whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or fixed base in connection with which the obligation to pay the income was incurred, and the payment of such income is borne by that permanent establishment or fixed base, then such income shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

7. Gains from the alienation of any property, other than those mentioned in paragraphs 1, 2, 3, 4, and 5 shall be taxable only in the Contracting State of which the alienator is a resident. Nothing in this paragraph shall prevent either Contracting State from taxing the gains or income from the sale or transfer of shares or other securities.

Article 15. PERSONAL SERVICES

1. Subject to the provisions of articles 16, 18, 19, 20 and 21, salaries, wages and other similar remuneration or income for personal (including professional)

services derived by a resident of a Contracting State, shall be taxable only in that Contracting State, unless the services are performed in the other Contracting State. If the services are so performed, such remuneration or income as is derived therefrom may be taxed in that other Contracting State.

2. Notwithstanding the provisions of paragraph 1, remuneration or income derived by a resident of a Contracting State for personal (including professional) services performed in the other Contracting State shall be taxable only in the first-mentioned Contracting State if:

- (a) The recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 90 days in the case of professional services and 183 days in other cases, in the calendar year concerned; and
- (b) The remuneration or income is paid by, or on behalf of, a person who is a resident of the first-mentioned Contracting State; and
- (c) The remuneration or income is not borne by a permanent establishment which that person has in the other Contracting State.

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

4. Notwithstanding the preceding provisions of this article, remuneration in respect of employment as a member of the regular crew or complement of 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

1. Directors' fees and other similar payments derived by 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.

2. The remuneration which a person to whom paragraph 1 applies derives from the company in respect of the discharge of day-to-day functions of a managerial or technical nature may be taxed in accordance with the provisions of article 15.

Article 17. ARTISTES AND ATHLETES

1. Notwithstanding the provisions of article 15, income derived by a resident of a Contracting State as an entertainer, such as a theater, motion picture, radio or television artiste, or a musician, or as an athlete, 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 an athlete in his capacity as such accrues not to that entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of articles 7 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. The provisions of paragraphs 1 and 2 of this article shall not apply to income derived from activities performed in a Contracting State by an entertainer or an athlete if the visit to that Contracting State is substantially supported by

public funds of the other Contracting State, including those of any political subdivision, local authority or statutory body thereof, nor to income derived by a non-profit organization in respect of such activities provided no part of its income is payable to, or is otherwise available for the personal benefit of its proprietors, members or shareholders and the organization is certified as qualifying under this provision by the competent authority of the other State.

4. Notwithstanding the provisions of article 7, where the activities mentioned in paragraph 1 of this article are provided in a Contracting State by an enterprise of the other Contracting State the profits derived from providing these activities by such an enterprise may be taxed in the first-mentioned Contracting State unless the enterprise is substantially supported from the public funds of the other Contracting State, including any political subdivision, local authority or statutory body thereof, in connection with the provisions of such activities, or unless the enterprise is a non-profit organization referred to in paragraph 3.

Article 18. PENSIONS

1. Subject to the provisions of paragraph 1 of article 19, pensions and other similar remuneration for past employment arising in a Contracting State shall be taxable only in that State.

2. The term "pensions" as used in this article means periodic payments made in consideration for past services rendered.

Article 19. GOVERNMENTAL FUNCTIONS

1. Remuneration including pension paid by or out of public funds of a Contracting State or a political subdivision or local authority or statutory body thereof to

(a) National of that Contracting State;

(b) An individual who is not national of the other Contracting State and goes to the other State solely for the purpose of being engaged by the first-mentioned State,

for services rendered to that State in the discharge of functions of a governmental nature shall be exempt from tax in the other State.

2. The provisions of paragraph 1 shall not apply to remuneration including pension paid in respect of services rendered in connection with any trade or business carried on by a Contracting State or a political subdivision or local authority or statutory body thereof.

Article 20. TEACHERS AND RESEARCHERS

1. An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State, and who, at the invitation of my university, college, school or other similar educational institution, which is recognized by the competent authority in that other Contracting State, visits that other Contracting State for a period not exceeding two years solely for the purpose of teaching or research or both at such educational institution shall be exempt from tax in that other Contracting State on his remuneration for such teaching or research.

2. This article shall not apply to income from research if such research is undertaken not in the general interest but primarily for the private benefit of a specific person or persons.

Article 21. STUDENTS AND TRAINEES

1. An individual who was a resident of a Contracting State immediately before visiting the other Contracting State and is temporarily present in that Contracting State solely as a student at a university, college or other similar educational institution or as a business apprentice shall, from the date of his first arrival in that Contracting State in connection with that visit be exempt from tax in that Contracting State:

- (a) On all remittance from abroad for purposes of his maintenance, education or training, and
- (b) For a period not exceeding in the aggregate five years, on any remuneration for personal services rendered in that Contracting State with a view to supplementing the resources available to him for such purposes.

2. An individual who was a resident of a Contracting State immediately before visiting the other Contracting State and is temporarily present in that Contracting State solely for the purpose of study, research or training as a recipient of a grant, allowance or award from a scientific, educational, religious or charitable organization or under a technical assistance program entered into by the Government of a Contracting State shall for a period not exceeding five years from the date of his first arrival in that Contracting State in connection with that visit be exempt from tax in that Contracting State on

- (a) The amount of such grant, allowance or award;
- (b) All remittances from abroad for the purposes of his maintenance, education or training; and
- (c) Any remuneration for personal services in that other Contracting State provided that such services are in connection with his study, research, training or incidental thereto.

3. An individual who was a resident of a Contracting State immediately before visiting the other Contracting State and is temporarily present in that Contracting State solely as a trainee for the purpose of acquiring technical, professional or business experience, shall for a period not exceeding two years from the date of his first arrival in that Contracting State in connection with that visit be exempt from tax in that Contracting State on:

- (a) All remittances from abroad for purposes of his maintenance, education or training; and
- (b) Any remuneration, for personal services rendered in that Contracting State, provided such services are in connection with his studies or training or incidental thereto.

Article 22. INCOME NOT EXPRESSLY MENTIONED

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing articles of this Convention shall be taxable only in that Contracting State except that, if such income is derived from sources within

the other Contracting State, it may also be taxed in accordance with the law of that other State.

Article 23. ELIMINATION OF DOUBLE TAXATION

1. In the case of the Philippines:

Subject to the laws of the Philippines regarding the allowance as a credit against Philippine tax of tax payable in any country other than the Philippines,

- (a) Thai tax payable in respect of income derived from Thailand shall be allowed as credit against the Philippine tax payable in respect of that income;
- (b) Where such income is a dividend paid by a company which is a resident of Thailand to a company which is a resident of the Philippines and which owns not less than 15 per cent of voting shares of the company paying the dividend, the credit shall take into account the Thai tax payable by that company in respect of its income; and
- (c) The credit shall not, however, exceed that part of the Philippine tax, as computed before the credit is given, which is appropriate to such item of income.

2. The term "Thai tax payable" shall be deemed to include the amount of Thai tax which would have been paid if the Thai tax had not been reduced in accordance with this Convention and/or the special incentive laws designed to promote economic development in Thailand, effective on the date of signature of this Convention, or which may be introduced in the future in the Thai taxation laws in modification of, or in addition to, the existing laws.

3. In the case of Thailand:

- (a) Philippine tax payable in respect of income derived from the Philippines shall be allowed as a credit against Thai tax payable in respect of that income;
- (b) Where such income is a dividend paid by a company which is a resident of the Philippines to a company which is a resident of Thailand or and which owns not less than 15 per cent of revoting shares of the company paying the dividend, the credit shall take into account the Philippine tax payable by that company in respect of its income; and
- (c) The credit shall not, however, exceed that part of the Thai tax, as computed before the credit is given, which is appropriate to such item of income.

4. The term "Philippine tax payable" shall be deemed to include the amount of Philippine tax which would have been paid if the Philippine tax had not been exempted or reduced in accordance with this Convention and/or special incentive laws designed to promote economic development in the Philippines, effective on the date of signature of this Convention, or which may be introduced in the future in the Philippine taxation laws in modification of, or in addition to, the existing laws.

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 and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

3. Nothing in this article shall be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5. Notwithstanding the preceding provisions of this article, either Contracting State may, in the promotion of necessary industry or business, limit to its nationals the enjoyment of tax incentives granted by it.

6. In this article, the term "taxation" means taxes, which are the subject of this Convention.

Article 25. MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, without prejudice to the remedies provided by the national laws of these States, address 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 Contracting State of which he is a national, an application in writing stating the grounds for claiming the provision of such taxation. To be admissible, the said application must be submitted within two years from the first notification of the action which gives rise to taxation not in accordance with the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate 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 not in accordance with the Convention.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretations or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 26. EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered

by the Convention insofar as the taxation thereunder is not contrary to the Convention. Any information so exchanged 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 concerned with the assessment, collection, or enforcement of, or litigation with respect to the taxes which are the subject of this Convention.

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

- (a) To carry out administrative measures at variance with the laws or the 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.

3. If specifically requested by the competent authority of a Contracting State, the competent authority of the other Contracting State shall provide information under this article in the form of depositions of witnesses and copies of unedited original documents (including books, papers, statements, records, accounts, or writings) to the same extent such depositions and documents can be obtained under the laws and administrative practices of each Contracting State with respect to its own taxes.

4. The exchange of information shall be either on a routine basis or on request with reference to particular cases. The competent authorities of the Contracting States may agree on the list of information which shall be furnished on a routine basis.

Article 27. DIPLOMATIC AND CONSULAR OFFICERS

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

Article 28. MISCELLANEOUS RULES

1. The provisions of this Convention shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit or other allowance now or hereafter accorded,

- (a) By the laws of one of the Contracting States in the determination of the tax imposed by that Contracting State, or
- (b) Any other agreement entered into by a Contracting State.

2. Nothing in this Convention shall be construed as preventing Thailand from imposing its tax on amounts included in the income of a resident of Thailand according to its domestic laws.

3. Nothing in this Convention shall be construed as preventing the Philippines from taxing its citizens in accordance with its domestic legislation. However, no credit shall be given for taxes paid pursuant to this reservation.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of applying this Convention.

Article 29. ENTRY INTO FORCE

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

2. The Convention shall enter into force upon the exchange of the instruments of ratification and its provisions shall have effect:

- (a) In respect of tax withheld at the source on amounts paid to non-residents on or after the first day of January in the calendar year in which the exchange of instruments of ratification takes place; and
- (b) In respect to other taxes for taxable years or accounting periods beginning on or after the first day of January in the calendar year in which the exchange of instruments of ratification takes place.

Article 30. TERMINATION

This Convention shall continue in effect indefinitely but either Contracting State may, on or before June 30 in any calendar year after the fifth year following the exchange of the instruments of ratification, give notice of termination to the other Contracting State and in such event the Convention shall cease to have effect:

- (a) In respect of tax withheld at the source on amounts paid to non-residents on or after the first day of January in the calendar year next following that in which the notice is given; and
- (b) In respect of other taxes for taxable years or accounting periods beginning on or after the first day of January in the calendar year next following that in which the notice is given.

IN WITNESS WHEREOF, the undersigned duly authorized thereto have signed this Convention.

DONE in duplicate at Manila, on this fourteenth day of July, one thousand nine hundred and eighty-two year of the Christian Era, in the English language.

For the Government
of the Republic of the Philippines:

[Signed]

CESAR E. A. VIRATA
Minister of Finance

For the Government
of the Kingdom of Thailand:

[Signed]

PRAJIT ROJANAPHRUK
Ambassador