

No. 24957

**CANADA
and
THAILAND**

**Convention for the avoidance of double taxation and the
prevention of fiscal evasion with respect to taxes on
income. Signed at Ottawa on 11 April 1984**

Authentic texts: English, French and Thai.

Registered by Canada on 16 July 1987.

**CANADA
et
THAÏLANDE**

**Convention en vue d'éviter les doubles impositions et de
prévenir l'évasion fiscale en matière d'impôts sur le
revenu. Signée à Ottawa le 11 avril 1984**

Textes authentiques : anglais, français et thaï.

Enregistrée par le Canada le 16 juillet 1987.

CONVENTION¹ BETWEEN CANADA AND THE KINGDOM OF
THAILAND FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION WITH RE-
SPECT TO TAXES ON INCOME

The Government of Canada 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:

CHAPTER I. SCOPE OF THE CONVENTION

Article I. PERSONAL SCOPE

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

Article II. 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, taxes on the total amounts of wages or salaries
paid by enterprises, as well as taxes on capital appreciation.

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

(a) In the case of Canada: the income taxes imposed by the Government of
Canada (hereinafter referred to as "Canadian tax");

(b) In the case of Thailand:

— The income tax; and

— The petroleum income tax

(hereinafter referred to as "Thai tax").

4. The Convention shall apply also to any identical or substantially similar
taxes which are imposed after the date of signature of the Convention in addition
to, or in place of, the existing taxes. The Contracting States shall notify each other
of significant changes which have been made in their respective taxation laws.

CHAPTER II. DEFINITIONS

Article III. GENERAL DEFINITIONS

1. In this Convention, unless the context otherwise requires:

(a) (i) The term "Canada" used in a geographical sense, means the territory
of Canada, including any area beyond the territorial seas of Canada which, under

¹ Came into force on 16 July 1985 by the exchange of the instruments of ratification, in accordance with article XXVIII (2).

the laws of Canada and in accordance with international law, is an area within which Canada may exercise rights with respect to the seabed and subsoil and their natural resources.

(ii) The term “Thailand” means the Kingdom of Thailand and includes any area adjacent to the territorial waters of the Kingdom of Thailand which by Thai Legislation, and in accordance with international law, 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 subsoil and their natural resources may be exercised.

(b) The terms “a Contracting State” and “the other Contracting State” means, as the context requires, Canada or Thailand.

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

(d) The term “company” means any corporation, 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 “competent authority” means:

- (i) In the case of Canada, the Minister of National Revenue or his authorized representative;
- (ii) In the case of Thailand, the Minister of Finance or his authorized representative.

(g) The term “tax” means Canadian tax or Thai tax, as the context requires.

(h) The term “national” means:

- (i) Any individual possessing the nationality of a Contracting State;
- (ii) Any legal person, partnership and association created under the laws in force in a Contracting State.

(i) The term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting State except where the principal purpose of the voyage is to transport passengers or goods between places in the other Contracting State.

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.

Article IV. RESIDENT

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 management, place of incorporation or any other criterion of a similar nature.

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 company is a resident of both Contracting States, then its status shall be determined as follows:

(a) It shall be deemed to be a resident of the State of which it is a national.

(b) If it is a national of neither of the States, it shall be deemed to be a resident of the State in which its place of effective management is situated.

4. Where by reason of the provisions of paragraph 1 a person other than an individual or a company is a resident of both Contracting States, the competent authorities of the Contracting States shall by mutual agreement endeavour to settle the question and to determine the mode of application of the Convention to such person.

Article V. PERMANENT ESTABLISHMENT

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

2. The term “permanent establishment” includes especially:

(a) A place of management;

(b) A branch;

(c) An office;

(d) A factory;

(e) A workshop;

(f) A warehouse in relation to a person providing storage facilities for others; and

(g) A mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. The term “permanent establishment” also includes:

(a) A building site or construction or assembly project or supervisory activities in connection therewith, and

(b) The furnishing of services, including consultancy services, by an enterprise through employees or other personnel, for the same or connected projects, within a country

but only where such site, project or activity lasts for a period or periods aggregating more than six months within any twelve-month period.

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

- (a) The use of facilities solely for the purpose of storage or display 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 or display;
- (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 for collecting information, for the enterprise;
- (e) The maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- (f) The maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e) provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. A person (other than an agent of an independent status to whom paragraph 6 applies) acting in a Contracting State on behalf of an enterprise of the other Contracting State shall be deemed to be a permanent establishment in the first-mentioned State, if:

- (a) He has, and habitually exercises in that first-mentioned State, an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph;
- (b) He maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders 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 are controlled by it or have a controlling interest in it.

6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, or merely because it maintains in that other State a stock of goods with an agent of an independent status from which deliveries are made by that agent, provided that such persons are acting in the ordinary course of their business. For this purpose, an agent shall not be considered to be an agent of an independent status if it acts as an agent exclusively or almost exclusively for the enterprise or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it and carries on any of the activities referred to in paragraph 5.

7. 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.

CHAPTER III. TAXATION OF INCOME

Article VI. 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. For the purposes of this Convention, 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 and to profits from the alienation of such 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 VII. 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 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 Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which is a permanent establishment.

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses of the enterprise (other than expenses which would not be deductible if the permanent establishment were a separate enterprise) 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, provided that they are directly related or reasonably allocable to the operation of the permanent establishment.

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

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

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

Article VIII. SHIPPING AND AIR TRANSPORT

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

2. Income or profits from the operation of ships in international traffic by an enterprise of a Contracting State may be taxed in the other Contracting State, but the tax imposed in that other State shall be reduced by an amount equal to 50 per cent of the tax otherwise imposed.

3. The provisions of paragraphs 1 and 2 shall also apply to income or profits referred to in those paragraphs derived by an enterprise of a Contracting State from its participation in a pool or a joint business.

Article IX. ASSOCIATED ENTERPRISES

1. Where

- (a) An enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- (b) The same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

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

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

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 six 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.

4. The provisions of paragraphs 2 and 3 shall not apply in the case of fraud, wilful default or neglect including a case where an enterprise has not filed a return within the time limit specified in the laws of the State of which it is a resident.

Article X. 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. Dividends paid by a company which is a resident of Canada to a resident of Thailand who is the beneficial owner of the dividends may be taxed in Canada in accordance with the laws of Canada but the tax so charged shall not exceed 15 per cent of the gross amount of the dividends. The provisions of this paragraph shall not affect the taxation of the company on the profits out of which the dividends are paid.

3. Dividends paid by a company which is a resident of Thailand to a resident of Canada who is the beneficial owner of the dividends may be taxed in Thailand in accordance with the laws of Thailand but, if the recipient of the dividends is a company, excluding a partnership, which holds directly at least 25 per cent of the capital of the Thai company, the tax so charged shall not exceed:

- (a) 15 per cent of the gross amount of the dividends if the Thai company paying the dividends engages in an industrial undertaking;
- (b) 20 per cent of the gross amount of the dividends in all other cases.

The provisions of this paragraph shall not affect the taxation of the company on the profits out of which the dividends are paid.

4. The term “dividends” as used in this Article means income from shares, mining shares, founders’ shares or other rights, not being debt-claims, participating in profits, as well as income which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

5. The term “industrial undertaking” as used in this Article means:

- (a) Any undertaking engaged in
 - (i) Manufacturing, assembling and processing,
 - (ii) Construction, civil engineering and ship-building,
 - (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; and
- (b) Any other undertaking entitled to the privileges accorded under the laws of Thailand on the promotion of industrial investment; and
- (c) Any other undertaking which may be declared to be an “industrial undertaking” for the purpose of this Article by the competent authority of Thailand.

6. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with

such permanent establishment or fixed base. In such case the provisions of Article VII or Article XIV, as the case may be, shall apply.

7. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

8. Notwithstanding any provision of this Convention

- (a) A company which is a resident of Thailand and which has a permanent establishment in Canada shall, in accordance with the provisions of Canadian law, remain subject to the additional tax on companies other than Canadian corporations, but the rate of such tax shall not exceed 15 per cent;
- (b) A company which is a resident of Canada and which has a permanent establishment in Thailand shall remain subject to taxes on disposal of profits out of Thailand in accordance with the provisions of Thai law, but the rate of such tax shall not exceed 25 per cent.

Article XI. 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) If that State is Canada, 15 per cent of the gross amount of the interest;
- (b) If that State is Thailand,
 - (i) 10 per cent of the gross amount of the interest if it is received by any financial institution (including an insurance company); and
 - (ii) 25 per cent of the gross amount of the interest in all other cases.

3. 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 State. For the purposes of this paragraph, the term "Government"

(a) In the case of Thailand, means the Royal Government of Thailand and shall include:

- (i) The Bank of Thailand;
- (ii) The political subdivisions and local authorities thereof; and
- (iii) Any institution, the capital of which is wholly owned by the Royal Government of Thailand, a political subdivision or a local authority thereof which is specified and agreed in letters exchanged between the competent authorities of the Contracting States.

(b) In the case of Canada, means the Government of Canada and shall include:

- (i) The Bank of Canada;
- (ii) The political subdivisions and local authorities thereof; and
- (iii) The Export Development Corporation of Canada.

4. 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 which is subjected to the same taxation treatment as income from money lent by the laws of the State in which the income arises. However, the term “interest” does not include income dealt with in Article X.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article VII or Article XIV, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article XII. 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 15 per cent of the gross amount of the royalties.

3. Notwithstanding the provisions of paragraph 2, copyright royalties and other like payments in respect of the production or reproduction of any literary,

dramatic, musical or artistic work (but not including royalties in respect of motion picture films and works on film or videotape for use in connection with television) arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in the 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 5 per cent of the gross amount of the royalties.

4. The term “royalties” as used in this Article means payments of any kind received as a consideration for the alienation or the use of, or the right to use, any copyright of literary, artistic or scientific work, 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 and includes payments of any kind in respect of motion picture films and works on film or videotape for use in connection with television.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article VI¹ or Article XIV, as the case may be, shall apply.

6. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article XIII. CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property 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

¹ Reads “Article VII” in the authentic French and Thai texts — Se lit « Article VII » dans les textes authentiques français et thaï.

fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such a fixed base may be taxed in that other State.

3. Gains from the alienation of ships or aircraft operated by an enterprise of a Contracting State in international traffic and movable property pertaining to the operation of such ships or aircraft shall be taxable only in that Contracting State.

4. Gains from the alienation of

(a) Shares of the capital stock of a company the property of which consists principally of immovable property situated in a Contracting State and

(b) An interest in a partnership, trust or estate, the property of which consists principally of immovable property situated in a Contracting State

may be taxed in that State. For the purposes of this paragraph, the term “immovable property” includes the shares of a company referred to in subparagraph (a) or an interest in a partnership, trust or estate referred to in subparagraph (b).

5. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3 and 4 above and paragraph 4 of Article XII, shall be taxable only in the Contracting State of which the alienator is a resident.

6. The provisions of paragraph 5 shall not affect the right of either of the Contracting States to levy, according to its law, a tax on gains from the alienation of any property derived by an individual who is a resident of the other Contracting State and has been a resident of the first-mentioned State at any time during the six years immediately preceding the alienation of the property.

Article XIV. INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless such activities are performed in the other Contracting State. However, income in respect of such professional services or other activities of an independent character performed in that other State may be taxed in that other State if:

(a) The recipient is present in that other State for a period or periods exceeding in the aggregate 90 days in the fiscal year concerned; or

(b) The recipient has a fixed base regularly available to him in that other State; or

(c) The income is borne by an enterprise or a permanent establishment situated in that other State;

in such cases, only so much of the income as may reasonably be attributable to such activities may be taxed in the other State.

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

Article XV. DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles XVI, XVIII and XIX, salaries, wages and other similar remuneration derived by a resident of a Contracting State

in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- (a) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned, and
- (b) The remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- (c) The remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State shall be taxable only in that State.

Article XVI. DIRECTORS' FEES

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 or a similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

Article XVII. ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles XIV and XV, income derived by entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are performed.

2. The provisions of paragraph 1 shall not apply to remuneration or profits, salaries, wages and similar income derived from activities performed in a Contracting State by entertainers and athletes if the visit to that Contracting State is, wholly or substantially, supported by public funds of the other Contracting State, including any political subdivision, local authority or statutory body thereof.

3. Notwithstanding the provisions of Article VII, where the activities mentioned in paragraph 1 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 State unless the enterprise is wholly or substantially supported by the public funds of the other State, including any political subdivision, local authority or statutory body thereof, in connection with the provision of such activities.

4. Where income in respect of personal activities exercised by an entertainer or 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 VII, XIV and XV, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

Article XVIII. PENSIONS

1. Pensions and other similar remuneration, whether they consist of periodic or non-periodic payments, for past employment, arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in the first-mentioned State.

2. For the purpose of paragraph 1 such remuneration for past employment shall be deemed to arise in a Contracting State if the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying such income, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment, and such income is borne by such permanent establishment, then such income shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

Article XIX. GOVERNMENT SERVICE

1. (a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

- (i) Is a national of that State; or
- (ii) Did not become a resident of that State solely for the purpose of rendering the services.

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

Article XX. STUDENTS

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

Article XXI. OTHER INCOME

1. Subject to the provisions of paragraph 2, items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

2. However, if such income is derived by a resident of a Contracting State from sources in the other Contracting State, such income may also be taxed in the State in which it arises, and according to the laws of that State. However, in the case of income from an estate or trust derived from sources in Canada by a resident of Thailand who is the beneficial owner thereof, the tax charged in Canada shall not exceed 15 per cent of the gross amount of the income.

CHAPTER IV. METHODS FOR PREVENTION OF DOUBLE TAXATION

Article XXII. ELIMINATION OF DOUBLE TAXATION

1. In the case of Canada, double taxation shall be avoided as follows:

(a) Subject to the existing provisions of the law of Canada regarding the deduction from tax payable in Canada of tax paid in a territory outside Canada and to any subsequent modification of those provisions — which shall not affect the general principle hereof — and unless a greater deduction or relief is provided under the laws of Canada, tax payable in Thailand on profits, income or gains arising in Thailand shall be deducted from any Canadian tax payable in respect of such profits, income or gains.

(b) Subject to the existing provisions of the law of Canada regarding the determination of the exempt surplus of a foreign affiliate and to any subsequent modification of those provisions — which shall not affect the general principle hereof — for the purpose of computing Canadian tax, a company resident in Canada shall be allowed to deduct in computing its taxable income any dividend received by it out of the exempt surplus of a foreign affiliate resident in Thailand.

2. In the case of Thailand, double taxation shall be avoided as follows:

The amount of tax payable in Canada, under the laws of Canada and in accordance with the provisions of this Convention, whether directly or by deduction, by a resident of Thailand in respect of income from sources within Canada, which has been subjected to tax in Canada, shall be allowed as a credit against Thai tax payable in respect of such income, but in an amount not exceeding that proportion of Thai tax which such income bears to the entire income chargeable to Thai tax. For the purpose of determining such entire income, a loss incurred in any country shall not be taken into account.

3. For the purposes of paragraph 1 (a), the term “tax payable in Thailand” shall be deemed to include any amount which would have been payable as Thai tax for any year but for an exemption or reduction of tax granted with a view to promoting industrial, commercial, scientific, educational or other development in Thailand, for that year or any part thereof under:

(a) The provisions of the Special Incentive Laws designed to promote economic development in Thailand so far as they were in force on, and have not been modified since, the date of signature of this Convention, or have been modified only in minor respects so as not to affect their general character; or

(b) Any other provision which may subsequently be made granting an exemption or reduction of tax which is agreed by the competent authorities of the Contracting States to be of a substantially similar character, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character.

Provided that relief from Canadian tax shall not be given by virtue of this paragraph in respect of income from any source if the income arises in a period starting more than ten years after the exemption from or reduction of Thai tax was first granted in respect of that source.

Provided further that any deduction from Canadian tax granted in accordance with the provisions of this paragraph in respect of dividends or interest paid to an individual shall not exceed 15 per cent of the gross amount thereof; and in respect

of dividends paid to a company, other than a company referred to in paragraph 3 of Article X, or in respect of interest paid to a company shall not exceed 20 per cent of the gross amount thereof.

4. For the purposes of this Article, profits, income or gains of a resident of a Contracting State which are taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources in that other State.

CHAPTER V. SPECIAL PROVISIONS

Article XXIII. NON-DISCRIMINATION

1. The 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, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of a third State, are or may be subjected.

5. In this Article, the term "taxation" means taxes which are the subject of this Convention.

Article XXIV. MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, address to the competent authority of the Contracting State of which he is a resident an application in writing stating the grounds for claiming the revision 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 referred to in paragraph 1 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 interpretation or application of the Convention. In particular, the competent authorities of the Contracting States may consult together to endeavour to agree:

- (a) To the same attribution of profits to a resident of a Contracting State and its permanent establishment situated in the other Contracting State;
- (b) To the same allocation of income between a resident of a Contracting State and any associated person provided for in Article IX.

4. The competent authorities of the Contracting States may consult together for the elimination of double taxation in cases not provided for in the Convention.

Article XXV. 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. The exchange of information is not restricted by Article I. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

- (a) To carry out administrative measures at variance with the laws 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 (*ordre public*).

Article XXVI. DIPLOMATIC AGENTS AND CONSULAR OFFICERS

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

2. Notwithstanding Article IV, an individual who is a member of a diplomatic mission, consular post or permanent mission of a Contracting State which is situated in the other Contracting State or in a third State shall be deemed for the purposes of the Convention to be a resident of the sending State if he is liable in the sending State to the same obligations in relation to tax on his total income as are residents of that sending State.

3. The Convention shall not apply to International Organizations, to organs or officials thereof and to persons who are members of a diplomatic mission, con-

sular post or permanent mission of a third State, being present in a Contracting State and who are not liable in either Contracting State to the same obligations in relation to tax on their total income as are residents thereof.

Article XXVII. 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 a Contracting State in the determination of the tax imposed by that State, or
- (b) By any other agreement entered into by a Contracting State.

2. Nothing in the Convention shall be construed as preventing Canada from imposing a tax on amounts included in the income of a resident of Canada according to section 91 of the Canadian Income Tax Act.

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

CHAPTER VI. FINAL PROVISIONS

Article XXVIII. ENTRY INTO FORCE

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

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

(a) In Canada:

- (i) In respect of tax withheld at the source on amounts paid or credited 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
- (ii) In respect of other Canadian tax for taxation years beginning on or after the first day of January in the calendar year in which the exchange of instruments of ratification takes place.

(b) In Thailand:

- (i) In respect of withholding taxes, on amounts payable on or after the first day of January in the calendar year in which the exchange of instruments of ratification takes place; and
- (ii) In respect of other taxes, for tax 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 XXIX. TERMINATION

This Convention shall continue in effect indefinitely but either Contracting State may terminate the Convention, through diplomatic channels, by giving to the other Contracting State, written notice of termination on or before June 30 in any calendar year from the fifth year from the year in which the Convention entered into force. In such event, the Convention shall cease to have effect:

(a) In Canada:

- (i) In respect of tax withheld at the source on amounts paid or credited 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
- (ii) In respect of other Canadian tax for taxation years beginning on or after the first day of January in the calendar year next following that in which the notice is given.

(b) In Thailand:

- (i) In respect of withholding taxes, on amounts payable on or after the first day of January in the calendar year next following that in which the notice is given; and
- (ii) In respect of other taxes, for tax 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 by their respective Governments, have signed this Convention.

DONE in duplicate at Ottawa, this 11th day of April 1984 in the English, French and Thai languages, each version being equally authentic.

EN FOI DE QUOI, les soussignés, dûment autorisés à cet effet par leurs Gouvernements respectifs, ont signé la présente Convention.

FAIT en double exemplaire à Ottawa, ce 11^e jour d'avril 1984 dans les langues française, anglaise et thaïe, chaque version faisant également foi.

เพื่อเป็นพยานแก่การนี้ บุคลากรข้างท้ายซึ่งได้รับมอบอำนาจโดยถูกต้อง
จากรัฐบาลแต่ละฝ่าย ได้ลงนามสนธิสัญญานี้

ทำ ณ กรุงออตตาวา เมื่อวันที่ ๑๑ เมษายน ค.ศ. ๑๙๘๔
คู่กันเป็นสองฉบับ เป็นภาษาอังกฤษ อังกฤษ และไทย แต่ละภาษาถูกต้องเท่าเทียมกัน

[Signed — Signé]

For the Government of Canada:
Pour le Gouvernement du Canada :

สำหรับรัฐบาลแห่งแคนาดา:
GERALD A. REGAN

[Signed — Signé]

For the Government of the Kingdom of Thailand:
Pour le Gouvernement du Royaume de Thaïlande :

สำหรับรัฐบาลแห่งราชอาณาจักรไทย:
SIDDHI SAVETSILA