



Double Taxation Avoidance Agreement between Thailand and Belgium

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DEZAN SHIRA & ASSOCIATES

Corporate Establishment, Tax, Accounting & Payroll Throughout Asia

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AGREEMENT
BETWEEN
THE KINGDOM OF THAILAND
AND
THE KINGDOM OF BELGIUM
FOR THE AVOIDANCE OF DOUBLE TAXATION AND
THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Government of the Kingdom of Thailand and the Government of the Kingdom of Belgium

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital

Have agreed as follows:

CHAPTER I
SCOPE OF THE AGREEMENT

ARTICLE 1

Personal scope

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

ARTICLE 2

Taxes covered

1. This Agreement shall apply to taxes on income and on capital imposed on behalf of each Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which the Agreement shall apply are, in particular: alienation of movable or immovable property, taxes on the total amounts of wages

(a) in Belgium:

- (1) the individual income tax;
- (2) the corporate income tax;
- (3) the income tax on legal entities;
- (4) the income tax on non-resident; including the prepayments, the surcharges on these taxes and prepayments, and the communal, supplement to the individual income tax,
(hereinafter referred to as “Belgian tax”);

(b) in Thailand:

- (1) the income tax;
- (2) the local development tax;
- (3) the petroleum income tax;
(hereinafter referred to as “Thai tax”).

4. The Agreement shall also apply to any taxes on income and on capital as are mentioned in paragraph 2 which are imposed in either Contracting State after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify to each other any significant changes which have been made in their respective taxation laws.

CHAPTER II

DEFINITIONS

ARTICLE 3

General Definitions

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

- (a) the term “Belgium” means the Kingdom of Belgium and,
when used in a geographical sense, it includes any area

outside the Belgian national sovereignty which has been or may hereafter be designated, under the Belgian laws concerning the continental shelf and in accordance with international law, as an area within which the rights of Belgium with respect to the seabed and subsoil and their natural resources may be exercised;

- (b) 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, 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;
- (c) the terms “a Contracting State” and “the other Contracting State” mean Belgium or Thailand, as the context requires;
- (d) the term “person” comprises an individual, a company and any other body of persons;
- (e) the term “company” means any body corporate or any entity, and group or body of persons, which is treated as a body corporate for tax purposes in the Contracting State of which it is a resident;
- (f) 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;
- (g) the term “nationals” means:
 - (1) all individuals possessing the nationality of a Contracting State;
 - (2) all legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State;
- (h) the term “international traffic” includes traffic between places

in one Contracting State in the course of a voyage

which extends over more than one country;

- (i) the term “competent authority” means:
 - (1) in the case of Belgium, the Minister of Finance or his authorised representative;
 - (2) in the case of Thailand, the Minister of Finance or his authorised representative.

2. As regards the application of the Agreement by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the Agreement.

ARTICLE 4

Fiscal domicile

1. For the purposes of this Agreement, the term “resident of a Contracting State” means any person whose income or capital, under the law of that State, is subject to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that Contracting State in respect only of income from sources therein or capital situated 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 Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);
- (b) If the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) If he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- (d) If he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a company is a resident of both Contracting States, it shall be deemed to be a resident of the Contracting State in which it is incorporated or under the law of which it derives its status as a company, If the company under this criterion still is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

ARTICLE 5

Permanent establishment

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

2. The term “permanent establishment” shall include especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a warehouse;
- (g) a mine, quarry, oil or gas well or other place of extracting of natural resources;
- (h) a building site or construction of assembly project which exists for more than six months.

3. The term “permanent establishment” shall not be deemed 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 for collecting information, for the enterprise;

- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State other than a broker, general commission agent or any other agent of an independent status to whom paragraph 5 applies-shall be deemed to be a permanent establishment in the first-mentioned State, but only if

- (a) he has and habitually exercises in the first-mentioned State, an authority to conclude contracts for or in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or
- (b) he habitually maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly delivers goods or merchandise for or in the name of the enterprise; or
- (c) he habitually secures orders in the first-mentioned State wholly or almost wholly for the enterprise itself, or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business. This shall not apply if such broker or agent carries on in that other state an activity described in paragraph 4 wholly or almost wholly for the enterprise itself or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it.

6. Notwithstanding the provisions of paragraphs 4 and 5 an insurance enterprise of one of the Contracting States shall be deemed to have a permanent establishment in the other State if it collects premiums in that other State or insures risks situated therein through an agent as is mentioned in paragraph 4 or an agent of an independent status who has and habitually exercises an authority to conclude contracts in the name of the enterprise.

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 6

Income from immovable property

1. Income from immovable property including income from agriculture or forestry may be taxed in the Contracting State in which such property is situated.
2. The term “immovable property” shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in 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 professional services.

ARTICLE 7

Business profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3 where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be

expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of, and are directly related to 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. 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 Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8

Shipping and air transport

1. Income from the operation of aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. Income from the operation of ships in international traffic by an enterprise having a place of effective management in 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 thereof.
3. The provisions of paragraphs 1 and 2 shall likewise apply to income arising from participations in pools of any kind by enterprises engaged in shipping or air transport.

ARTICLE 9

Associated enterprises

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, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

ARTICLE 10

Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident, but
 - (a) the Thai tax shall not exceed:
 - (1) 20 per cent of the gross amount of the dividends if the company paying the dividends engages in an industrial undertaking or if the recipient of the dividends is a company which is a resident of Belgium owning at least 25 per cent of the voting shares of the company paying the dividends;
 - (2) 15 per cent of the gross amount of the dividends if the company paying the dividends engages in an industrial undertaking and the recipient of the dividends is a company which is a resident of Belgium owning at least 25 per cent of the voting shares of the former company;
 - (b) the Belgian tax shall not exceed:
 - (1) 15 percent of the gross amount of the dividends, if the recipient of the dividends is a company which is a resident of Thailand owning at least 25 per cent of the voting shares of the company paying the dividends;

- (2) 20 per cent of the gross amount of the dividends in all other cases if the recipient of the dividends is a company which is a resident of Thailand.

3. The term “dividends” as used in this Article means income from shares, “jouissancez’ shares or “jouissance” rights, mining shares, founders’ shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the taxation law of the State of which the company making the distribution is a resident. This term means also income, even when paid in the form of interest, which is taxable under the head of income on capital invested by the members of a company other than a company with share capital, which is a resident of Belgium.

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

- (a) any undertaking engaged in
 - (1) manufacturing, assembling and processing,
 - (2) construction, civil engineering and ship building,
 - (3) mining and exploration for and exploitation of natural resources,
 - (4) production of electricity, hydraulic power, gas or the supply of water, or
 - (5) 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.

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 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 professional 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 a case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. 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, to a resident of that first mentioned State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State; this provision shall not prevent that other State from taxing dividends relating to a holding which is effectively connected with a permanent establishment or a fixed base situated in that other State.

ARTICLE 11

Interest

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

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

- (a) 10 per cent of the gross amount of the interest which is paid to a financial institution (including an insurance company);
- (b) 25 per cent of the gross amount of all other interest.

3. Notwithstanding the provisions of paragraph 2, a Contracting State shall be exempt from tax in the other Contracting State with respect to interest derived from sources in that other Contracting State.

For the purposes of this paragraph, the term "Contracting State"

- (a) in the case of Belgium means the Government of the Kingdom of Belgium and shall include:
 - (1) any political subdivision or local authority of Belgium;
 - (2) The National Bank of Belgium; and
 - (3) such institutions, the capital of which is wholly owned by the Government of the Kingdom of Belgium or the political subdivisions or local authorities of Belgium as may be agreed from time to time between the competent authorities of both Contracting States;
- (b) in the case of Thailand means the Government of the Kingdom and shall include :
 - (1) any local authority of Thailand;

- (2) the Bank of Thailand; and
- (3) such institutions, the capital of which is wholly owned by the Government of the Kingdom of Thailand or the local authorities of Thailand, as may be agreed from time to time between the competent authorities of both Contracting States.

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 bonds or debentures. However, the term “interest” does not include for the purpose of this Article, penalty charges for late payment, not interest treated as dividends under paragraph 3 of Article 10.

5. 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 business in the other Contracting State in which the interest arises, 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 14, 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State on which the permanent establishment is situated.

7. 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 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 of the interest may be taxed in the Contracting State in which the interest arises according to the law of that State.

ARTICLE 12

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 be taxed in the Contracting State in which they arise and according to the law of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed:
 - (a) 5 per cent of the gross amount of the royalties if they are paid as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work;
 - (b) 15 per cent of the gross amount of the royalties if they are paid as a consideration for the use of, or the right to use, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience, or for the use of, or the right to use, cinematograph films and tapes for television or broadcasting.
3. The provisions of paragraphs 1 and 2 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 14, as the case may be, shall apply.
4. Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a political subdivision, a local authority or a resident of that Contracting State. Where, however, the person paying the royalties, whether he is resident of a Contracting state or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and the royalties were incurred, and the royalties are borne by such permanent establishment, then the royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.
5. 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 royalties may be taxed in the Contracting State in which the royalties arise, according to the law of that State.

6. The provisions of this Article shall likewise apply to the gains from the alienation of any right or property giving rise to royalties as mentioned in paragraph 2.

ARTICLE 13

Capital gains

1. Gains from the alienation of immovable property, as defined in paragraph, 2 of Article 6 may be taxed in the Contracting State in which such property is situated.

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 professional 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 the other State. However, gains from the alienation of movable property of the kind referred to in paragraph 3 of Article 22 shall be taxable only in the Contracting State in which such movable property is taxable according to the said Article.

3. Subject to the provisions of Article 12, gains from the alienation of any property other than those mentioned in paragraphs 1 and 2, shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 14

Personal services

1. Subject to the provisions of Articles 15, 17, 18, 19 and 20, salaries, wages and other similar remuneration or income derived by a resident of a Contracting State in respect of personal (including professional) services shall be taxable only in that State unless the services are rendered in the other Contracting State. If the services are so rendered, such remuneration or income as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration or income derived by a resident of a Contracting state in respect of services rendered 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 fiscal year concerned, and
- (b) the services are rendered for or on behalf of a person who is resident of the first-mentioned State, and
- (c) the remuneration or income is not deducted from any profits taxable in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

ARTICLE 15

Directors' fees

1. Directors' fees and 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.

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 14.

ARTICLE 16

Artistes and Athletes

1. Notwithstanding the provisions of Article 14, income derived by public 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 public entertainers if the visit

to that Contracting State is substantially supported by public funds of the other Contracting State, including any political subdivision or local authority thereof.

3. Notwithstanding the provisions of Article 7, 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 Contracting State unless the enterprise is substantially supported by public funds of the other Contracting State, including any political subdivision or local authority thereof, in connection with the provision of such activities.

ARTICLE 17

Pensions

1. Subject to the provisions of Article 18, pensions or other remuneration for past employment arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in the first - mentioned State.

2. Pensions or other remuneration for past employment shall be deemed to arise in a Contracting State if the payer is that State itself, a political subdivision or 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 the permanent establishment, then the income shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

ARTICLE 18

Government service

1. (a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to any individual in respect of services rendered to that state or subdivision or local authority thereof 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 recipient is a resident of that State who:
 - (1) is a national of that State; or

- (2) did not become a resident of that State solely for the purpose of performing the services.
- 2.
 - (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof shall be taxable only in that State.
 - (b) However, such pension shall be taxable only in the other Contracting State if the recipient is a national of and a resident of that State.
- 3. The provisions of Articles 14, 15 and 17 shall apply to remuneration and pensions in respect of services rendered in connection with any business carried on by one of the Contracting State or a political subdivision or a local authority thereof.

ARTICLE 19

Students

A resident of a Contracting State, who temporarily visits the other Contracting State solely

- (a) as a Student at a university, college or school in that other State,
- (b) as a business or technical apprentice, or
- (c) as the recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific or educational organization, shall not be taxed in that other State in respect of payments received from sources outside that State for the purpose of his maintenance, education or training, or in respect of scholarship grant. The same shall apply to any reasonable amount representing remuneration for services rendered in that other State, provided that such services are in connection with his studies or training or are necessary for the purpose of his maintenance. However, this clause shall not apply to such cases in which the studies or practices have a

secondary character in respect of services rendered that are producing the said remuneration.

ARTICLE 20

Professors, teachers and researchers

A resident of Contracting State who, at the invitation of a university, college or other establishment for higher education or scientific research in the other Contracting State, visits that other State solely for the purpose of teaching or scientific research at such institution for a period not exceeding two years shall not be taxed in that other State on his remuneration for such teaching or research.

be taxed in that other Contracting State.

CHAPTER IV

TAXATION OF CAPITAL

ARTICLE 22

Capital

1. Capital represented by immovable property, as defined in paragraph 2 of Article 6 may be taxed in the Contracting State in which such property is situated.
2. Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the performance of professional services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.
3. Ships and aircraft operated in international traffic, and movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

CHAPTER V
ELIMINATION OF DOUBLE TAXATION

ARTICLE 23

Exemption and credit methods

1. In the case of Belgium, double taxation shall be avoided as follows:
 - (a) Where a resident of Belgium derives income which may be taxed in Thailand in accordance with the provisions of the Agreement and which is not subject to the provisions of subparagraphs (b), (c) and (d) below, or possesses elements of capital which may be taxed in Thailand in accordance with the provisions of the Agreement, Belgium shall exempt such income and such elements of capital from tax but may, in calculating the amount of tax on the remaining income or capital of that resident, apply to rate of tax which would have been applicable if such income or elements of capital had not been exempted.
 - (b) In the case of dividends taxable in accordance with paragraph 2 of Article 10 and not exempt from Belgian tax according to subparagraph (d) below, interest taxable in accordance with paragraphs 2 or 7 of Article 11 and royalties taxable in accordance with paragraphs 2 or 5 of Article 12, not including gains dealt with in paragraph 6 of Article 12, the fixed proportion in respect of the foreign tax for which provision is made under Belgian law shall, under the conditions and at the rate provided for by such law, be allowed as a credit against Belgian tax relating to such income.
 - (c) Where a resident of Belgium derives income to which the provisions of Article 21 apply and which has been taxed in Thailand, the amount of Belgian tax attributable to such income shall not exceed the amount which would be charged according to Belgian law if such income were taxed as

earned income derived from sources outside Belgium and subject to foreign tax.

- (d) Where a company which is a resident of Belgium owns shares or their rights in a company with share capital which is a resident of Thailand and which is subject to Thai tax on its profits, the dividends which are paid to it by the latter company and which may be taxed in Thailand in accordance with paragraph 2 of Article 10 shall be exempt from the corporate income tax in Belgium to the extent that exemption would have been accorded if the two companies had been residents of Belgium.
- (e) Where, in accordance with Belgian law, losses of an enterprise carried on by a resident of Belgium which are attributable to a permanent establishment situated in Thailand have been effectively deducted from the profits of that enterprise for its taxation in Belgium, the exemption provided in subparagraph (a) shall not apply in Belgium to the profits of other taxable periods attributable to that establishment to the extent that those profits have also been exempted from tax in Thailand by reason of compensation for the said losses.

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

- (a) Belgian tax payable in respect of income derived from Belgium shall be allowed as a credit against Thai tax payable in respect of that income. 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. However, where such income is a dividend paid by a company which is a resident of Belgium to a company which is a resident of Thailand and which owns not less than 25 per cent of the voting shares of the company paying the dividend, Thailand shall exempt such income from tax but may, in calculating tax on the remaining income of that

person, apply the rate of tax which would have been applicable if the exempted income had not been so exempted.

- (b) where a resident of Thailand owns capital which, in accordance with the provisions of this agreement, may be taxed in Belgium, Thailand shall exempt such capital from tax.

CHAPTER VI

SPECIAL PROVISIONS

ARTICLE 24

Non-Discrimination

1. The nationals of a Contracting State, whether or not they are residents of one of the Contracting States, 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 taxation levied on enterprises of that other State carrying on the same activities.

This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status of family responsibility which it grants to its own residents.

3. Except where the provisions of Article 9, of paragraph 7 of Article 11 or of paragraph 5 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

Similarly, any debts of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible as if they had been contracted to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting 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 that first-mentioned State are or may be subjected.
5. Nothing in this Article shall be construed as preventing Belgium:
- (a) from taxing the total amount of the profits attributable to a permanent establishment in Belgium of a company being a resident of Thailand or of an association having its place of effective management in Thailand at the rate of tax provided by the Belgian law, but this rate may not exceed the maximum rate applicable to the profits of companies which are residents of Belgium;
 - (b) from imposing the movable property prepayment on dividends derived from a holding which is effectively connected with a permanent establishment or a fixed base maintained in Belgium by a company which is a resident of Thailand or by an association which has its place of effective management in Thailand and is taxable as a body corporate in Belgium.
6. In this Article the term “taxation” means taxes of every kind and description.

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 Agreement, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. This case must be presented within three years from the first notification of the action giving rise to taxation not in accordance with the Agreement.

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 which is not in accordance with the Agreement.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the application of the agreement.
4. The competent authorities of the Contracting State shall agree on administrative measures necessary to carry out the provisions of the Agreement, particularly on the proofs to be furnished by residents of either Contracting State in order to benefit in the other Contracting State from the exemptions and reductions in tax provided for in the Agreement. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

ARTICLE 26

Exchange of information

1. The competent authorities of the Contracting State shall exchange such information as is necessary for the carrying out of this Agreement and of the domestic laws of the Contracting States concerning taxes covered by this Agreement insofar as the taxation thereunder is in accordance with this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed, apart from the taxpayer or his agent, to any persons, authorities or courts other than those concerned with the assessment or collection of the taxes which are the subject of this agreement or the determination of appeals or the prosecution of offences in relation thereto.
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 particulars which are 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 processing, or information, the disclosure of which would be contrary to public policy.

ARTICLE 27

Aid in recovery of taxes

1. The Contracting States shall lend aid and assistance to each other in order to notify and recover taxes mentioned in Article 2 as well as surcharges, additions interest, costs and fines of a non-penal nature.
2. On the request of the competent authority of a Contracting State, the competent authority of the other Contracting State shall secure, in accordance with the legal provisions and regulations applicable to the notification and recovery of the said taxes of the latter State, the notification and recovery of fiscal debt-claims referred to in paragraph 1 which are due in the first-mentioned State. Such debt-claims shall not be considered as preferential claims in the requested State and that State shall not be obliged to apply any means of enforcement which are not authorised by the legal provisions and regulations of the requesting State.
3. Requests referred to in paragraph 2 shall be supported by an official copy of the instrument permitting the execution in the requesting State and, where appropriate, by an official copy of any final administrative or judicial decision.
4. With regard to fiscal debt-claims which are open to appeal, the competent authority of a Contracting State may, in order to safeguard its rights, request the competent authority of the other Contracting state to take the protective measures provided for in its legislation. The provisions of paragraphs 1 to 3 shall apply, mutatis mutandis, to such measures.
5. The second sentence of paragraph 1 of Article 26 shall also apply to any information which, by virtue of this Article, is supplied to the competent authority of the requested State.

ARTICLE 28

Miscellaneous

1. As regards a company which is a resident of Belgium, the provisions of this Agreement shall not limit its taxation in accordance with the Belgian law in the event of the repurchase of its own shares or in the event of the distribution of its assets.

2. Nothing in this Agreement shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.
3. For the purposes of this Agreement, persons who are members of a diplomatic or consular mission of a Contracting State in the other Contracting State or in a third State and who are nationals of the sending State, shall be deemed to be residents of the sending State if they are subjected therein to the same obligations in respect of taxes on income and on capital as are residents of that State.
4. This Agreement shall not apply to international organizations, to organs or officials thereof and to persons who are members of a diplomatic or consular 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 respect of taxes on income and on capital as are residents of that State.
5. The competent authorities of the Contracting States shall communicate directly with each other for the application of this Agreement.

CHAPTER VII

FINAL PROVISIONS

ARTICLE 29

Entry into force

1. This Agreement shall be ratified and the instruments of ratification shall be exchanged at Brussels as soon as possible.
2. The Agreement shall enter into force on the thirtieth day after the date of exchange of the instruments of ratification and its provisions shall have effect :
 - (a) in Belgium :
 - (1) in respect of taxes due at source, on income credited or payable on or after the first day of January in the calendar year in which the instruments of ratification are exchanged ;
 - (2) in respect of taxes other than taxes due at source, on income of any accounting period beginning on or after the first day of January in the calendar year in which the instruments of ratification are exchanged;
 - (b) in Thailand:

- (1) in respect of taxes on income, for the income of the calendar years or accounting periods beginning on or after the first day of January of the calendar year in which the instruments of ratification are exchanged;
- (2) in respect of taxes on capital, for the tax the payment of which is required on or after the first day of January of the calendar year in which the instruments of ratification are exchanged.

ARTICLE 30

Termination

This Agreement shall remain in force indefinitely but either of the Contracting States may, on or before the thirtieth day of June in any calendar year from the fifth year following that in which the instruments of ratification have been exchanged, give to the other Contracting State, through diplomatic channels, written notice of termination and, in such event, this Agreements shall cease to be effective :

(a) in Belgium :

- (1) in respect of taxes due at source on income credited or payable on or after the first day of January in the calendar year next following that in which the notice of termination is given ;
- (2) in respect of taxes other than taxes due at source, on income of any accounting period beginning on or after the first day of January in the calendar year next following that in which the notice of termination is given;

(b) in Thailand:

- (1) in respect of taxes on income, for the income of calendar years or accounting periods beginning on or after the first day of January of the calendar year next following that in which the notice of termination is given;
- (2) in respect of taxes on capital, for the tax the payment

of which is required on or after the first day of January
of the calendar year next following that in which the
notice of termination is given.

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

Done in duplicate at Bangkok, this sixteenth day of October of the year one thousand nine hundred
and seventy-eight in the English language.

FOR THE GOVERNMENT OF THE KINGDOM OF THAILAND

Wongse Polnikorn

(Wongse Polnikorn)

Deputy Minister of Foreign Affairs

Acting Minister of Foreign Affairs