



# Double Taxation Avoidance Agreement between Thailand and Germany

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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 FEDERAL REPUBLIC OF GERMANY**  
**FOR THE AVOIDANCE OF DOUBLE TAXATION**  
**WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

The Kingdom of Thailand and the Federal Republic of Germany,

Desiring to conclude an Agreement for the Avoidance of Double Taxation with respect to Taxes on Income and on Capital,

Have agreed as follows:

**ARTICLE 1**

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

**ARTICLE 2**

1 This Agreement shall apply to taxes on income and on capital imposed on behalf of each Contracting State, of its “Laender”, political subdivisions, local authorities, or local administrations, 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 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 and the “Gewerbsteuer” (trade tax) levied in the Federal Republic of Germany.

3 The existing taxes to which this Agreement shall apply are, in particular:

1. In the case of the Federal Republic of Germany:

- (a) the Einkommensteuer (income tax),
- (b) the Körperschaftsteuer (corporation tax),
- (c) the Vermögensteuer (capital tax), and
- (d) the Gewerbesteuer (trade tax)  
(hereinafter referred to as “German tax”);

2. In the case of the Kingdom of Thailand:

- (a) the income tax, and
- (b) the local development tax  
(hereinafter referred to as “Thai tax”).

4 The Agreement shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes.

5 The provisions of this Agreement in respect of the taxation of income or profits shall likewise apply to the “Gewerbsteuer” (trade tax) computed other than on the basis of income or capital.

### **ARTICLE 3**

1 In this Agreement, unless the context otherwise requires:

- (a) The term “Federal Republic” means the Federal Republic of Germany, and, when used in a geographical sense, the territory in which the Basic Law for the Federal Republic of Germany is in force;
- (b) The term “Thailand” means the Kingdom of Thailand;
- (c) The terms “a Contracting State” and “the other Contracting

State” mean the Federal Republic or Thailand, as the context requires;

- (d) The term “tax” means German tax or Thai tax, as the context requires;
- (e) The term “company” means and body corporate or any entity or any group of persons which is treated as a body corporate for tax purposes;
- (g) 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;
- (h) The term “nationals” means:
  - 1. in respect of the Federal Republic: all Germans in the meaning of Article 116(1) of the Basic Law for the Federal Republic of Germany and all legal persons, partnership and associations deriving their status as such from the law in force in the Federal Republic;
  - 2. in respect of Thailand: all individuals possessing Thai nationality under the Thai law on nationality and all legal persons, partnerships and associations deriving their status as such from the law in force in Thailand;
- (i) The term “competent authority” means in the case of the Federal Republic the Federal Minister of Finance, and in the case of Thailand the Minister of Finance.

2 As regards the application of this Agreement by a Contracting State any term not otherwise defined in this Agreement 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 this Agreement.

#### ARTICLE 4

1 For the purposes of this Agreement, the term “resident of a Contracting State” means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, registration, incorporation, seat (Sitz), place of management or any other criterion of a similar nature.

2 If by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, this case shall be determined in accordance with the following rules:

- (a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home 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 closest (centre of vital interest);
- (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 If by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall settle the question by mutual agreement.

## ARTICLE 5

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 mine, quarry or other place of extraction of natural resources.

3 Notwithstanding the provisions of paragraphs 1 and 2, the term “permanent establishment” shall include a building site or construction or assembly project only if it exists for more than

- (a) 6 months, in the case of installation or setting up of plant equipment or machinery including the auxiliary construction as is necessary for such installation;
- (b) 3 months in all other cases.

4 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.

5 Notwithstanding the provisions of paragraph 4 a person acting in a Contracting State on behalf of an enterprise of the other Contracting State-other than an agent of an independent status to whom paragraph 6 applies-shall be deemed to be a permanent establishment in the first-mentioned State if

- (a) he has, and habitually exercises in that Contracting State, an authority to conclude contracts for or on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or
- (b) he habitually maintains in that Contracting State a stock of goods or merchandise belonging to the enterprise from which he regularly delivers goods or merchandise for or on behalf of the enterprise; or
- (c) he habitually secures orders in that Contracting 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.

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 other

State through a broker, general commission agent or any other agent of an independent status, if 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 5 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.

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 for either company a permanent establishment of the other.

## **ARTICLE 6**

1 Income from immovable property 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 paragraph 1 and 3 shall also apply to the income from immovable property of an enterprise.

## **ARTICLE 7**

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 that other State but only so much of them as is attributable to that permanent establishment.

2       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 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       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**

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

2 If according to Article 7 and enterprise of a Contracting State operating ships in international traffic may be taxed in the other Contracting State the tax charged shall in that other State be reduced by an amount equal to 50 per cent thereof.

3 The provisions of paragraph 1 and 2 shall likewise apply to profits arising from participations in shipping or aircraft pools of any kind by such enterprises engaged in shipping or air transport.

## **ARTICLE 9**

Where

- (a) an enterprise of a Contracting State participated 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.

## **ARTICLE 10**

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 the Federal Republic 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 the Federal Republic owning at least 25 per cent of the voting shares of the former company;

- (b) the German tax shall not exceed:
1. 20 per cent of the gross amount of the dividends, unless sub-paragraph 2 applies;
  2. 15 per cent 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.

3 Notwithstanding the provisions of paragraph 2 the tax of a Contracting State on dividends paid by a company which is a resident of that State may exceed the rates provided for in that paragraph but shall not exceed 25 per cent of the gross amount of the dividends, if

- (a) the corporation tax of that State on distributed profits is lower than that on undistributed profits and the difference between those two rates is 20 percentage points or more, and
- (b) such dividends are paid by a company which is a resident of that State to a company resident of the other State and which owns at least 25 per cent of the voting share of the first-mentioned company.

4 In this Article

- (a) the term “dividends” means income from shares and income from other corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident;
- (b) the term “industrial undertaking” means
  - 1. any undertaking engaged in
    - (i) manufacturing, assembling and processing,
    - (ii) construction, civil engineering and shipbuilding,
    - (iii) production of electricity, hydraulic power, gas or the supply of water, or
    - (iv) agriculture, forestry and fishery and the carrying on of a plantation, and
  - 2. any other undertaking entitled to the privileges accorded under the laws of Thailand on the promotion of industrial investment, and
  - 3. any other undertaking which may be declared to be an “industrial undertaking” for the purposes of this Article by the competent authority of Thailand.

5 The provisions of paragraphs 1 to 3 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected, provided that under the law of that other State the dividends are taxed as part of the profits of the permanent establishment.

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 persons who are not residents of that other State, or 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.

## ARTICLE 11

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 25 per cent of the gross amount of the interest.

3 Notwithstanding the provisions of paragraph 2, the tax of a Contracting State on interest received by any financial institution (including an insurance company) which is a company of the other Contracting State shall not exceed 10 per cent of the gross amount of the interest, if the enterprise paying the interest engages in an industrial undertaking within the meaning of paragraph 4, subparagraph b, of Article 10.

4 Notwithstanding the provisions of paragraphs 2 and 3, interest arising in a Contracting State shall be exempt from tax in that State if the interest is received by

- (a) the other Contracting State, a “Land”, a political subdivision, a local authority or a local administration thereof, or
- (b) any financial institution wholly owned by the other Contracting State, a “Land”, a political subdivision, a local authority or a local administration thereof, and in particular, in the case of the Federal Republic, by the “Deutsche Bundesbank” or the “Kreditanstalt für Wiederaufbau”, and in the case of Thailand, by the “Bank of Thailand”, or
- (c) by a resident of the other Contracting State on bonds issued by the Government of the first-mentioned State.

5 The term “interest” as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

6 The provisions of paragraphs 1 to 4 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected, provided that under the law of the other State the interest is taxed as part of the profits of the permanent establishment.

7 Interest shall be deemed to arise in a Contracting State when the payer is that State, a "Land", 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 in which the permanent establishment is situated.

8 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 part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

## **ARTICLE 12**

1 Royalties including other like payments 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, but the tax so charged shall not exceed

(a) 5 per cent of the gross amount of such payment if they

are made as 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 such payments if they are made as 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 right to use cinematograph films or tapes for television or broadcasting.

3 The provisions of paragraph 2 shall likewise apply to the gains from the alienation of any right or property giving rise to such royalties if such right or property is alienated by a resident of a Contracting State for exclusive use in the other Contracting State and the payment of such right or property is borne by an enterprise of that other State or a permanent establishment situated therein.

4 The provisions of paragraphs 2 and 3 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment and the royalties are attributable to that permanent establishment, provided that under the law of that other State the royalties are taxed as part of the profits of the permanent establishment.

5 Royalties shall be deemed to arise in a Contracting State when the payer is that State, a "Land", 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 a Contracting State or not, has in a Contracting State a permanent establishment with which the right or property giving rise to the royalties is effectively connected, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6 Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed

upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

### **ARTICLE 13**

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, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise), 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 21 shall be taxable only in the Contracting State in which such movable property is taxable according to the said Article.

3 Gains from the alienation of any property other than those mentioned in paragraph 3 of Article 1 and in paragraphs 1 and 2 of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

### **ARTICLE 14**

1 Subject to the provisions of Article 15, 16 and 17 remuneration derived by an individual who is a resident of a Contracting State in respect of personal service (including the practice of a liberal profession) shall be taxable only in that State unless the service are rendered in the other Contracting State. If the service are so rendered, such remuneration as is derived therefrom may be taxed in that other State.

2 Notwithstanding the provisions of paragraph 1, remuneration derived by an individual who is a resident of a Contracting State in respect of such service 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 remuneration is paid by, or on behalf of, a person who is not a resident of the other State, and
- (c) the remuneration is not borne by a permanent establishment which the person paying the remuneration has in the other State.

3 Notwithstanding the provisions of paragraphs 1 and 2, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic, operated by an enterprise of a Contracting State, may be taxed in that State.

## **ARTICLE 15**

1 The provisions of paragraph 2 of Article 14 shall apply to remuneration derived from personal services rendered in a Contracting State by public entertainers such as theatre, radio or television artistes and musicians and by athletes from their personal activities as such only if the visit to that State is substantially supported, directly or indirectly, by public funds of the other Contracting State.

2 Notwithstanding anything contained in this Agreement where the services mentioned in paragraph 1 are provided in a Contracting State by an enterprise of the other Contracting State, the profits derived from providing those services by such enterprise may be taxed in the first-mentioned State unless the enterprise is substantially supported, directly or indirectly, by public funds of the other Contracting State in connection with the provision of such services.

3 For the purposes of this Article, the term “public funds of a Contracting State shall include public funds created by a “Land”, a political subdivision, a local authority or a local administration thereof.

#### **ARTICLE 16**

Director’s fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a Company which is a resident of the other Contracting State may be taxed in that other State.

#### **ARTICLE 17**

1 Remuneration paid by or out of funds created by a Contracting State, a “Land”, a political subdivision, a local authority or a local administration thereof to any individual in respect of an employment, shall be exempt from tax in the other Contracting State unless the payment is made to a national of that other State who is not also a national of the first-mentioned Contracting State.

2 Notwithstanding the provisions of paragraph 1 the provisions of Articles 14 and 15 shall apply to remuneration in respect of an employment in connection with any trade or business carried on by a Contracting State, “Land”, a political subdivision, a local authority or a local administration thereof.

3 The provisions of paragraph 1 shall also apply to remuneration paid, in the case of the Federal Republic by the “Deutsche Bundesbank”, the “Deutsche Bundesbahn” and the “Deutsche Bundespost”, and in the case of Thailand by the “Bank of Thailand” and any other organization of a governmental nature.

#### **ARTICLE 18**

1 Pensions and other payments for past employment as well as annuities derived by a resident of a Contracting State may be taxed in the other Contracting State only if such payments are deducted as expenses in determining the profits of an enterprise of that other State or of a permanent establishment situated therein.

2 Notwithstanding the provisions of paragraph 1, pensions and other payments for past employment as well as annuities paid by or out of funds created by a Contracting State, a “Land”, a political subdivision, local authority or local administration thereof shall be exempt from tax in the other Contracting State.

3 Paragraph 2 shall likewise apply in respect of pensions, annuities and other recurring or not recurring remuneration paid to any individual by a Contracting State, a “Land” a political subdivision, a local authority or local administration thereof as compensation for an injury or damage sustained as a result of hostilities or political persecution.

#### **ARTICLE 19**

An individual, who is or was a resident of a Contracting State immediately before visiting the other Contracting State and is temporarily present in that other Contracting State solely for the purpose of teaching at a university, college, school or other educational institution in that other State for a period not exceeding two years shall be exempt from tax in that other Contracting State on his remuneration for such teaching.

#### **ARTICLE 20**

1 An individual who is or was a resident of a Contracting State immediately before visiting the other Contracting State and is temporarily present in that other State solely as a student at a recognized university, college, or school in that other Contracting State, or as a business apprentice (including in the Federal Republic a “Volontar” or a “Praktikant”), shall be exempt from tax in that other State on

(a) all remittances from abroad for the purposes of his

maintenance, education or training, and

- (b) any remuneration for personal services rendered in that other State supplementing the resources available to him for such purposes.

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

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

3 An individual who is or was a resident of a Contracting State immediately before visiting the other Contracting State and who is temporarily present in that other State for a period not exceeding twelve months solely as an employee of, or under contract or arrangement with, the Government or an enterprise of that other State for the purpose of acquiring technical, professional or business experience shall be exempt from tax in that other State on

- (a) all remittances from abroad for the purposes of his maintenance, education or training, and
- (b) any remuneration, so far as it is not in excess of 15.000 Deutsche Mark or the equivalent in Thai currency, for personal services rendered in that other State, provided such services are in connection with his studies or training or are incidental thereto.

## **ARTICLE 21**

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 may be taxed in the Contracting State in which the permanent establishment is situated.

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

4 All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

## **ARTICLE 22**

1 The laws in force in either of the Contracting States will continue to govern the assessment and taxation of income and capital in the respective Contracting State except where express provision to the contrary is made in this Agreement.

2 Subject to the provisions of paragraph 1, tax shall be determined in the case of a resident of the Federal Republic as follows:

- (a) Unless the provisions of subparagraph (b) below apply, there shall be excluded from the basis upon which German tax is imposed any item of income from sources within Thailand and any item of capital situated within Thailand which according to this Agreement may be taxed in Thailand. The Federal Republic, however, retains the right to take into account in the determination of its rate of tax the items of income and capital so excluded. The first sentence

shall in the case of dividends apply only to such dividends as are paid to company limited by shares (Kapitalgesellschaft) which is a resident of the Federal Republic by a company which is a resident of Thailand and at least 25 per cent of the voting shares of which are owned by the first-mentioned company. There shall also be excluded from the basis upon which German tax is imposed any shareholding, the dividends on which, if paid, would be excluded from the tax basis according to the immediately foregoing sentence.

- (b) Tax payable under the laws of Thailand and in accordance with this Agreement on the following items of income from sources within Thailand shall, subject to the provisions of German tax law regarding credit for foreign tax, be allowed as a credit against such German tax on income as is payable in respect of the following items of income:
1. profits derived by operating ships in international traffic which may be taxed in Thailand according to paragraph 2 of Article 8;
  2. dividends not dealt with in subparagraph (a) above;
  3. interest;
  4. royalties and such gains as are mentioned in paragraph 3 of Article 12;
  5. profits which may be taxed in Thailand according to paragraph 2 of Article 15;
  6. remuneration mentioned in paragraph 1 of Article 17 paid to a German national who is not also a Thai national;
  7. pensions and other payments and annuities which may be taxed in Thailand according to paragraph 1 of Article 18.

3 Subject to the provisions of paragraph 1, tax shall be determined in the case of a resident of Thailand as follows:

- (a) Unless the provisions of subparagraph (b) below apply, there shall be excluded from the basis upon which Thai tax is imposed any item of income from sources within the Federal Republic and any item of capital situated within the Federal Republic which according to this Agreement may be taxed in the Federal Republic. Thailand, however, retains the right to take into account in the determination of its rate of tax the items of income and capital so excluded. The first sentence shall in the case of dividends apply only to such dividends as are paid to a company which is a resident of Thailand by a company limited by shares (Kapitalgesellschaft) which is a resident of the Federal Republic and at least 25 percent of the voting shares of which are owned by the first-mentioned company. There shall also be excluded from the basis upon which Thai tax is imposed any shareholding, the dividends on which, if paid, would be excluded from the tax basis according to the immediately foregoing sentence.
- (b) Tax payable under the laws of the Federal Republic and in accordance with this Agreement by a resident of Thailand on income from sources within the Federal Republic shall be allowed as credit against Thai tax if such income consists of:
1. profits derived by operating ships in international traffic which may be taxed in the Federal Republic according to paragraph 2 of Article 8;
  2. dividends not dealt with in subparagraph (a) above;
  3. interest;
  4. royalties and such gains as are mentioned in paragraph 3 of Article 12;
  5. profits which may be taxed in the Federal Republic

- according to paragraph 2 of Article 15;
6. remuneration mentioned in paragraph 1 of Article 17 paid to a Thai national who is not also a German national;
  7. pensions and other payments and annuities which may be taxed in the Federal Republic according to paragraph 1 of Article 18.

Such credit shall be based on the amount of tax paid to the Federal Republic but shall not exceed the portion of the Thai tax which net income from sources within the Federal Republic bears to the entire net income subject to Thai tax. In determining such entire net income a loss incurred in any country shall not be taken into account.

### **ARTICLE 23**

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.

This provisions 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 or family responsibilities which it grants to its own residents.

3 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 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 that first-mentioned State are or may be subjected.

4 In this Article the term “taxation” means taxes of every kind and description.

#### **ARTICLE 24**

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.

2 The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with this Agreement.

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 this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.

4 The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs and for the exchange of information provided for in Article 25.

#### **ARTICLE 25**

1 The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with

the assessment including judicial determination or collection of the taxes which are the subject of this Agreement.

2 In no case shall the provisions of paragraph 1 be construed so as to imposed 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 of the other Contracting State;
- (c) to supply information which would disclosed 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 26**

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.

#### **ARTICLE 27**

If the law of either Contracting State or international obligations existing at present or established hereafter between the Contracting States in additions to this Agreement contain a regulation entitling a resident of a Contracting State to a treatment more favourable than is provided for by this Agreement, such regulation shall, to the extent that it is more favourable, not be affected by this Agreement.

## **ARTICLE 28**

This Agreement shall also apply to Land Berlin, provided that the Government of the Federal Republic of Germany has not made a contrary declaration to the Government of the Kingdom of Thailand within three months from the date of entry into force of this Agreement.

## **ARTICLE 29**

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

2 This Agreement shall enter into force after the expiration of one month following the date on which the instruments of ratification are exchanged and shall thereupon have effect:

- (a) In respect of German tax, for taxes which are levied for the calendar year 1967 and for the subsequent calendar years.
- (b) In respect of Thai tax
  - 1. for the taxes on income, for the income of the calendar year 1967 and of subsequent calendar years and of accounting periods ending in the calendar year 1967 and subsequent calendar years;
  - 2. for taxes on capital the payment of which is required on or after the first day of January 1967.

## **ARTICLE 30**

This Agreement shall continue in effect indefinitely but either of the Contracting States may, on or before the 30th day of June in any calendar year beginning after the expiry of three years from the date of its entry into force give to the other Contracting State, through the diplomatic channel, written notice of termination and, in such event, this Agreement shall cease to be effective:

- (a) In respect of German tax, for taxes which are levied for the calendar year following the year in which the notice of termination is given.
- (b) In respect of Thai tax
  - 1. for the taxes on income, for the income of the calendar year following the year in which the notice of termination is given and of accounting periods ending in that calendar year;
  - 2. for taxes on capital the payments of which is required on or after the first day of January of the calendar year following the year in which the notice of termination is given.

**IN WITNESS WHEREOF** the undersigned being duly authorized thereto have signed this Agreement and have affixed thereto their seals.

**DONE** at Bangkok on this tenth day of July, one thousand nine hundred and sixty-seven, in six originals, two each in the Thai, German and English languages, all texts being equally authentic, except in the case of doubt when the English text shall prevail.

**FOR THE GOVERNMENT OF THE  
KINGDOM OF THAILAND:**

Thanat Khoman

( Thanat Khoman

**Minister of Foreign Affairs**

**FOR THE GOVERNMENT OF  
THE FEDERAL REPUBLIC OF  
GERMANY:**

Schweinitz

(Hans-Ulrich Von Schweinitz)

**Ambassador**

**Botschaft der  
Bundesrepublik Deutschland  
Bangkok**

Excellency:

Bangkok, July 10th, 1967

With reference to the Agreement signed today between the Federal Republic of Germany and the Kingdom of Thailand for the Avoidance of Double Taxation with respect to Taxes on Income and on Capital, I have the honour to inform you on behalf of the Government of the Federal Republic of Germany that the two Contracting States have agreed that the provisions referred to below shall be applied as follows:

1. The term “wholly” or “almost wholly” as used in Article 5 paragraph 5, subparagraph c, shall be understood to mean that the persons activities for enterprises other than those referred to therein are of such minor importance in relation to his activities for or on behalf of the enterprise mentioned therein that for all practical purposes such person may be regarded as working solely for or on behalf of the latter enterprises.

2. Article 22, paragraphs 2 a) and 3 a), shall not apply to any dividends paid by a company which does not derive its income exclusively or almost exclusively

a) from producing, selling goods or merchandise, leasing or renting rendering services, or doing banking or insurance business, or

b) from dividends paid by one or more companies, being residents of Thailand, more than 25 per cent of the voting shares of which are owned by the first-mentioned company, which themselves derive their income exclusively or almost exclusively from producing, selling goods or merchandise, leasing or letting, rendering services or doing banking or insurance business.

In case of such dividends Article 22, paragraphs 2 b) and 3 b) shall apply.

I should be grateful if you could confirm your agreement with the above and that, in such case, this note and your reply thereto should be deemed to be part of the Agreement.

Accept, Excellency, the renewed assurance of my highest consideration,.

His Excellency  
Thannat Khoman  
Minister of Foreign Affairs  
Bangkok

Von Schweintz

**Ministry of Foreign Affairs**

**Saranrom Palace**

**10th July, B.E.2510**

Excellency,

I have the honour to acknowledge the receipt of Your Excellency's Note V4-80 No.181/67 of today's date, which reads as follows:

“With reference to the Agreement signed today between the Federal Republic of Germany and the Kingdom of Thailand for the Avoidance of Double Taxation with respect to Taxes on Income and on Capital, I have the honour to inform you on behalf of the Government of the Federal Republic of Germany that the two Contracting States have agreed that the provisions referred to below shall be applied as follows:

1. The term “wholly” or “almost wholly” as used in Article 5 paragraph 5, subparagraph c), shall be understood to mean that the person's activities for enterprises other than those referred to therein are of such minor importance in relation to his activities for or on behalf of the enterprises mentioned therein that for all practical purposes such person may be regarded as working solely for or on behalf of the latter enterprises.
2. Article 22, paragraphs 2 a) and 3 a), shall not apply to any dividends paid by a company

which does not derive its income exclusively or almost exclusively

a) from producing, selling goods or merchandise, leasing or renting, rendering services, or doing banking or insurance business, or

b) from dividends paid by one or more companies, being residents of Thailand, more than 25 percent of the voting shares of which are owned by the first-mentioned company, which themselves derive their income exclusively or almost exclusively from producing, selling goods or merchandise, leasing or letting, rendering services or doing banking or insurance business.

In case of such dividends Article 22, paragraphs 2 b) and 3), shall apply.

I should be grateful if you could confirm your agreement with the above and than in such case, this note and your reply thereto should be deemed to be part of the Agreement.”

In reply, I have the honour to confirm the aforementioned agreement and to state that the present Note and Your Excellency’s Note under reply shall be regarded as forming part of the Agreement for the Avoidance of Double Taxation with respect to Taxes on Income and on Capital signed today.

Accept, Excellency, the renewed assurance of my highest consideration.

Thanat Khoman  
Minister of Foreign Affairs

His Excellency  
Monsieur Hand-Ulrich von Schweinitz,  
Ambassador Extraordinary and  
Plenipotentiary of the Federal  
Republic of Germany,  
Bangkok