



Double Taxation Avoidance Agreement between Thailand and Hungary

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DEZAN SHIRA & ASSOCIATES

Corporate Establishment, Tax, Accounting & Payroll Throughout Asia

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CONVENTION
BETWEEN
THE GOVERNMENT OF THE KINGDOM OF THAILAND
AND
THE GOVERNMENT OF THE HUNGARIAN PEOPLE'S REPUBLIC
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

The Government of Thailand and the Government of the Hungarian People's Republic.

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and to further develop and facilitate economic relationship.

Have agreed as follows;

ARTICLE 1
PERSONAL SCOPE

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

ARTICLE 2
TAXES COVERED

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

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

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

(a) In the case of Thailand:

- the income tax; and the petroleum income tax;
- (hereinafter referred to as “Thai tax”);

(b) in the case of the Hungarian People’s Republic:

- the income tax;
 - the profit taxes and
 - the special corporation tax;
- (hereinafter referred to as “Hungarian tax”).

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

ARTICLE 3

GENERAL DEFINITIONS

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

(a) The term “Thailand” when used in geographical

sense, connotes the entire territory of the Kingdom of

Thailand, including its internal waters, territorial seas and any

areas over which the Kingdom of Thailand has jurisdiction

under international law and in which Thai laws relating to

taxes are applicable or may be in force;

(b) the term “Hungarian People’s Republic” when used in a

geographical sense means the territory of the Hungarian People's Republic;

- (c) the terms "a Contracting State" and "the other contracting State" mean Thailand or the Hungarian People's Republic as the context requires;
- (d) the term "person" includes an individual, a company and any other body of persons as well as any entity treated as a taxable unit under the taxation laws in force in either contracting State;
- (e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (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 a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (g) the term "tax" means Thai tax or Hungarian tax as the context requires;
- (h) the term "national" means;
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person, partnership, association and any other entity deriving its status as such from the laws in force in a Contracting State;
- (i) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State except when the ship or aircraft is operated solely between places in the other Contracting State; and
- (j) the term "competent authority" means the Minister of Finance or his authorized representative.

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

ARTICLE 4

RESIDENT

1. For the purposes of this Convention the term “resident of a Contracting State” means any person who under the laws of that State is liable to tax therein by reason of his domicile residence, place of incorporation, 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 State in respect only of income from sources in that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States then his status shall be determined as follows:

- (a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States he shall be deemed to be a resident of the State in which he has his centre of vital interests;
- (b) if the State in which he has his centre of vital interests cannot be determined or if he has not a permanent home available to him in either State he shall be deemed to be a resident of the State in which he has an habitual abode;
- (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
- (d) if he is a national of both states or of neither of them, the Competent authorities of the Contracting States shall settle the question by mutual agreement.

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

ARTICLE 5

PERMANENT ESTABLISHMENT

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

2. The term “permanent establishment” includes especially

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- (g) a farm or plantation;
- (h) a warehouse in relation to a person providing storage facilities for others;
- (i) a building site, a construction, installation or assembly project for supervisory activities in connection therewith, where such site, project or activities continue for a period of more than 6 months;
- (j) the furnishing of services including consultancy services by a resident of one of the Contracting States through employees or other personnel, where activities of that nature continue for the same or a connected project within the other Contracting State for a period or periods aggregating more than 6 months within any twelve month period.

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

- (a) the use of facilities solely for the purpose of storage, display or delivery of goods merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

4. Notwithstanding the provisions of paragraphs 1 and 2 where a person other than an agent of an independent status to whom paragraph 6 applies - is acting in a Contracting State on behalf of the enterprise of the other Contracting State, the enterprise shall be deemed to have a permanent establishment in the first mentioned Contracting State, if such a person;

- (a) has and habitually exercises in the first mentioned State, an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods of merchandise for the enterprise;
- (b) has no such authority, but habitually maintains in the first mentioned State a stock of goods or merchandise belonging

to the enterprise from which he regularly fills orders or makes deliveries on behalf of the enterprise; or

- (c) has no such authority, but habitually secures orders in the first mentioned State wholly or almost wholly for the enterprise or for the enterprise and other enterprises which are controlled by it or have controlling interest in it.

5. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to reinsurance, be deemed to have a permanent establishment in the other State if it collects premiums in the territory of that other State or insures risks situated therein through an employee or through a representative who is not an agent of an independent status within the meaning of paragraph 6 of this Article.

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, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise or on behalf of that enterprise and other enterprises, which are controlled by it or have a controlling interest in it, he will not be considered an agent of independent status within the meaning of this paragraph.

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.

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other state.
2. The term “immovable property” shall have the meaning which it has under the laws of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

ARTICLE 7

BUSINESS PROFITS

1. The income or 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 income or profits of the enterprise may be taxed in the other State but only so much of them as is attributable to
 - (a) that permanent establishment;
 - (b) sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or

- (c) other business activities carried on in that other State of the same or similar kind as those effected through that permanent establishment.

2. Subject to the provisions of paragraph 3 of this Article, 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 income of 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 as 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 business 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. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

4. Insofar as it has been customary in a contracting State to determine the profits to be attributed to a permanent establishment on the basis of a certain percentage of the gross receipt of the enterprise or of the permanent establishment or on the basis of an apportionment of the total

profits of the enterprise to its various parts, nothing in paragraph 2 of this Article shall preclude that Contracting State from determining the profits to be taxed by such a method as may be customary; the method adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No income or 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.

6. For the purposes of the preceding paragraphs, the income or 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.

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

ARTICLE 8

SHIPPING AND AIR TRANSPORT

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

2. Income or profits derived by an enterprise of a Contracting State from the operation of ships in international traffic 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 also apply to income or profits from the participation in a pool, a joint business or an international operating agency.

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 income or 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 income or 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 also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that State, but if the recipient is the beneficial owner of the dividends and is a company, other than a partnership, which holds directly at least 25 per cent of the capital of the former company, the tax so charged shall not exceed:
 - (a) 15 percent of the gross amount of the dividends if the company paying the dividends engages in an industrial undertaking;
 - (b) 20 percent of the gross amount of the dividends in other

cases.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. (a) The term “dividends” as used in this Article means income from shares, mining shares, founders’ shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.
- (b) The term “industrial undertaking” as used in this Article means
 - (i) any undertaking engaged in
 - manufacturing, assembling and processing;
 - construction, civil engineering and shipbuilding;
 - production of electricity, hydraulic power, gas or the supply of water ; or
 - agriculture, forestry and fishery and the carrying on of a plantation, and
 - (ii) any other undertaking entitled to the privileges accorded under the laws of Thailand on the promotion of industrial investment, and
 - (iii) any other undertaking which may be declared to be an “industrial undertaking” for the purpose of this Article by the competent authority of Thailand.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting

State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

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 also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest and is a company which is a resident of the other Contracting State, the tax so charged shall not exceed:

- (a) 10 per cent of the gross amount of the interest if it is received by any financial institution (including an insurance company);
- (b) 25 per cent of the gross amount of the interest in other cases.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

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

For the purposes of this paragraph the term “Government”

- (a) in the case of Thailand means the Government of Thailand and shall include:
 - (i) the Bank of Thailand;
 - (ii) the local authorities; and
 - (iii) such institutions, the capital of which is wholly owned by the Government of Thailand or any local authorities as may be agreed from time to time between the competent authorities of the two Contracting States;
- (b) in the case of the Hungarian People’s Republic means the Government of the Hungarian People’s Republic and shall include:
 - (i) the National Bank of Hungary;
 - (ii) the local authorities; and
 - (iii) such other financial institution in which the State has a majority equity participation as may be agreed upon from time to time between the competent authorities of the 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 such securities, bonds or debentures, as well as income assimilated to income from money lent by the taxation law of the Contracting State in which the income arises. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest being a resident of a Contracting State, carries on business in the other Contracting State in which

the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt claim in respect of which the interest is paid is effectively connected with (a) such permanent establishment or fixed base, or with (b) business activities referred to under (c) of paragraph 1 of Article 7. In such cases 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 local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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

ARTICLE 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 also be taxed in the Contracting State in which they arise and according to the laws of that state, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 15 per cent of the gross amount of the royalties.

The competent authorities of the Contracting State shall be mutual agreement settle the mode of application of this limitation.

3. The term “royalties” as used in this Article means payments of, any kind received as a consideration for the alienation of or the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with (a) such permanent establishment or fixed base, or with (b) business activities referred to under (c) of paragraph 1 of Article 7.

In such cases the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a 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 or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last mentioned amount. In such case, the excess

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

ARTICLE 13

CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such a fixed base, may be taxed in that other State.
3. Gains derived by an enterprise of a Contracting State from the alienation of ship or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.
4. Gains from the alienation of any property or assets other than those referred to in paragraphs 1, 2 and 3 of this Article and paragraph 3 of Article 12, shall be taxable only in the Contracting State of which the alienator is a resident. Nothing in this paragraph shall prevent either Contracting State from taxing the gains or income from the sale or transfer of shares or other securities, provided that the transfer takes place in one of the Contracting States.

ARTICLE 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, when such income may also be taxed in the other Contracting State:

- (a) if he has a fixed base available to him in the other Contracting State for the purpose of performing his activities, for a period or periods amounting to or exceeding in the aggregate 183 days within any twelve month period; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other State; or
- (b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days within any twelve month period; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State; or
- (c) if the remuneration for his activities in the other Contracting State is paid by a resident of that Contracting State or is borne by a permanent establishment or a fixed base situated in that Contracting State; in that case only so much of the remuneration as is derived therefrom may be taxed in that other State.

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

ARTICLE 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18 and 19 salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be

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

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

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

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

ARTICLE 16

DIRECTORS' FEES

1. Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or of the supervisory board of a company which is a resident of the other Contracting State may be taxed in that other State.

2. Salaries, wages and other similar remuneration derived by a resident of a Contracting State in his capacity as an official in a top level managerial position of a company which is a resident of the other Contracting State may be taxed in that other State.

ARTICLE 17

ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 14 and 15 income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artistes or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. The provisions of paragraphs 1 and 2 of this Article shall not apply to remuneration or profits, salaries, wages and other similar income derived from activities performed in a Contracting State by an entertainer or an athlete if the visit to that Contracting State is substantially supported by public funds of the other Contracting State, including any local authority or statutory body thereof, or if the activity is exercised under a cultural agreement or arrangement between the Contracting States.

4. Notwithstanding the provisions of Article 7 where the activities mentioned in paragraph 1 of this Article are provided in a Contracting State by an enterprise of the other Contracting State the profits derived from providing these activities by such an enterprise may be taxed in the first mentioned Contracting State unless the enterprise is substantially supported from the public funds of the other Contracting State, including any local authority or statutory body thereof, in connection with the provisions of such activities, or unless the activities are exercised under a cultural agreement or arrangement between the Contracting States.

ARTICLE 18

PENSIONS

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

ARTICLE 19

GOVERNMENTAL FUNCTION

1. (a) Remuneration, other than a pension, paid by a Contracting State or a local authority thereof to an individual in respect of services rendered to that State or authority shall be taxable only in that State.
(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2. (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of and a national of, that State.
3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a local authority thereof.

ARTICLE 20

STUDENTS

An individual who, immediately before visiting a Contracting State, was a resident of the other Contracting State and whose visit to the first mentioned Contracting State is solely for the purpose of:

- (a) studying at a university or other recognized educational institution; or
- (b) securing training to qualify him to practice a profession or trade; or
- (c) studying or carrying out research as a recipient of a grant, allowance or award from a governmental, religious, charitable, scientific, literary or educational organization; shall be exempt from tax in the first mentioned State on:
 - (i). remittances from abroad of the purposes of his maintenance, education, study, research or training;
 - (ii). the grant, allowance or award; and
 - (iii) income from personal services rendered in that State provided the income constitutes earnings reasonable necessary for his maintenance and education.

ARTICLE 21

PROFESSORS, TEACHERS AND RESEARCHERS

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

2. This Article shall only apply to income from research if such research is undertaken by the individual for the public interest and not primarily for the benefit of some other private person or persons.

ARTICLE 22

INCOME NOT EXPRESSLY MENTIONED

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Convention may be taxed in the State where the income arises.

ARTICLE 23

DOUBLE ELIMINATION OF TAXATION

1. In the case of the Hungarian People's Republic double taxation shall be eliminated as follows:

- (a) Where a resident of the Hungarian People's Republic derives income which, in accordance with the provisions of this Convention, may be taxed in Thailand, the Hungarian People's Republic, shall subject to the provisions of subparagraphs (b) and (c), exempt such income from tax.
- (b) Where a resident of the Hungarian People's Republic derives income which, in accordance with the provisions of Articles 10 and 12, may be taxed in Thailand, the Hungarian People's Republic shall allow as a deduction from Hungarian tax on the income of that resident an amount equal to the tax paid in Thailand. Such deduction shall not, however, exceed that part of the Hungarian tax, as computed before the deduction is given, which is attributable to such items of income. For the purposes of this subparagraph, the tax paid in Thailand shall be deemed to include the amount of Thai tax which would have been paid if the Thai tax had

not been exempted or reduced under the Thai Revenue Code or any special incentive law designed to promote economic development in Thailand, effective on the date of signature of this Convention or which may be introduced hereafter in modification of, or in addition to the existing law.

- (c) Where, in accordance with the provisions of this Convention, income derived by a resident of the Hungarian People's Republic is exempt from tax in the Hungarian People's Republic, the Hungarian People's Republic may, nevertheless in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

2. In the case of Thailand, where a resident of Thailand derives income which, in accordance with the provisions of this Convention, may be taxed in the Hungarian People's Republic, Thailand shall allow as a deduction from Thai tax on the income of that resident an amount equal to the tax paid in the Hungarian People's Republic. Such deduction shall not, however, exceed that part of the Thai tax, as computed before the deduction is given, which is attributable to such items of income.

ARTICLE 24

NON DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provisions shall notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting State.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.
3. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first mentioned State to any taxation or any requirement connected therewith which is more burdensome than the taxation and connected requirements to which other similar enterprises of the first mentioned State are or may be subjected.
4. The provisions of this Article 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.
5. Except where the provisions of Article 9, paragraph 7 of Article 11, or paragraph 6 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.
6. In this Article the term “taxation” means taxes which are the subject of this Convention.

ARTICLE 25

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic laws of those States, present his case to the competent authority of the Contracting state of which he is a resident or, if this case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must

be presented within three years from the First notification of the action resulting in taxation not in accordance with the provisions of this Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory 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 Convention.

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

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

ARTICLE 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting State shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting State concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. The information received will be treated as secret on request of the Contracting State: giving the information.

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

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

ARTICLE 27

DIPLOMATIC AGENTS AND CONSULAR OFFICIALS

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

ARTICLE 28

ENTRY INTO FORCE

1. The Contracting State shall notify each other that the constitutional requirements for the entry into force of this Convention have been complied with.

2. This Convention shall enter into force sixty days after the date of the letter of the notifications referred to in paragraph 1 and its provisions shall have effect:

- (a) in respect of taxes withheld at source, on amounts of income paid or remitted on or after 1 January in the calendar year next following the year in which the Convention enters into force;

- (b) in respect of other taxes, on income on such taxes chargeable for any taxable year or accounting period beginning on or after 1 January in the calendar year next following the year in which the Convention enters into force.

ARTICLE 29

TERMINATION

This Convention shall remain in force until terminated by one of the Contracting parties. Either Contracting Party may terminate the Convention, through diplomatic channels, by giving notice of termination a least six months before the end of any calendar year following after the period of five years from the date on which the Convention enters into force. In such event the Convention shall cease to have effect:

- (a) in respect of taxes withheld at source, on amounts of income paid or remitted on or after 1 January in the calendar year next following the year in which the notice is given;
- (b) in respect of other taxes on income, on such taxes chargeable for any taxable year or accounting period beginning on or after 1 January in the calendar year next following the year in which the notice is given.

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

DONE in duplicate at Bangkok, this day of 18th May 1989, in the English language.

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

Pinya choyplod

**FOR THE GOVERNMENT OF THE
HUNGARIAN PEOPLE'S REPUBLIC**

Zaltan Gombocz

(Pinya Choyplod)

(Zoltan Gombocz)

Deputy Minister of Commerce

Secretary of State for Trade

PROTOCOL

A the signing of the Convention between the Government of the Kingdom of Thailand and the Government of the Hungarian People's Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income the undersigned have agreed upon the following provisions which shall form an integral part of the Convention.

1. With reference to Article 5, paragraph 1, it is understood that the term "place of business" includes also a place of production.
2. With reference to Article 5, paragraph 3, subparagraph (a) and b), it is understood that the term "delivery" refers only to delivery which is not regular and not accompanied by sale.
3. With reference to Article 5, paragraph 4, subparagraph (c), and paragraph 6, it is understood that if there is any doubt regarding the control of an enterprise, the competent authorities of the Contracting States shall settle the matter by mutual agreement.
4. It is understood that at present the tax laws of both Contracting States do not treat interest on supplier's credit as interest covered by Article 11. If in the future either Contracting State changes its domestic tax law to the effect that interest on supplier's credit being subjected to the provision of Article 11. paragraph 2, subparagraph (b) , the two Contracting States shall then discuss again with a view to lowering the tax rate on such interest.
5. With reference to Article 17, it is understood that the provisions of paragraphs 1 and 4 shall not apply concurrently.

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

DONE in duplicate at Bangkok, this day of 18th May 1989, in the English language.

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

Pinya choyplod

(Pinya Choyplod)

Deputy Minister of Commerce

**FOR THE GOVERNMENT OF THE
HUNGARIAN PEOPLE'S REPUBLIC**

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