



Double Taxation Avoidance Agreement between Thailand and Israel

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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 STATE OF ISRAEL
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

The Government of the Kingdom of Thailand and the Government of the State of Israel,

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

Have agreed as follows:

ARTICLE 1

Personal Scope

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

ARTICLE 2

Taxes Covered

1. This Convention shall apply to taxes on income imposed on behalf of 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 Israel:

- the income tax (including capital gains tax and company tax); and
- the tax on gains from the sale of land under the Land Appreciation Tax Law;
(hereinafter referred to as "Israeli 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" means the Kingdom of Thailand, and when used in a geographical sense, means the territory and the territorial sea over which it exercises its state sovereignty and jurisdiction, as well as the continental shelf, the exclusive economic zone and that part of the seabed and subsoil under the sea over which it exercises sovereign rights and jurisdiction under international law;

- (b) the term "Israel" means the State of Israel, and when used in a geographical sense, means the territory and the territorial sea over which it may exercise its state sovereignty and jurisdiction, as well as the continental shelf, the exclusive economic zone and that part of the seabed and subsoil under the sea over which it may exercise sovereign rights and jurisdiction under international law;
- (c) the terms "a Contracting State" and "the other Contracting State" mean Thailand or Israel 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 term "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (g) the term "tax" means Thai tax or Israeli 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 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, in the case of Thailand, the Minister of Finance or his authorized representative, and, in the case of Israel, 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 with which his personal and economic relations are closer (centre of vital interests);
 - (b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
 - (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of

which he is a national;

- (d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a company is a resident of both Contracting States, it shall be deemed to be a resident of the Contracting State in which it is incorporated or under the law of which it is deemed to be a resident; if the company under the foregoing criterion still is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated. If the State in which its place of effective management is situated cannot be determined, then the competent authorities of the Contracting States shall settle the question 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, or construction, installation or assembly

project, or supervision activities connected therewith and conducted within the State where such site or project is located, 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 provisions of this Article, the term "permanent establishment" shall be deemed not to include:

- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.
- (f) the maintenance of a fixed place of business solely for any combination of activities, mentioned in sub-paragraphs (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 an 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 or 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 for the enterprise or for the enterprise and other enterprises which are controlled by it or have a 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 the 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 law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to the immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

ARTICLE 7

Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3 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 profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as 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.

4. If the information available to the taxation authority of a Contracting State is inadequate to determine the profits to be attributed to the permanent establishment of an enterprise, nothing in this Article shall affect the application of any law of that State relating to the determination of the tax liability of a person provided that the law shall be applied, so far as the information available to the taxation authority permits, consistently with the principles of this Article.

5. 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.

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

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

ARTICLE 8

Shipping and Air Transport

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

2. 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 of the tax which would have been payable but for the provisions of this paragraph.

3. For the purpose of this Article, profits from the operation of ships or aircraft in international traffic shall include:

- (a) profits derived from the rental on a bare boat basis of ships or aircraft used in international traffic,
- (b) profits derived from the use or rental of containers used in international traffic, if such profits are incidental to the profits to which the provisions of paragraph 1 or 2 apply.

4. The provisions of paragraphs 1, 2 and 3 shall also apply to 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, has 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 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, the tax so charged shall not exceed:
 - (a) with respect to dividends paid by a company which is a resident of Thailand to a resident of Israel - 10 per cent of the gross amount of the dividends;
 - (b) with respect to dividends paid by a company which is a

resident of Israel to a resident of Thailand:

- (i) 10 per cent of the gross amount of the dividends if the recipient holds at least 25 per cent of the capital of the company paying the dividends;
- (ii) 15 per cent of the gross amount of the dividends in all 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. 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.

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.

Nothing in this paragraph shall be construed as preventing a Contracting State from imposing income tax, according to the laws of that State, on the disposal of profits made by a permanent establishment situated therein at a rate not exceeding the rate applicable to dividends in terms of paragraph 2 (a) of this Article.

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, 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) 15 per cent of the gross amount of the interest in all 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 the Kingdom 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 the Kingdom 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 Israel means the Government of the State of Israel and shall include:
- (i) the Bank of Israel;
 - (ii) the local authorities; and
 - (iii) such institutions, the capital of which is wholly owned by the Government of the State of Israel or any local authorities as may be agreed from time to time between the competent authorities of the two 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.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 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:
 - (a) 5 per cent of the gross amount of the royalties for the use of, or the right to use, any copyrights of literary, artistic or scientific work, excluding cinematograph films or films or tapes used for radio or television broadcasting;
 - (b) 15 per cent of the gross amount of the royalties in all other cases.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, including 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. The term "royalties" also includes gains derived from the alienation of such right or property to the extent that such gains are contingent on productivity, use, or disposition thereof.

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 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. 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 derived by a resident of a Contracting State from the alienation of shares or comparable rights in a company, the assets of which consist wholly or principally of immovable property as referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
3. 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 fixed base, may be taxed in that other State.
4. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.
5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4 of this Article and paragraph 3 of Article 12, shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 14

Independent Personal Services

1. Income derived by an individual who is 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 and exceeds in the fiscal year 50,000 Baht or the equivalent amount in Israeli currency; 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, 19, 20 and 21, 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 in 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

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

ARTICLE 17

Artistes and Sportsmen

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 artiste, or

a musician, or as a sportsman, 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 a sportsman in his capacity as such accrues not to the entertainer or sportsman 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 sportsman 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 a sportsman 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.

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.

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 Functions

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 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 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 practise 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 for 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 reasonably 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

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State 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 income is 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.
3. Notwithstanding the provisions of paragraph 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention and arising in the other Contracting State may also be taxed in the other State.

ARTICLE 23

Limitation of Benefits

The competent authorities of the Contracting States, upon their mutual agreement, may deny the benefits of this Convention to any person, or with respect to any transaction, if in their opinion the receipt of those benefits, under the circumstances, would constitute an abuse of the Convention according to its purposes.

ARTICLE 24

Elimination of Double Taxation

1. Subject to the laws of Thailand regarding the allowance as a credit against Thai tax of tax paid in any country other than Thailand (and to any modification thereof which does not affect the general principal hereof), Israelitax paid in respect of income derived from Israel shall be allowed

as a credit against Thai tax paid in respect of that income. The amount of credit shall not, however, exceed that portion of Thai tax which is appropriate to that income.

2. Subject to the laws of Israel regarding the allowance as a credit against Israeli tax of tax paid in any country other than Israel (and to any modification thereof which does not affect the general principal hereof), Thai tax paid in respect of income derived from Thailand shall be allowed as a credit against Israeli tax paid in respect of that income. The amount of credit shall not, however, exceed that portion of Israeli tax which is appropriate to that income.

3. For the purposes of paragraph 1 of this Article, with respect to income or profits as to which any of the following provisions are applicable, the term "Israeli tax paid" shall include the difference, if any, between the tax payable in accordance with such following provisions and the tax payable, without reference to this Convention, in accordance with general Israeli tax law, in respect of such income or profits:

- (a) the Encouragement of Capital Investments Law - 1959, the Law for the Encouragement of Investments (Capital Intensive Companies) - 1990 and the Free Trade Areas Law - 1994, so far as they were in force on, and have not been modified since, the date of signature of this Convention, or have been modified only in minor respects so as not to affect their general character; or
- (b) any other provision which may subsequently be made granting an exemption or reduction of tax which is agreed by the competent authorities of the Contracting States to be of a substantially similar character, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character.

4. For the purposes of paragraph 2 of this Article, the term "Thai tax paid" shall be deemed to include any amount which would have been payable as Thai tax for any year but for an exemption or reduction of tax granted with a view to promoting industrial, commercial, scientific, educational or other development in Thailand, for that year or any part thereof under:

- (a) the Investment Promotion Act BE 2520 so far as it was in force on, and has not been modified since, the date of signature of this Convention, or has been modified only in minor respects so as not to affect its general character; or
- (b) any other provision which may subsequently be made granting an exemption or reduction of tax which is agreed by the competent authorities of the Contracting States to be of a substantially similar character, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character.

ARTICLE 25

Non-Discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.
3. 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.
4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not

be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5. 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.

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

ARTICLE 26

Mutual Agreement Procedure

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident. 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 States 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 27

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. Any information 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.

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 28

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 29

Entry Into Force

1. This Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible.
2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect:
 - (a) in respect of taxes withheld at the source, on amounts paid or remitted on or after the first day of January next following that in which the exchange of instruments of ratification takes place;
 - (b) in respect of other taxes on income, for taxable years or accounting periods beginning on or after the first day of January next following that in which the exchange of instruments of ratification takes place.

ARTICLE 30

Termination

This Convention shall remain in force indefinitely, but either of the Contracting States may, on or before 30th June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through diplomatic channels, written notice of termination.

In such event the Convention shall cease to have effect:

- (a) in respect of taxes withheld at the source, on amounts paid or remitted on or after the first day of January next following that in which the notice is given;
- (b) in respect of other taxes on income, for taxable years or accounting periods beginning on or after the first day of January next following that in which the notice is given.

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

Done in duplicate at Bangkok on this 22nd day of January, one thousand nine hundred and ninety-six Year of the Christian Era, each in the Thai, Hebrew and English languages, all texts being equally authoritative, except in the case of doubt when the English text shall prevail.

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

H.E. Dr. SURAKIAT SATHIRATHAI

(H.E. Dr. SURAKIAT SATHIRATHAI)

MINISTER OF FINANCE

**FOR THE GOVERNMENT OF THE
STATE OF ISRAEL:**

H.E. MR. AVRAHAM B. SHOCHAT

(H.E. MR. AVRAHAM B. SHOCHAT)

MINISTER OF FINANCE

PROTOCOL

At the signing of the Convention between the Government of the State of Israel and the Government of the Kingdom of Thailand for the avoidance of double taxation and the prevention

of fiscal evasion with respect to taxes on income, the undersigned have agreed upon the following provisions which shall form an integral part of the Convention.

1. With reference to paragraph 3 and 4 of Article 5, it is understood that the use of facilities for delivery shall be deemed to constitute a permanent establishment if they are used principally as a sales outlet.
2. With reference to paragraphs 1, 2, 5, 6 and 7 of Article 7 it is understood that the term "profits" refers to income or profits.
3. It is understood that in a case where payments for software are included within Article 12 their taxation shall be determined in accordance with the provisions of paragraph 2 of Article 12. However, in the event that Thailand passes legislation in accordance with which software is not protected under copyright law, the competent authorities of the Contracting States may consult together in order to determine the appropriate tax treatment of payments for software.
4. With reference to subparagraph (c) of paragraph 1 of Article 14, it is understood that the competent authorities may by mutual agreement agree to increase the monetary limitation in order to take into account the effect of inflation from time to time.

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

H.E. Dr. SURAKIAT SATHIRATHAI

(H.E. Dr. SURAKIAT SATHIRATHAI)

MINISTER OF FINANCE

**FOR THE GOVERNMENT OF THE
STATE OF ISRAEL:**

H.E. MR. AVRAHAM B. SHOCHAT

(H.E. MR. AVRAHAM B. SHOCHAT)

MINISTER OF FINANCE