

March 30, 1983

**CONVENTION BETWEEN THE GOVERNMENT OF THE KINGDOM OF
THAILAND AND THE GOVERNMENT OF THE REPUBLIC OF THE
PHILIPPINES 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 Republic of the Philippines,

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 I

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 each Contracting State, irrespective of the manner in which they are levied.

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

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

(a) in the case of Thailand:

(1) the income tax;

(2) the petroleum income tax; (hereinafter referred to as "Thai tax");

(b) in the case of the Philippines:

the income taxes imposed under Title II of the National Internal Revenue Code of the Philippines, as amended, and all other taxes on income imposed by the Philippines, (hereinafter referred to as "Philippine tax")

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

ARTICLE 3

GENERAL DEFINITIONS

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

(a) (i) the term "Thailand" means the Kingdom of Thailand and any area adjacent to the territorial waters of the Kingdom of Thailand which by Thai legislation has been or may hereafter be designated as an area within which the rights of the Kingdom of Thailand with respect to the seabed and sub-soil and their natural resources may be exercised;

(ii) the term "Philippines" means the Republic of the Philippines and when used in a geographical sense means the national territory comprising the Republic of the Philippines;

(b) the terms "a Contracting State" and "the other Contracting State" mean, as the context requires, Thailand or the Philippines;

(c) the term "person" includes an individual, an estate,, a trust, a company, and any other body of persons;

(d) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(e) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(f) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of one of the Contracting States, except when the ship or aircraft is operated solely between places in the other Contracting State;

(g) the term "national" means:

(i) any individual possessing the citizenship or nationality of a Contracting State;

(ii) any legal person, partnership or association created, organized or incorporated under the laws of a Contracting State;

(h) the term "competent authority" means;

(i) :in the case of Thailand, the Minister of Finance or his authorized representative;

(ii) in the case of the Philippines, the Minister of Finance or his authorized representative;

(i) the term "tax" means the Thai tax or the Philippine tax as the context requires.

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

Notwithstanding the preceding paragraph, if the meaning of such term under the laws of one of the Contracting States is different from the meaning of the term under the laws of the other Contracting State, the competent authorities of the Contracting States may, in order to prevent double taxation or to further the purpose of this Convention, establish a common meaning of the term for the purpose of this Convention.

ARTICLE 4

RESIDENCE

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 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 State, then his status shall be determined as follows:

(a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which, his personal and economic relations are closer (centre of vital interests);

(b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;

(c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;

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

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State where it was incorporated.

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 the 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 building site or construction project where such site or project continues for a period of more than six months;

(h) an assembly or installation project which exists for more than three months;

(i) premises used as a sales outlet;

(j) a warehouses in relation to a person providing storage facilities for others;

(k) the furnishing of services, including consultancy services, by a resident of one of the Contracting States through employees or other personnel, provided 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 183 days.

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 carrying on activities which have a preparatory or auxiliary character, for the enterprise, such as, advertising or scientific research.

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

(a) he has, and habitually exercises in that State, an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of qc merchandise for that enterprise; or

(b) he habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise; or

(c) he habitually secures orders in the first-mentioned State wholly or almost wholly for the enterprise or for the enterprise and other enterprises which control or are controlled by the former.

5. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status 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 the enterprise or for the enterprise and other enterprises which control or are controlled by the former, he shall not be considered an agent of an independent status within the meaning of this paragraph. In such a case, the provisions of paragraph 4 shall apply.

6. 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 s 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 immovable property, livestock and equipment used in agriculture and