

PROTOCOL to the Tax Convention between the Government of the Republic of the Philippines and the Government of the French Republic signed on January 9, 1976

The Government of the Republic of the Philippines and the Government of the French Republic, desiring to amend the Convention signed on January 9, 1976 between the two Governments for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (hereinafter referred to as "the Convention"), have agreed as follows :

ARTICLE 1

Paragraph 3 of Article 2 of the Convention is deleted and replaced by the following :

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

a) In the case of the Philippines :

the income tax imposed under Title II and the stock transaction tax in accordance with Section 124-A of the National Internal Revenue Code of the Republic of the Philippines,

(hereinafter referred to as "Philippine tax") ;

b) In the case of France :

i) the income tax ("l'impôt sur le revenu") ;

ii) the corporation tax ("l'impôt sur les sociétés");

iii) the tax on salaries ("la taxe sur les salaires"), governed by the provisions of the Convention applicable, as the case may be, to business profits or to income from independent personal services,

(hereinafter referred to as "French tax")."

ARTICLE 2

Article 3, paragraph 2 of the Convention is deleted and replaced by the following :

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

The meaning of a term under the taxation law of that State, shall have priority over the meaning provided for such term in the other branches of law of that State.

However in the case of the Philippines, where there is a conflict between the meaning of a term under the Constitution, and its meaning under the taxation law

and other laws relating to the taxes which are the subject of the Convention, the former shall prevail."

ARTICLE 3

Article 6 of the Convention is completed by the following paragraph :

"5. Where the ownership or usufruct of shares or other rights in a company entitles the owner or usufructuary to the enjoyment of immovable property situated in a Contracting State and held by that company, income derived by the owner or usufructuary from the direct use, letting or , use in any other form of his right of enjoyment, excluding mere occupation for his own use by the owner, may be taxed in that State notwithstanding the provisions of Articles 7 and 14."

ARTICLE 4

Paragraph 7 of Article 7 is completed by the following sentence :

"However, the provisions of the preceding paragraphs of this Article shall prevail over the provisions of paragraph 1 of Article 22."

ARTICLE 5

In Article 10 of the Convention :

- in paragraph 2, the rates of "15 percent" and "25 percent" are replaced respectively by "10 percent" and "15 percent";
- in paragraph 6, the rate of "15 percent" is replaced by "10 percent".

ARTICLE 6

Paragraph 2 of Article 12 of the Convention is deleted and replaced by the following :

"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 beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 15 percent of the gross amount of the f royalties."

ARTICLE 7

In Article 13 of the Convention, paragraph 4 is deleted.

ARTICLE 8

1. Subparagraph a of paragraph 1 of Article 23 of the Convention is deleted and replaced by the following :

"a) In accordance with the principles of this Convention, taxes paid or accrued under the laws of the French Republic whether directly or by deduction, except the French tax on salaries, in respect of income from sources within France shall be allowed as a credit against Philippine tax subject to the following limitations :

- i) the amount of the credit in respect to the tax paid or accrued to France shall not exceed the same proportion of the