

(TRANSLATION)
PROCLAMATION

PROMULGATING THE CONVENTION BETWEEN THE KINGDOM OF THAILAND AND THE REPUBLIC OF FRANCE FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME.

By Royal command, it is here by proclaimed that.—

WHEREAS The Convention Between Thailand and France for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed on 27th December B.E. 2517 (1974), Article 29 paragraph 1, provides that the convention shall be approved by constitutional procedures which is in force in each contracting state and shall enter into force in the day of exchange of notes indicating both states have completed necessary procedures, and paragraph 2 provides that the provision of this convention shall have effect :

(1) in respect of withholding taxes for amount paid on or after the first day this convention enters into force and (2) in respect of other taxes on income of the tax year and accounting periods beginning on or after the first day of January of the year this convention has an effect.

AND WHEREAS both governments have exchanged the notes indicating both states have completed necessary procedures of 29th August B.E. 2518 (1975).

THEREFORE this convention enters into force on 29th August B.E. 2518 (1975), Being the date of exchange of notes indicating both states have completed the procedures, and has effect in respect of withholding taxes, for an amount of income paid on or after 29th August B.E. 2518 (1975), and in respect of other taxes on income of the tax year and accounting periods beginning on or after 1st January B.E. 2518 (1975).

Given this 15th day of April B.E. 2519 (1976), Being the 31st of the present reign.

Countersigned

MR. KUKRIT PRAMOJ

PRIME MINISTER

**CONVENTION BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC 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 Government of the French Republic and the Government of the Kingdom of
Thailand,

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 each 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 as well as taxes on capital appreciation.
3. The existing taxes which are the subject of the present Convention are :
 - a) in France :
 - (i) the income tax ; and
 - (ii) the corporation tax ;
including any withholding tax, prepayment (precompte) or advance payment with respect to the aforesaid taxes ;
(hereinafter referred to as "French tax") ;
 - b) in Thailand :
 - (i) the income tax ; and
 - (ii) the petroleum income tax ;
(hereinafter referred to as "Thai tax")
4. The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify to each other any significant changes which have been made in their respective taxation laws.
5. If by reason of changes made in the taxation law of either of Contracting State, it seems desirable to amend any article of the Convention without affecting the general principles thereof the necessary amendments may be made by mutual consent by means of an exchange of diplomatic notes or in any other manner in accordance with their constitutional procedures.

Article 3

General Definitions

1. In this Convention,

a) the term "France" means European and overseas departments (Guadeloupe, Guiana, Martinique and Reunion) of the French Republic, and any area adjacent to the territorial waters of these Departments which by French legislation, and in accordance with international law, has been or may hereafter be designated as an area within which the rights of France with respect to the seabed and sub-soil and their natural resources may be exercised ;

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, and in accordance with international law, 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 ;

b) the term "a Contracting State" means France or Thailand, as the context requires ;

the term "Contracting States" means France and Thailand ;

c) the term "person" comprises an individual, a company and any other body of persons ;

d) the term "company" means any body corporate or any group of persons 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 "competent authority" means :

— in the case of France, the Minister of Economy and Finance or his authorised representative ;

— in the case of Thailand, the Minister of Finance or his authorised representative.

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

Article 4

Fiscal Domicile

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of registration or management or any other criterion of a similar nature.

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

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

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

Article 5

Permanent Establishment

- 1) For the purposes of this Convention, the term "permanent establishment" means a fixed place of business of the enterprise is wholly or partly carried on.
2. The term "permanent establishment" shall include especially ;
 - a) a place of management ;
 - b) a branch ;
 - c) an office ;
 - d) a factory ;
 - e) a workshop ;
 - f) a mine, quarry or other place of extraction of natural resources ;
 - g) a building site or construction or assembly project only if it exists for more than
 - i) 6 months, in the case of installation or setting up of plant equipment or machinery including auxiliary construction as is necessary for such installation ;
 - ii) 3 months in all other cases.
3. The term "permanent establishment" shall not be deemed to include :
 - a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise ;
 - b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery ;
 - c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise ;
 - d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise ;

- e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. Notwithstanding the provisions of paragraph 3, 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 Contracting State, an authority to conclude contracts for or on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or

- b) he habitually maintains in that Contracting State a stock of goods or merchandise belonging to the enterprise from which he regularly delivers goods or merchandise for or on behalf of the enterprise; or

- c) he habitually secures orders in that Contracting State, wholly for the enterprise itself, or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, if such persons are acting in the ordinary course of their business. A broker or agent shall be treated as not being of an independent status if he carries on in that other State an activity described in paragraph 4 wholly or almost wholly for the enterprises which are controlled by or have a controlling interest in it.

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 for either company a permanent establishment of the other.

Article 6

Income from Immovable Property

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.

2. The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

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

4. The provisions of 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 professional 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. Where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred whether in the State in which the permanent establishment is situated or elsewhere.
4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
5. 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.
6. 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 from the operation of aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. Profits from the operation of ships in international traffic by an enterprise having a place of effective management in a Contracting State may be taxed in the other Contracting State, but the tax imposed in that other State shall be reduced by 50 per cent thereof.
3. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.
4. The provisions of paragraphs 1 and 2 shall likewise apply in respect of participations in a pool or a joint business by enterprise engaged in shipping or air transport.

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 profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

Article 10

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 law of that State, but, if the recipient of the dividends is a company, excluding 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 per cent if the company paying the dividends engages in an industrial undertaking,
 - b) 20 per cent in other cases.
3. In this Article:
 - a) the term "dividends" as used in this Article means income from shares, "jouissance" shares, mining shares, founders or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident;
 - b) the term "industrial undertaking" means:
 - (1) any undertaking engaged in
 - i) manufacturing, assembling and processing,
 - ii) construction, civil engineering and ship-building,
 - iii) production of electricity, hydraulic power, gas or the supply of water, or
 - iv) agriculture, forestry and fishery and the carrying on of a plantation, and
 - (2) any other undertaking entitled to the privileges accorded under the laws of Thailand on the promotion of industrial investment, and

(3) any other undertaking which may be declared to be an "industrial undertaking" for the purpose of this Article by the competent authority of Thailand.

4. The provisions of paragraph 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected; provided that under the law of that other State the dividends are taxed as part of the profits of the permanent establishment. In such a case, the provisions of Article 7 shall apply.

5. When the prepayment (precompte) is paid in respect of dividends paid by a company which is a resident of France to a resident of Thailand, such resident shall be entitled to the refund of that prepayment subject to the deduction of the withholding tax with respect to the refunded amount in accordance with the internal law and paragraph 2 of this Article.

6. Where a company which is a resident of a Contracting State has a permanent establishment in the other Contracting State, it may be subjected therein to any withholding tax on the profits, of such permanent establishment as provided by the laws of that other Contracting State at a rate not exceeding 25 per cent.

Article 11

Interest

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in the other State.
2. However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that State, but in the following cases, the tax so charged shall not exceed:
 - a) 3 per cent of the amount of interest paid on loans or credits granted for four years or more with the participation of a financing public institution to a statutory body or to an enterprise of the other Contracting State in relation to the sale of any equipment or to the survey, the installation or the supply of industrial, commercial or scientific premises and of public works.
 - b) 10 per cent of the amount of interest paid to any financial institution which is a company of the other Contracting State.
3. Notwithstanding the provisions of paragraph 2, interest as is mentioned in paragraph 1 may not be taxed in the Contracting State in which it arises if it is interest paid to the other Contracting State or to a statutory body of that Contracting State.
4. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.
5. The provisions of paragraph 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest is effectively connected, provided that under the law of that other State the interest

is taxed as part of the profits permanent establishment. In such a case, the provisions of Article 7 shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

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

Article 12

Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable in the other State.
2. However, such royalties may be taxed in the Contracting State in which they arise, but the tax so charged shall not exceed :
 - a) 5 per cent of the gross amount of royalties if they are made as consideration for the alienation or the use of, or the right to use any copyright of literary, artistic or scientific work ;
 - b) 15 per cent of the gross amount of other royalties.
3. Notwithstanding the provisions of paragraph 2, royalties or other like payments payable to a Contracting State or a State owned company in respect of films or tapes shall be exempt from tax in the other Contracting State.
4. The term "royalties" as used in this Article means payments of any kind received as a consideration for the alienation or the use of or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use information concerning industrial, commercial or scientific experience.
5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected, provided that under the law of that other State the royalties are taxed as part of the profits of the permanent establishment. In such a case, the provisions of Article 7 shall apply.

6. Royalties shall be deemed to arise in a Contracting State when the payer is that State, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment with which the right or property giving rise to the royalties is effectively connected, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

7. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payment shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13

Capital Gains

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6 and from the sale or exchange of shares or comparable interests in a real property cooperative or in company whose objects consist principally of owning such property, may be taxed in the Contracting State in which such property is situated.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State 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 professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State. However, gains from the alienation of ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the place of effective management is situated.
3. Subject to the provisions of Article 12, gains from the alienation of any property other than those mentioned in paragraphs 1 and 2, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

Independent Personal Services

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless such activities were performed in the other Contracting State. Income in respect of professional services or independent activities performed within that other State may be taxed by that other State.
2. Notwithstanding the provisions of paragraph 1, income derived by a resident of a Contracting State in respect of professional services or other independent activities performed in the other Contracting State shall not be taxable in the other State if:
 - (a) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned,
 - (b) The recipient does not maintain a fixed base in the other State for a period or periods not exceeding in the aggregate 183 days in such year, and
 - (c) The income is not borne by an enterprise or a permanent establishment in that other State.
3. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountant.

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, 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 in the fiscal year concerned, 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 in respect of an employment exercised aboard a ship or aircraft in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16

. Directors' Fees

Directors' fees and similar payment 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

Artists and Athletes

1. Notwithstanding the provisions of Articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artists and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.
2. The provisions of paragraph 1 shall not apply to remuneration or profits, salaries, wages and similar income derived from services rendered in a Contracting State by public entertainers if the visit to that State is substantially supported directly or indirectly by public funds of the other Contracting State.
3. Where the services rendered in paragraph 1 are provided in a Contracting State by an enterprise of the other Contracting State, the profits derived from providing these services by such an enterprise may be taxed in the first-mentioned State unless the enterprise is substantially supported by public funds of the other Contracting State in connection with the provisions of such services.

Article 18

Private Pensions

Income in the nature of pensions or other remuneration for past employment arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in the first-mentioned State.

Article 19

Governmental Functions

1. Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or a local authority thereof to any individual in respect of services rendered to that State or local authority thereof in the discharge of functions of a governmental nature may be taxed in that State.
2. The provisions of Articles 15, 16 and 18 shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or a local authority thereof.

Article 20

Students and Trainees

An individual from a Contracting State who is temporarily present in the other State solely

- a) as a student at a recognized university, college or school in that other State ;
- b) as a business apprentice ; or
- c) as the recipient of a grant, allowance or award for the primary purpose of study or research from a scientific, educational, religious or charitable organizations ; shall not be taxed in that other State in respect of remittances for the purposes of his maintenance, education or training and in respect of any amount representing remuneration for services rendered in that other State provided that such services are in connection with his studies or training, or are necessary for the purposes of his maintenance.

Article 21

Professors, Teachers and Researchers

A resident of a Contracting State who, at the invitation of a university, college or other establishments owned by the other Contracting State or by any non-profit organization, visits that other State solely for the purpose of teaching or scientific research at such institution for a period not exceeding two years shall not be taxed in that other State on his remuneration for such teaching or research.

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

Method for Elimination of Double Taxation

Double taxation shall be avoided in the following manner :

1. In the case of France :

- a) Income other than that mentioned in subparagraph (b) below shall be exempt from the French taxes mentioned in subparagraph (3) (b) of Article 2 if the income is taxable in Thailand under the Convention and the law of Thailand.
- b) As regards income mentioned in Articles 8, 10, 11, 12, 16 and 17 which has borne the Thai tax in accordance with the provisions of these Articles, France shall allow to a resident of France receiving such income from Thailand a tax credit corresponding to the amount of tax levied in Thailand, provided that in the case of dividends referred to in Article 10 the credit shall not exceed 25 per cent of the gross amount thereof. Such tax credit, not exceeding the amount of French tax levied on such income, shall be allowed against the taxes mentioned in subparagraph (3) (b) of Article 2, in the bases of which such income is included.
- c) Notwithstanding the provisions of subparagraph (a) and (b) French tax may be computed on income chargeable in France by virtue of this Convention at the rate appropriate to the total of the income chargeable in accordance with French law.

2. In the case of Thailand :

- a) Income other than that mentioned in subparagraph (b) below shall be exempt from the Thai taxes mentioned in subparagraph (3) (b) of Article 2 if the income is taxable in France under the Convention and under the law of France.

- b) As regards income mentioned in Articles 8, 10, 11, 12, 16 and 17 which has borne the French tax in accordance with the provisions of these Articles, Thailand shall allow to a resident of Thailand receiving, such income from France a credit against Thai tax. Such credit shall be based on the amount of tax paid to France but shall not exceed the portion of Thai tax which net income from sources within France bears to the entire net income subject to Thai tax. In determining such entire net income a loss incurred in any country shall not be taken into account.
- c) Notwithstanding the provisions of subparagraphs (a) and (b) Thai tax may be computed on income chargeable in Thailand by virtue of this Convention at the rate appropriate to the total of the income chargeable in accordance with Thai law.

Article 24

Non-discrimination

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

2. The term "nationals" means :

a) all individuals possessing the nationality of a Contracting State ;

b) all legal persons, partnerships, and associations deriving their status as such from the law in force in a Contracting State.

3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

This provision 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.

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 that first-mentioned State are or may be subjected.

5. In this Article, the term "taxation" means taxes of every kind and description.

Article 25

Mutual Agreement Procedure

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting State result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those State, present his case to the competent authority of the Contracting State of which he is a resident.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention.
3. The competent authorities of the Contracting State shall endeavour to resolve by mutual agreement any difficulties arising as to the 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 purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting State.
5. The competent authorities shall settle the mode of application of this convention.

Article 26

Exchange of Information

1. The competent authorities of the Contracting State shall exchange such information as is necessary for the carrying out of this convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those, including a court, concerned with the assessment or collection of the taxes which are the subject of the Convention.

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

- a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State ;
- b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that 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 (order public).

Article 27

Diplomatic and International Organizations

1. Nothing in this Convention shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.
2. The Convention shall not apply to International Organizations, to organs or officials thereof and to persons who are members of a diplomatic or consular mission of a Third State, being present in a Contracting State and not treated in either Contracting State as residents in respect of taxes on income.

Article 28

Territorial Extension

1. This Convention may be extended, either in its entirety or with any necessary modifications by agreement between the Contracting States to the Overseas Territories of the French Republic which impose taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures.
2. Unless otherwise agreed by both Contracting States, the termination of the Convention by one of them under Article 30 shall terminate, in the manner provided for in that Article, the application of the Convention to any territory to which it has been extended under this Article.

Article 29

Entry into Force

1. This Convention shall be approved in accordance with the constitutional procedures in force in the respective Contracting States and shall come into force on the date of exchange of notes indicating that the necessary formalities have been completed in both States.
2. Its provisions shall have effect,
 - (i) in respects of withholding taxes, to amounts payable on or after the date of coming into force of this Convention;
 - (ii) in respects of other taxes on income, for the taxable years and accounting periods beginning on or after the 1 st January of the calendar year in which this convention comes into force.

Article 30

Termination

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention, through diplomatic channels after a period of five years from the date on which the Convention comes into force, by giving notice of termination on the 1st July. In such event, the Convention shall cease to have effect:

- (i) as respects withholding tax, to amounts payable after the 1st January of calendar year next following that in which the notice is given;
- (ii) as respects other taxes on income, for any taxable year or accounting period next following the year in which the notice is given.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Convention.

Done in duplicate at Bangkok this twenty seven day of December One thousand nine hundred and seventy four in the French and Thai languages, each text being equally authoritative.

For the Government of
the French Republic.

For the Government of
the Kingdom of Thailand.

(Louis Toffin)
Ambassador

(Charun P. Isarangkun Na Ayuthaya)
Minister of Foreign Affairs

PROTOCOL

At the moment of proceeding this day to the signature of the Convention 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:

Addendum art. 6

For the purposes of this Convention, it is understood that the term "immovable property" shall be defined in France in accordance with the tax law.

Addendum art. 7

It is understood that the method adopted by Thailand for calculation of net income or net profit according to which the taxpayers are allowed to apply against their gross income a standard deduction at a fixed percentage in lieu of expenses actually incurred is not contrary to the provisions of Article 7, paragraph 2.

Addendum art. 12

It is agreed that as long as the tax rate provided by the French law on the royalties received by a French resident as consideration for the alienation of, or the exclusive right to use any patent, process or information concerning industrial experience does not exceed 10 per cent, the tax charged in the Contracting State in which such royalties arise shall not exceed 10 per cent.

In witness whereof the undersigned have signed the present protocol which shall have the same force and validity as if they were inserted word by word in the Convention.

Done in duplicate at Bangkok this twenty-seventh day of December B.E. 2517.

One thousand nine hundred and seventy-four in the French and Thai languages, each text being authoritative.

For the Government of the

Kingdom of Thailand

Charun P. Isarangkun Na Ayuthaya

Minister of Foreign Affairs

For the Government of the

French Republic

Louis Toffin

Ambassador

No. 0605/36266

Ministry of Foreign Affairs,
Saranrom Palace, Bangkok.

29 August, B.E. 2518 (1975).

Excellency,

I have the honour to acknowledge the receipt of Your Excellency's Note dated 23 July 1975, in which you informed me that the Government of the French Republic had completed the procedures required by the Constitution of the French Republic for giving effect to the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion in respect of Taxes on Income between the Government of the Kingdom of Thailand and the Government of the French Republic, together with a Protocol, signed at Bangkok on 27 December 1974.

In reply, I have the honour to inform you that the procedures required by the Constitution of the Kingdom of Thailand for giving effect to the said Convention have now been completed and that the ^{present} ~~present~~ Convention shall enter into force between our two countries in accordance with Article 29 paragraph 1.

Accept, Excellency, the assurances of my highest consideration.

(Chatichai Choonhavan)

Minister of Foreign Affairs of Thailand

His Excellency,

Mr. Jean SAUVAGNARGUES,
Minister of Foreign Affairs of the
French Republic,
PARIS.

MEMORANDUM OF UNDERSTANDING

25th May 1972

It is understood that the following are not contrary to Article 24 :

(1) the provisions of the Revenue Code of Thailand whereby aliens are required to obtain tax clearance certificates prior to their departure from Thailand ;

(2) the levying of alien registration fee by Thailand or France.

P.K.

For the Thai
délégation :

For the French
délégation :

Shiphant Pashyananda

P. K. K.