

THAILAND

Agreement for avoidance of double taxation of income and the prevention of fiscal evasion with Thailand

Whereas the annexed Convention between the Government of the Republic of India 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 has been ratified and the instruments of ratification exchanged as required by Article 28 of the said Convention on 13th March, 1986;

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961) and section 24A of the Companies (Profits) Surtax Act, 1964 (7 of 1964), the Central Government hereby directs that all the provisions of the said Convention shall be given effect to in Union of India.

Notification : No. GSR 915(E), dated 27-6-1986.

TEXT OF ANNEXED AGREEMENT, DATED 22-3-1985

The Government of the Republic of India 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 :

CHAPTER I - SCOPE OF THE CONVENTION

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 political sub-divisions or 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 the total amounts of wages or salaries paid by enterprises.

3. The existing taxes to which this Convention shall apply are :

(a) in the case of India—

(i) the income-tax including any surcharge thereon imposed under the Income-tax Act, 1961 (43 of 1961); and

(ii) the surtax imposed under the Companies (Profits) Surtax Act, 1964 (7 of 1964); (hereinafter referred to as "Indian tax");

(b) in the case of 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 imposed by either Contracting State after the date of signature of this Convention in addition to, or in place of, the taxes referred to in paragraph (3) of this article. The competent authorities of the Contracting States shall notify each other of significant changes which have been made in their respective taxation laws.

CHAPTER II - DEFINITIONS

ARTICLE 3 - *General definitions* - 1. For the purpose of this Convention, unless the context otherwise requires :

(a) the term "India" means the territory of India and includes the territorial sea and air space above it as well as any other maritime zone referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (Act No. 80 of 1986), in which India has sovereign rights and to the extent that these rights can be exercised therein in accordance with international law, as if such maritime zone is a part of the territory of India;

- (b) the term "Thailand" means the Kingdom of Thailand and includes any maritime 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 may be exercised;
- (c) the terms "a Contracting State" and "the other Contracting State" mean India or Thailand as the context requires;
- (d) the term "tax" means Indian tax or Thai tax, as the context requires;
- (e) the term "person" includes an individual, a company and any other entity which is treated as a taxable unit under the taxation laws in force in the respective Contracting States;
- (f) the term "company" means any body corporate or any entity which is treated as a company or a body corporate under the taxation laws in force in the respective Contracting States;
- (g) 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;
- (h) the term "competent authority" means in the case of India, the Central Government in the Ministry of Finance (Department of Revenue) or their authorised representative; and in the case of Thailand, the Ministry of Finance or his authorised representative;
- (i) the term "national" means an individual possessing the nationality of a Contracting State and any legal person, partnership, association and any other entity deriving its status as such from the laws in force in a Contracting State;
- (j) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except where the ship or aircraft is operated solely between places in the other Contracting State.

2. In the application on the provisions of this Convention by one of the Contracting States, any term not defined herein shall, unless the context otherwise requires, have the meaning which it has for the purposes of the laws in force in that State relating to the taxes which are the subject of this Convention.

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 taxation therein by reason of his domicile, residence, place of incorporation, place of 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 his residential status for the purposes of this Convention 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 closer (hereinafter referred to as his "centre of vital interests");
- (b) If the Contracting State in which he has his centre of vital interests cannot be determined, or if he does not have 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 States or in neither of them, he shall be deemed to be a resident of the Contracting State 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, 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" shall include—

- (a) a place of management;
- (b) a branch;

- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, a quarry, an oil or gas well or other place of extraction of natural resources;
- (g) a farm, plantation or other place where agricultural, forestry, plantation or related activities are carried on;
- (h) a building site or construction or assembly project or supervisory activities in connection therewith, where such a site, project or activity continues for the same or a connected project for a period or periods aggregating to more than 183 days;
- (i) a warehouse, in relation to a person providing storage facilities for others;
- (j) 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 to 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 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 the preceding paragraphs, a person (other than a broker, general commission agent or any other agent of an independent status to whom paragraph (5) applies) acting in a Contracting State on behalf of an enterprise of the other Contracting State shall be deemed to be a permanent establishment in the first-mentioned Contracting State, if—

- (a) he has habitually exercises in the first-mentioned 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;
- (b) he habitually maintains in the first-mentioned Contracting State a stock of goods or merchandise belonging to that enterprise 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 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, where such persons are acting in the ordinary course of their business. This shall not apply if such broker or agent carries on in that other State an activity described in paragraph (4) wholly or almost wholly for the enterprise itself or for the enterprise and other 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 Contracting State (whether through a permanent establishment or otherwise), shall not, of itself, constitute either company or a permanent establishment of the other.

7. Notwithstanding the preceding provisions of this article, an insurance enterprise of a Contracting State shall, except in regard to reinsurance, be deemed to have a permanent establishment in the other State if it collects premiums in the territory of that 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 (5) of this article.

CHAPTER III - TAXATION OF INCOME

ARTICLE 6 - *Income from immovable property* - 1. Income from immovable property (including income from agriculture or forestry) may be taxed in the Contracting State in which such property is situated.

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 forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

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

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

ARTICLE 7 - *Business profits* - 1. The income or profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the income or profits of the enterprise may be taxed in the other State but only so much of them as is attributable to—

- (a) that permanent establishment;
- (b) sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or
- (c) other business activities carried on in that other State of the same or similar kind as those effected through that permanent establishment.

2. Where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein there shall in each Contracting State be attributed to that permanent establishment the income or 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 or independently with the enterprise of which it is a permanent establishment.

3. In the determination of the income or profits of a permanent establishment, there shall be allowed as deduction 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. Insofar as it has been customary in a Contracting State to determine the income or profits to be attributed to permanent establishment on the basis of a certain percentage of the gross receipts of the enterprise or on the basis of an apportionment of the total income or profits of the enterprise to its various parts, nothing in paragraph (2) of this article shall preclude that Contracting State from determining the income or profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this article.

5. No income or profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

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

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

ARTICLE 8 - *Shipping and air transport* - 1. Income derived by an enterprise of a Contracting State from the operation of aircraft in international traffic shall be taxable only in that Contracting State.

2. Income 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 Contracting State shall be reduced by an amount equal to 50 per cent thereof.

3. The provisions of paragraphs (1) and (2) of this article shall also apply to income from the participation in a pool, a joint business or an international operating agency engaged in the operation of aircraft or ships.

4. For the purposes of paragraphs (1) and (2), interest on funds connected with the operation of ships or aircraft in international traffic shall be regarded as income from the operation of such ships or aircraft.

5. The term "operation of ships or aircraft" shall mean business of transportation of persons, mail, livestock or goods by the ships or aircraft including the incidental lease of ships or aircraft and any other activity directly connected with such transportation.

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 also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that State, but if the beneficial owner of the dividends is a company which is a resident of the other Contracting State, the tax shall not exceed—

(a) 15 per cent of the gross amount of dividends, in a case where the company paying the dividends is engaged in an industrial undertaking and the beneficial owner of the dividends is a company of the other Contracting State owning at least 10 per cent of the voting shares of the company paying the dividends ;

(b) in the case not covered by sub-paragraph (a) above, 20 per cent of the gross amount of dividends if the company paying the dividends is engaged in an industrial undertaking or if the beneficial owner of the dividends is a company of the other Contracting State owning at least 25 per cent of the voting shares of the company paying the dividends.

3. (a) The term "dividends" as used in this article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares according to the taxation laws of the Contracting State of which the company making the distribution is a resident.

(b) In this article, the term "industrial undertaking" means an undertaking falling under any of the classes mentioned below :

(i) manufacturing, assembling and processing ;

(ii) construction, civil engineering and ship-building ;

(iii) production of electricity, hydraulic power or gas or the supply of water ;

(iv) agriculture, forestry and fishery and the carrying on of a plantation ;

(v) any other undertaking entitled to the privileges accorded under the laws of either Contracting State on the promotion of industrial investment ; and

(vi) any other undertaking which may be declared to be an “industrial undertaking” for the purposes of this article by the competent authority of the Contracting State in which the undertaking is situated.

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 a case, the provisions of article 7 or article 14, as the case may be, shall apply.

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

ARTICLE 11 - *Interest* - 1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may be taxed in the Contracting State in which it arises, and according to the laws of that State, but 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) in all other cases, 25 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph (2), interest arising in a Contracting State shall be exempt from tax in the State if —

- (a) the recipient of the interest is the Government, or local authority or the Central Bank of the other Contracting State ; or
- (b) the interest is paid to any agency or institution including a financial institution which may be agreed upon for the purposes of this paragraph by the competent authorities of the Contracting States.

4. The term “interest” as used in this article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor’s profits, and in particular, income from Government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as income assimilated to income from money lent by the taxation laws of the Contracting State in which the income arises.

5. The provisions of paragraphs (1) and (2) shall not apply if the recipient 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 Contracting State itself, a political sub-division, 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 fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by that permanent establishment or fixed base, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base 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-claims 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 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 be taxed in the Contracting State in which they arise, but the tax so charged shall not exceed 15 per cent of the gross amount of royalties.

3. 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, phonographic records and films or tapes for radio or television broadcasting), any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs (1) and (2) shall not apply if the recipient 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 a 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 Contracting State itself, a political sub-division, 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 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 Contracting State in which the permanent establishment or fixed base is situated.

6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of 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 payments 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, 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 independent personal 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 that other State.

3. Notwithstanding the provisions of paragraph (2), gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft which it operates in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in that State.

4. Gains derived by a resident of a Contracting State from the alienation of any property other than those mentioned in paragraphs (1), (2) and (3) above and article 12 shall be taxable only in that State.

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 relevant "previous year" or "tax year" concerned, as the case may be, and

(b) the recipient does not maintain a fixed base in the other State for a period or periods exceeding in the aggregate 183 days in such year, and

(c) the income is not borne by an enterprise or a permanent establishment situated 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, surgeons, lawyers, engineers, architects, dentists and accountants.

ARTICLE 15 - *Dependent personal services* - 1. Subject to the provisions of articles 16, 17, 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 Contracting 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 relevant “previous year” or “tax year” concerned, as the case may be, and

(b) the remunerations 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 an enterprise of the other Contracting State or 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 operating in international traffic, by an enterprise of a Contracting State shall be taxable only in that State.

ARTICLE 16 - *Directors' fees and remuneration of top level managerial officials* - 1. Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

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

ARTICLE 17 - *Artistes and athletes* - 1. Notwithstanding the provisions of articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio, or television artistes, musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are performed.

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

3. 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 by the public funds of the other Contracting State, including any political sub-division, local authority or statutory body thereof, in connection with the provisions of such activities.

4. The provisions of paragraphs (1) and (2) of this article shall not apply to remuneration or profits, salaries, wages and similar income derived from activities performed in a Contracting State by public entertainers or athletes if the visit to that Contracting State is substantially supported by public funds of the other Contracting State, including any political sub-division, local authority or statutory body thereof.

ARTICLE 18 - *Governmental functions* - 1. Remuneration (not being a pension) paid by the Government of a Contracting State to any individuals who is a citizen of that State in respect of services rendered in the discharge of governmental functions in the other Contracting State shall be taxable only in the first-mentioned Contracting State.

2. Any pension paid by the Government of one of the Contracting States to any individual may be taxed in that Contracting State.

3. The provisions of paragraphs (1) and (2) shall not apply to remuneration and pensions in respect of services rendered in connection with any business carried on by the Government of either of the Contracting States for the purposes of profit.

4. For the purposes of this article, the term "Government" shall include any State Government or local or statutory authority of either Contracting State and in particular the Reserve Bank of India and the Bank of Thailand.

ARTICLE 19 - *Non-Government pensions and annuities* - 1. Any pension (other than a pension referred to in article 18) or annuity derived by a resident of a Contracting State from sources within the other Contracting State may be taxed only in the first-mentioned Contracting State.

2. The term "pension" means a periodic payment made in consideration of services rendered in the past or as compensation for injuries received in the course of performance of services.

3. The term "annuity" means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

ARTICLE 20 - *Students and apprentices* - A student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting State solely for the purpose of his education or training, shall be exempt from tax in the first-mentioned Contracting State on —

- (a) the grant, allowance or award for the purposes of his maintenance, education or training ;
- (b) payments made to him by persons residing outside that first-mentioned Contracting State for the purposes of his maintenance, education or training ; and
- (c) remuneration from employment in that first-mentioned Contracting State, in an amount not in excess of Rs. 15,000 or its equivalent in Thai currency during any "previous year" or "tax year", as the case may be, provided that such employment is directly related to his studies or is undertaken for the purpose of his maintenance.

ARTICLE 21 - *Professors, teachers and research scholars* - 1. A professor, teacher or research scholar who is or was a resident of one of the Contracting States immediately before visiting the other Contracting State at the invitation of that other Contracting State, or of a university, college, school or other approved institution in that other Contracting State for the purpose of teaching or engaging in research, or both, at the university, college, school or other approved institution, shall be exempt from tax in that other Contracting State or any remuneration for such teaching or research for a period not exceeding two years from the date of his arrival in that other Contracting State.

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.

3. For the purposes of this article and article 20, an individual shall be deemed to be a resident of a Contracting State if he is resident in that Contracting State in the "previous year" or the "tax year", as the case may be, in which he visits the other Contracting State or in the immediately preceding "previous year" or the "tax year".

4. For the purposes of paragraph (1), "approved institution" means an institution which has been approved in this regard by the competent authority of the concerned Contracting State.

ARTICLE 22 - *Other income* - Items of income of a resident of a Contracting State, wherever arising, not expressly dealt with in the foregoing articles may be taxed in that State. Such items of income may also be taxed in the Contracting State where the income arises.

CHAPTER IV - METHODS FOR ELIMINATION OF DOUBLE TAXATION

ARTICLE 23 - *Elimination of double taxation* - 1. The laws in force in either of the Contracting State shall continue to govern the taxation of income in the respective Contracting States except where provisions to the contrary are made in this Convention.

2. The amount of Thai tax payable, under the laws of Thailand and in accordance with the provisions of this Convention, whether directly or by deduction, by a resident of India, in respect of profits or income

arising in Thailand, which has been subjected to tax both in India and in Thailand, shall be allowed as a credit against the Indian tax payable in respect of such profits or income provided that such credit shall not exceed the Indian tax (as computed before allowing any such credit) which is appropriate to the profits or income arising in Thailand. Further, where such resident is a company by which surtax is payable in India, the credit aforesaid shall be allowed in the first instance against income-tax payable by the company in India and as to the balance, if any, against surtax payable by it in India.

3. For the purposes of the credit referred to in paragraph (2), the term "Thai tax payable" 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 for that year or any part thereof under the provisions of the Investment Promotion Act (B.E. 2520) or of the Revenue Code (B.E. 2481) which are designed to promote economic development in Thailand, or which may be introduced hereafter in modification of, or in addition to, the existing laws for promoting economic development in Thailand.

4. The amount of Indian tax payable under the laws of India and in accordance with the provisions of this Convention, whether directly or by deduction, by a resident of Thailand, in respect of profits or income arising in India, which has been subjected to tax both in India and Thailand, shall be allowed as a credit against Thai tax payable in respect of such profits or income provided that such credit shall not exceed the Thai tax (as computed before allowing any such credit) which is appropriate to the profits or income arising in India.

5. For the purposes of the credit referred to in paragraph 4, the term "Indian tax payable" shall be deemed to include any amount which would have been payable as Indian tax for any assessment year but for an exemption or reduction of tax granted for that year or any part thereof by the special incentive measures under the provisions of the Income-tax Act, 1961 (43 of 1961), which are designed to promote economic development, or which may be introduced hereafter in modification of, or in addition to the existing provisions for promoting economic development in India.

6. Where under this Convention a resident of a Contracting State is exempt from tax in that Contracting State in respect of income derived from the other Contracting State, then the first-mentioned Contracting State may, in calculating tax on the remaining income of that person, apply the rate of tax which would have been applicable if the income exempted from tax in accordance with this Convention had not been so exempted.

CHAPTER V - SPECIAL PROVISIONS

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

3. Nothing contained in this article shall be construed as obliging a Contracting State to grant to persons not resident in that State any personal allowances, reliefs and reductions for taxation purposes which are by law available only to persons who are so resident.

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 Contracting 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 in the same circumstances.

5. In this article, the term "taxation" means taxes which are the subject of this Convention.

ARTICLE 25 - *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, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident. This case must be presented within three years of the date of receipt of notice of the action which gives rise to taxation not in accordance with the 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 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 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 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 States.

ARTICLE 26 - *Exchange of information* - 1. The competent authorities of the Contracting States shall exchange such information or document as is necessary for carrying out the provisions of this Convention or for the prevention of fraud or evasion of taxes which are the subject of this Convention. Any information or document received by a Contracting State shall be treated as secret in the same manner as information or document 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 or document only for such purposes. They may disclose the information or document in public court proceedings or in judicial decisions.

¹(2) The exchange of information or document shall be either on a routine basis or on request with reference to particular cases or both. The competent authorities of the Contracting States shall agree from time to time on the list of the information or documents which shall be furnished on a routine basis.

3. 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 or administrative practice of that or of the other Contracting State ;
- (b) to supply information or documents 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 or documents 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.

ARTICLE 27 - *Diplomatic and consular activities* - Nothing in this Convention shall affect the fiscal privileges of diplomatic agents or consular officials under the general rules of inter-national law or under the provisions of special agreement.

CHAPTER VI - FINAL PROVISIONS

ARTICLE 28 - *Entry into force* - 1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Bangkok as soon as possible.

2. This Convention shall enter into force upon the exchange of the instruments of ratification and shall have effect—

- (a) in India, in respect of income derived during the “previous years” beginning on or after the first day of January of the calendar year next following the calendar year in which the instruments of ratification are exchanged ;
- (b) in Thailand, in respect of income derived during “tax years” or “accounting periods” beginning on or after the first day of January of the calendar year next following the calendar year in which the instruments of ratification are exchanged.

ARTICLE 29 - *Termination* - This Convention shall remain in force indefinitely but either Contracting State may terminate the Convention, through diplomatic channels, by giving to the other Contracting State, written notice of termination on or before June 30th of any calendar year after the expiration of five years from the year in which the Convention entered into force. In such event, the Convention shall cease to have effect —

- (a) in India, in respect of income derived during the “previous years” beginning on or after the first day of January of the calendar year next following the calendar year in which the notice is given ;
- (b) in Thailand, in respect of income derived during “tax years” or “accounting periods” beginning on or after the first day of January of the calendar year next following the calendar year in which the notice is given.

IN WITNESS WHEREOF the undersigned, duly authorised thereto by their respective Governments, have signed this Convention :

DONE at New Delhi on this 22nd day of March, 1985, in six originals, two each in the Hindi, Thai and English languages, all texts being equally authentic, except in case of divergence when the English text shall prevail.