

PROTOCOL AMENDING THE AGREEMENT BETWEEN THE GOVERNMENT OF  
THE KINGDOM OF THAILAND AND THE GOVERNMENT OF MALAYSIA FOR  
THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF  
FISCAL EVASION WITH RESPECT TO TAXES ON INCOME SIGNED AT  
KUALA LUMPUR ON 29TH MARCH 1982

The Government of the Kingdom of Thailand and the  
Government of Malaysia;

Desiring to conclude a Protocol to amend the  
Agreement between the Contracting Governments for the  
Avoidance of Double Taxation and the Prevention of Fiscal  
Evasion with respect to Taxes on Income, signed at Kuala  
Lumpur on 29th March 1982 (hereinafter referred to as "the  
Agreement");

Have agreed as follows :

ARTICLE 1

Article 3 of the Agreement shall be amended by inserting immediately after sub-paragraph 1 (j) the following :

"(k) the term "Joint Authority" means the Authority defined in section 2 of the Malaysia-Thailand Joint Authority Act 1990 and in section 4 of the Thailand-Malaysia Joint Authority Act B.E. 2533;

(l) the term "Joint Development Area" means the area defined in section 2 of the Malaysia-Thailand Joint Authority Act 1990 and in section 4 of the Thailand-Malaysia Joint Authority Act B.E. 2533"

Article 2

The following new Article shall be inserted immediately after Article 7 of the Agreement:

"Article 7A

BUSINESS INCOME OR PROFITS FROM THE JOINT DEVELOPMENT AREA

1 (a) Income or profits derived by a person exercising the right to explore and exploit any petroleum in the Joint Development Area under a contract awarded by the Malaysia-Thailand Joint Authority may be taxable in both Contracting States.

(b) Income or profits derived by a person from carrying out activities directly related to exploration and exploitation of any petroleum in the Joint Development Area may be taxable in both Contracting States. The competent authority of both Contracting States shall communicate with each other to identify activities directly related to exploration and exploitation of any petroleum in the Joint Development Area.

2. Where such income is taxable in both Contracting States, the tax chargeable in each Contracting State shall be reduced by fifty per cent thereof."

Article 3

The following new Article shall be inserted immediately after Article 12 of the Agreement:

"Article 12A

ROYALTIES FROM THE JOINT DEVELOPMENT AREA

1. Royalties as defined in Article 12 arising from activities in the Joint Development Area and charged as an expense of a business carried out by a person referred to in paragraph 1(a) or (b) of Article 7A may be taxable in both Contracting States.
  
2. Where such income is taxable in both Contracting States, the tax chargeable in each Contracting State shall be reduced by fifty per cent thereof"

Article 4

The following new Article shall be inserted immediately after Article 14 of the Agreement:

"Article 14A

PERSONAL SERVICES IN THE JOINT DEVELOPMENT  
AREA OR WITH THE JOINT AUTHORITY

1. Notwithstanding the provisions of Articles 14 and 15, any remuneration derived by a national of a Contracting State in respect of an employment exercised in the Joint Development Area or with the Joint Authority shall be taxable only in the Contracting State of which he is a resident.
  
2. Any remuneration derived by a person (other than the national of a Contracting State) in respect of an employment exercised in the Joint Development Area or with the Joint Authority may be taxable in both Contracting States. Where such remuneration is taxable in both Contracting States, the tax chargeable in each Contracting State shall be reduced by an amount equal to fifty per cent thereof.

3. Any income derived by any person in respect of personal (including professional) services performed or carried out in the Joint Development Area or with the Joint Authority may be taxable in both Contracting States.

Where such income is taxable in both Contracting States, the tax chargeable in each Contracting State shall be reduced by an amount equal to fifty per cent thereof.

4. For the purposes of this Article, employment exercised in the Joint Development Area means employment with persons referred to in paragraph 1(a) or (b) of Article 7A solely in connection with the exploration and exploitation of petroleum in the Joint Development Area"

Article 5

The following new Article shall be inserted immediately after Article 20 of the Agreement.

"Article 20A

TECHNICAL FEES FROM THE JOINT DEVELOPMENT AREA

1. Technical fees derived from the Joint Development Area may be taxable in both Contracting States. Where such technical fees is taxable in both Contracting States, the tax chargeable in each Contracting State shall be reduced by an amount equal to fifty per cent thereof.
2. The term "technical fees" as used in this Article means payments of any kind to any person other than to an employee of the person making the payments, in consideration for any services of a technical, managerial or consultancy nature.
3. For the purposes of this Article, technical fees derived from the Joint Development Area means technical fees referred to in paragraph 2 solely in connection with the activities carried out by persons referred to in paragraph 1(a) or (b) of Article 7A."

Article 6

Article 23 of the Agreement shall be amended by inserting immediately after paragraph 5 the following:

"8. The provisions of this Article shall not apply to tax payable in each Contracting State in accordance with the provisions of Articles 7A, 12A, 14A and 20A."



Article 7

APPLICATION OF PROTOCOL

1. Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Protocol which shall form an integral part of the Agreement. This Protocol shall enter into force on the date of the later of these notifications and, subject to the provisions of paragraph 2 of this Article, shall have effect for the income of the calendar years or accounting periods beginning on or after the first day of January of 1992.

2. This Protocol shall also apply, notwithstanding Article 1 of the Agreement, to persons who are not resident to one or both of the Contracting States.

3. This Protocol shall cease to be effective at such a time as the Agreement ceases to be effective in accordance with Article 29 of the Agreement.

IN WITNESS whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Protocol.

Done in duplicate at Bangkok on this 10th day of February 1995 in the Thai, Bahasa Malaysia and the English languages, the three texts being equally authoritative.

FOR THE GOVERNMENT OF  
THE KINGDOM OF THAILAND



(H.E. Thaksin Shinawatra)  
Minister of Foreign Affairs

FOR THE GOVERNMENT OF  
MALAYSIA



(H.E. Dato' Zainal Abidin Alias)  
Ambassador Extraordinary and  
Plenipotentiary