

AGREEMENT
BETWEEN
THE THAILAND TRADE AND ECONOMIC OFFICE IN TAIPEI
AND
THE TAIPEI ECONOMIC AND TRADE OFFICE IN THAILAND
FOR THE AVOIDANCE OF DOUBLE TAXATION AND
THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

The Thailand Trade and Economic Office in Taipei (hereinafter referred to as "TTEO") and the Taipei Economic and Trade Office in Thailand (hereinafter referred to as "TETO")

Desiring to conclude an agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and

Having obtained approval from their respective authorities,

Have agreed as follows:

Article 1

PERSONAL SCOPE

This Agreement shall apply to persons who are residents of one or both of the territories.

Article 2

TAXES COVERED

1. The existing taxes to which the Agreement shall apply are in particular:

- (a) in the territory in respect of which the taxation laws administered by the Thai Revenue Department are applied at the date of signature of this Agreement:

the income tax; and
the petroleum income tax;

- (b) in the territory in respect of which the taxation laws administered by the Department of Taxation, Ministry of Finance, Taipei are applied at the date of signature of this Agreement:

the individual consolidated income tax; and
the profit-seeking enterprise income tax

2. The Agreement shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the territories shall notify each other of significant changes which have been made in the taxation laws.

Article 3

GENERAL DEFINITIONS

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

(a) the term "territory" means the territory referred to in subparagraph 1 (a) or 1 (b) of Article 2, as the context requires;

(b) the term "person" includes an individual, a company and any other body of persons as well as any entity treated as a person for tax purposes;

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

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

(e) the terms "enterprise of a territory" and "enterprise of the other territory" mean respectively an enterprise carried on by a resident of a territory and an enterprise carried on by a resident of the other territory, as the context requires;

(f) the term "competent authority" means:

(i) in the case of the territory referred to in subparagraph 1 (a) of Article 2, the Director - General of the Revenue Department or a representative authorised by the Director - General;

(ii) in the case of the territory referred to in subparagraph 1 (b) of Article 2, the Director - General of the Department of Taxation, Ministry of Finance or a representative authorised by the Director - General.

2. As regards the application of this Agreement at any time in a territory, any term not defined in the Agreement shall, unless the context otherwise requires, have the meaning which it has at that time under the laws of that territory concerning the taxes to which the Agreement applies, any meaning under the applicable tax laws of that territory prevailing over a meaning given to the term under other laws of that territory.

Article 4

RESIDENT

1. For the purposes of this Agreement, a person is a resident of a territory if, under the laws of that territory, the person is liable to tax by reason of domicile, residence, place of management or incorporation or other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both territories, then his status shall be determined as follows:

- (a) he shall be deemed to be a resident of the territory where he has a permanent home available to him ; if he has a permanent home available to him in both territories, he shall be deemed to be a resident of the territory with which his personal and economic relations are closer (centre of vital interests);
- (b) if where his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either territory, he shall be deemed to be a resident of the territory in which he has an habitual abode;

- (c) if he has an habitual abode in both territories or in neither of them, the competent authorities of both territories shall endeavour to 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 territories, then the competent authorities of both territories shall endeavour to settle the question by mutual agreement.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, 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" includes especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- (g) a farm or plantation;
- (h) a warehouse, in relation to a person providing storage facilities for others;
- (i) a building site, a construction, installation or assembly project or supervisory activities in connection therewith, where such site, project or activities continue for a period of more than six months;

- (j) the furnishing of services including consultancy services by a resident of a territory through employees or other personnel, where activities of that nature continue for the same or a connected project within the other territory for a period or periods aggregating more than six months within any twelve-month period.

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 or display 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 or display;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

4. Notwithstanding the provisions of paragraphs 1 and 2, where a person-other than an agent of an independent status to whom paragraph 5 applies-is acting in a territory on behalf of an enterprise of the other territory, that enterprise shall be deemed to have a permanent establishment in the first-mentioned territory, if such a person:

- (a) has and habitually exercises in the first-mentioned territory an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise;

(b) has no such authority, but habitually maintains in the first-mentioned territory a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders or makes deliveries on behalf of the enterprise; or

(c) has no such authority, but habitually secures orders in the first-mentioned territory 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 territory shall not be deemed to have a permanent establishment in the other territory merely because it carries on business in that other territory through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

6. The fact that a company which is a resident of a territory controls or is controlled by a company which is a resident of the other territory, or which carries on business in that other territory (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a territory from immovable property situated in the other territory may be taxed in that other territory.

2. The term "immovable property" shall have the meaning which it has under the law of the territory where 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 territory shall be taxable only in that territory unless the enterprise carries on business in the other territory 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 territory but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a territory carries on business in the other territory through a permanent establishment situated therein, there shall in each territory 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 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 of the enterprise which are incurred for the purposes of the permanent establishment (including executive and general administrative expenses so incurred), whether incurred in the territory in which the permanent establishment is situated or elsewhere. However, no deduction is allowable in respect of expenses which are not deductible under the laws of the territory in which the permanent establishment is situated.

4. Insofar as it has been customary in a territory to determine the profits to be attributed to a permanent establishment on the basis of a certain percentage of the gross receipt of the enterprise or of the permanent establishment or on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 of this Article shall preclude that territory from determining the profits to be taxed by such a method as may be customary; the method 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 Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

SHIPPING AND AIR TRANSPORT

1. Income or profits derived by an enterprise of a territory from the operation of aircraft in international traffic shall be taxable only in that territory.

2. Income or profits derived by an enterprise of a territory from the operation of ships in international traffic may be taxed in the other territory, but the tax imposed in that other territory shall be reduced by an amount equal to 50 per cent thereof.

3. The provisions of paragraphs 1 and 2 shall also apply to income or profits from the participation in a pool, a joint business or an international operating agency.

4. Paragraphs 1 and 2 shall also apply to income or profits from the rental of ships or aircraft on a time, voyage or bareboat basis, and income or profits from the rental of containers and related equipment, which is incidental to the international operation of ships or aircraft.

Article 9

ASSOCIATED ENTERPRISES

Where

(a) an enterprise of a territory participates directly or indirectly in the management, control or capital of an enterprise of the other territory,
or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a territory and an enterprise of the other territory,

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 income or 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 income or profits of that enterprise and taxed accordingly.

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a territory to a resident of the other territory may be taxed in that other territory. However, such dividends may also be taxed in the territory of which the company paying the dividends is a resident and according to the laws of that territory, but if the recipient is the beneficial owner of the dividends, the tax so charged shall not exceed:

(a) 5 per cent of the gross amount of the dividends if the beneficial owner directly holds at least 25 per cent of the capital of the company paying the dividends;

(b) 10 per cent of the gross amount of the dividends in all other cases.

2. The term "dividends" as used in this Article means income from shares, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws applicable in the territory where the company making the distribution is a resident.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the dividends, being a resident of a territory, carries on business in the other territory, through a permanent establishment situated therein, or performs in that other territory 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 case the provisions of Article 7 or Article 14, as the case may be, shall apply.

4. Where a company which is a resident of a territory derives income or profits from the other territory, that other territory 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 territory 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 territory, 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 income or profits arising in such other territory. Nothing in this paragraph shall be construed as preventing a territory from imposing income tax, according to the laws of territory, on the disposal of profits made by a permanent establishment situated therein, but the tax charged shall in no case exceed the tax charged on dividends in the territory in accordance with provisions of paragraph 1 (a) of this Article.

Article 11

INTEREST

1. Interest arising in a territory and paid to a resident of the other territory may be taxed in that other territory. However, such interest may also be taxed in the territory in which it arises and according to the laws of that territory, but if the recipient is the beneficial owner of the interest, 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) 15 per cent of the gross amount of the interest in other cases.

2. 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 law of the territory where the income arises. Penalty charges for late payment shall not be regarded as interest for the purpose of this article.

3. Notwithstanding the provisions of paragraph 1, interest arising in a territory and derived by the authority of the other territory including local authorities thereof, a political subdivision, the Central Bank or any financial institution controlled by that authority, the capital of which is wholly owned by the authority of the other territory, as may be agreed upon from time to time between the competent authorities of both territories, shall be exempt from tax in the first-mentioned territory.

4. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a territory, carries on business in the other territory, through a permanent establishment situated therein, or performs in that other territory 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 cases the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Interest shall be deemed to arise in a territory when the payer is a resident of that territory. Where, however, the person paying the interest, whether he is a resident of a territory or not, has in a territory a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in that territory.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, 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 beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each territory, due regard being had to the other provisions of this Agreement.

Article 12

ROYALTIES

1. Royalties arising in a territory and paid to a resident of the other territory may be taxed in that other territory. However, such royalties may also be taxed in the territory in which they arise and according to the laws of that territory, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

2. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, or films or tapes used 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.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a territory, carries on business in the other territory, through a permanent establishment situated therein, or performs in that other territory 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 cases the provisions of Article 7 or Article 14, as the case may be, shall apply.

4. Royalties shall be deemed to arise in a territory when the payer is a resident of that territory. Where, however, the person paying the royalties, whether he is a resident of a territory or not, has in a territory a permanent establishment or a 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 that territory.

5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, 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 beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each territory, due regard being had to the other provisions of this Agreement.

Article 13

CAPITAL GAINS

1. Gains derived by a resident of a territory from the alienation of immovable property referred to in Article 6 and situated in the other territory may be taxed in that other territory.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a territory has in the other territory or of movable property pertaining to a fixed base available to a resident of a territory in the other territory for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other territory.
3. Gains derived by an enterprise of a territory from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that territory where the alienator is a resident.
4. Gains from the alienation of any property or assets, other than those referred to in paragraphs 1, 2 and 3 of this Article, shall be taxable only in the territory where the alienator is a resident.

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a territory in respect of professional services or other activities of an independent character shall be taxable only in that territory except in the following circumstances, when such income may also be taxed in the other territory:
 - (a) if he has a fixed base available to him in the other territory for the purpose of performing his activities, for a period or periods amounting to or exceeding in the aggregate 183 days within any twelve-month period; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other territory; or
 - (b) if his stay in the other territory is for a period or periods amounting to or exceeding in the aggregate 183 days within any twelve-month period; in that case, only so much of the income as is derived from his activities performed in that other territory may be taxed in that other territory ; or
 - (c) if the remuneration for his activities in the other territory is paid by a resident of that territory or is borne by a permanent establishment or a fixed base situated in that territory; in that case, only so much of the remuneration as is derived therefrom may be taxed in that other territory.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, dentists, lawyers, engineers, architects and accountants.

Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 17, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a territory in respect of an employment shall be taxable only in that territory unless the employment is exercised in the other territory. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other territory.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a territory in respect of an employment exercised in the other territory shall be taxable only in the first-mentioned territory if:

(a) the recipient is present in the other territory for a period or periods not exceeding in the aggregate 183 days within any twelve-month period, and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other territory, and

(c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other territory.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, by an enterprise of a territory shall be taxable only in that territory.

Article 16

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a territory in his capacity as a member of the board of directors of a company which is a resident of the other territory may be taxed in that other territory.

Article 17

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a territory as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other territory, may be taxed in that other territory .

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the territory where the activities of the entertainer or sportsman are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to remuneration or profits, salaries, wages and other similar income derived from activities performed in the other territory by an entertainer or a sportsman if the visit to that other territory is substantially supported by public funds as recognized by the competent authorities in both territories.

4. Notwithstanding the provisions of Article 7, where the activities mentioned in paragraph 1 are provided in a territory by an enterprise of the other territory, the profits derived from providing these activities by such an enterprise may be taxed in the first-mentioned territory unless the enterprise is substantially supported by public funds as recognized by the competent authorities in both territories.

Article 18

PENSIONS

Pensions and other similar remuneration for past employment arising in a territory shall be taxable only in that territory.

Article 19

STUDENTS

An individual who, immediately before visiting a territory was a resident of the other territory and whose visit to the first-mentioned territory is solely for the purpose of:

(a) studying at a university or other recognized educational institution; or

(b) securing training to qualify him to practise a profession or trade; or

(c) studying or carrying out research as a recipient of a grant, allowance or award from relevant authorities or from a religious, charitable, scientific, literary or educational organization;

shall be exempt from tax in that territory on:

(i) remittances from abroad for the purposes of his maintenance, education, study, research or training; and

(ii) the grant, allowance or award.

Article 20

PROFESSORS, TEACHERS AND RESEARCHERS

1. An individual who is a resident of a territory immediately before making a visit to the other territory and who, at the invitation of any university, college, school or other similar educational institution which is recognized by relevant authorities in that other territory, visits that other territory for a period not exceeding two years solely for the purpose of teaching or research or both at such educational institution shall be exempt from tax in that other territory on any remuneration for such teaching or research.

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.

Article 21

OTHER INCOME

Items of income of a resident of a territory which are not expressly mentioned in the foregoing Articles of this Agreement may be taxed in the territory where the income arises.

Article 22

ELIMINATION OF DOUBLE TAXATION

1. In the territory represented by TTEO, double taxation shall be eliminated as follows:

Subject to the laws applicable in the territory represented by TTEO regarding the allowance as a credit against the tax payable in the territory represented by TETO, where a resident of the territory represented by TTEO derives income from the territory represented by TETO which may be taxed in the territory represented by TETO in accordance with the provisions of this Agreement, the amount of tax payable in the territory represented by TETO in respect of that income shall be allowed as a credit against the tax imposed in the territory represented by TTEO on that resident. The credit so allowed against the tax payable in the territory represented by TTEO shall not exceed the amount of tax which, computed at the applicable domestic tax rate, is increased in consequence of inclusion of its income derived from the territory represented by TETO.

2. In the territory represented by TETO, double taxation shall be eliminated as follows:

Subject to the laws applicable in the territory represented by TETO regarding the allowance as a credit against the tax payable in the territory represented by TTEO, where a resident of the territory represented by TETO derives income from the territory represented by TTEO which may be taxed in the territory represented by TTEO in accordance with the provisions of this Agreement, the amount of tax payable in the territory represented by TTEO in respect of that income shall be allowed as a credit against the tax imposed in the territory represented by TETO on that resident. The credit so allowed against the tax payable in the territory represented by TETO shall not exceed the amount of tax which, computed at the applicable domestic tax rate, is increased in consequence of inclusion of its income derived from the territory represented by TTEO.

3. For the purpose of paragraph 1, the term "the tax payable in the territory represented by TETO" shall be deemed to include the amount of tax in the territory represented by TETO which would have been paid under the laws of the territory represented by TETO if the tax in the territory represented by TETO had not been exempted or reduced in accordance with:

(a) the provisions of Articles 6,7,8 and 8-1 of the Statute for Upgrading Industries in the territory represented by TETO as effective on the date of signature of this Agreement or as modified only in minor aspects after the date of signature of this Agreement;

(b) any other special incentive measures designed to promote economic development in the territory represented by TETO which may be introduced hereafter in modification of, or in addition to, the existing laws, as may be agreed between the competent authorities of both territories.

4. For the purposes of paragraph 2, the term "the tax payable in the territory represented by TTEO" shall be deemed to include the amount of tax in the territory represented by TTEO which would have been paid if the tax in the territory represented by TTEO had not been exempted or reduced in accordance with:

(a) the provisions of the sections 31, 33, 34 and 35 of the Investment Promotion Act in the territory represented by TTEO, as effective on the date of signature of this Agreement or as modified only in minor aspects after the date of signature of this Agreement;

(b) any other special incentive measures designed to promote economic development in the territory represented by TTEO which may be introduced hereafter in modification of, or in addition to, the existing laws, as may be agreed between the competent authorities of both territories.

5. The provisions of paragraphs 3 and 4 shall apply in a period of five years from the date on which this Agreement enters into force. These provisions shall apply to a resident of the territory represented by TETO approved by its authority and to a resident of the territory represented by TTEO. The period of application may be extended by mutual agreement between the competent authorities of both territories.

Article 23

NON - DISCRIMINATION

1. Nationals of a territory shall not be subjected in the other territory 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 territory in the same circumstances are or may be subjected.

2. The term "national" means:

- (i) any individual possessing the nationality of a territory;
- (ii) any legal person, partnership and association deriving its status as such from the laws in force in a territory.

3. The taxation on a permanent establishment which an enterprise of a territory has in the other territory shall not be less favourably levied in that other territory than the taxation levied on enterprises of that other territory carrying on the same activities. This provision shall not be construed as obliging a territory to grant to residents of the other territory 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. Except where the provisions of Article 9, paragraph 6 of Article 11, or paragraph 5 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a territory to a resident of the other territory shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned territory.

5. Enterprises of a territory, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other territory shall not be subjected in the first-mentioned territory 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 the first-mentioned territory are or may be subjected.

6. In this Article the term "taxation" means taxes which are the subject of this Agreement.

Article 24

MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a territory considers that the actions of one or both of the territories result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the laws applicable in those territories, present his case to the competent authority of the territory of which he is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.
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 territory, with a view to the avoidance of taxation which is not in accordance with this Agreement.
3. The competent authorities of the territories shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.
4. The competent authorities of the territories may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 25

EXCHANGE OF INFORMATION

1. The competent authorities of the territories shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the laws applicable in the territories concerning taxes covered by the Agreement, insofar as the taxation thereunder is not contrary to the Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment or collection of the taxes which are the subject of this Agreement.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on the competent authority of a territory the obligation:

(a) to carry out administrative measures at variance with the laws applicable in, or administrative practice of that or of the other territory;

(b) to supply information which is not obtainable under the laws applicable in, or in the normal course of the administration of that or of the other territory;

(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 26

ENTRY INTO FORCE

1. This Agreement shall enter into force upon an exchange of notes by the duly authorized representatives of TETO in Thailand and TTEO in Taipei confirming that both sides have completed all internal legal procedures necessary to give effect to this Agreement.

2. The provisions of this Agreement shall have effect:

(a) in respect of taxes withheld at the source, on amounts paid, remitted or credited on or after the first day of January next following that in which the exchange of notes takes place;

(b) in respect of other taxes on income, for taxable years or accounting periods beginning on or after the first day of January next following that in which the exchange of notes takes place.

Article 27

TERMINATION

This Agreement shall remain in force indefinitely, but TETO in Thailand and TTEO in Taipei may, on or before 30th June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other written notice of termination.

In such event, the Agreement shall cease to have effect:

(a) in respect of taxes withheld at the source, on amounts paid, remitted or credited on or after the first day of January next following that in which the notice is given;

(b) in respect of other taxes on income, for taxable years or accounting periods beginning on or after the first day of January next following that in which the notice is given.

Done in duplicate at Taipei on this ninth day of July, one thousand nine hundred and ninety-nine Year of the Christian Era, each in the Thai, Chinese and English languages, all texts being equally authoritative, except in the case of discrepancy then the English text shall prevail.

FOR THE THAILAND TRADE
AND ECONOMIC OFFICE IN
TAIPEI

FOR THE TAIPEI ECONOMIC
AND TRADE OFFICE IN
THAILAND

Jullapong Nonsrichai
JULLAPONG NONSRICHAJ
EXECUTIVE DIRECTOR

Huang Hsien-yung
HUANG HSIEN-YUNG
REPRESENTATIVE