

SEVENTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)

SENATE


COMMITTEE REPORT NO. 237

Submitted by the Committee on Foreign Relations on FEB - 7 2018 FEB -7 10:55

Re: P.S. Res. No. 615, prepared by the Committee

Recommending its approval without amendment.

Sponsor: Sen. Loren Legarda

RECEIVED BY 

MR. PRESIDENT:

The Committee on Foreign Relations, to which was referred the Convention, entitled:

**CONVENTION
BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES 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 considered the same and has the honor to report it back to the Senate with the recommendation that Proposed Senate Resolution No. 615, prepared by the Committee, entitled:

**RESOLUTION
CONCURRING IN THE RATIFICATION OF THE CONVENTION
BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES 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**

be approved without amendment.

Respectfully submitted:



LOREN LEGARDA

Chair

Committee on Foreign Relations

Vice-Chairs:


EMMANUEL "MANNY" D. PACQUIAO


JOEL VILLANUEVA


CYNTHIA A. VILLAR

Members:


SONNY ANGARA

RICHARD J. GORDON

JUAN MIGUEL F. ZUBIRI

FRANCIS G. ESCUDERO

FRANCIS N. PANGILINAN


GREGORIO B. HONASAN


JOSEPH VICTOR G. EJERCITO


MARIA LOURDES NANCY S. BINAY

ANTONIO "SONNY" F. TRILLANES IV


RISA HONTIVEROS

PAOLO BENIGNO "BAM" AQUINO IV

Ex-Officio Members:

RALPH G. RECTO

President Pro-Tempore


VICENTE C. SOTTO III

Majority Leader


FRANKLIN M. DRILON

Minority Leader

AQUILINO "KOKO" PIMENTEL III

President

Senate of the Philippines

SEVENTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)

SENATE

P.S. RES. NO. 615

Prepared by the Committee on Foreign Relations

18 FEB -7 10:56

RESOLUTION

RECEIVED BY _____

**CONCURRING IN THE RATIFICATION OF THE CONVENTION
BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES 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**

WHEREAS, the Constitution, Article 7, Section 21, states: "No treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the members of the Senate";

WHEREAS, the renegotiated *Convention between the Government of the Republic of the Philippines 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* was signed on 21 June 2013 in Manila, Philippines;

WHEREAS, the Convention has 29 articles that generally provide for the rules in taxing income arising in one State (the country of source or situs of the income) and derived by a resident of the other State (the country of residence of the recipient);

WHEREAS, the Convention aims to allocate taxing jurisdiction between the Parties so as to eliminate or mitigate double taxation on income and permit the Contracting States to better enforce their domestic laws in order to reduce tax evasion;

WHEREAS, upon entry into force of the renegotiated Convention, the existing Convention between the Government of the Republic of the Philippines 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, which was signed on 14 July 1982, will terminate and cease to have effect;

WHEREAS, the President of the Philippines ratified the Convention on 17 January 2017 and submitted it to the Senate for concurrence, in accordance with the Constitution; and

WHEREAS, in the hearing conducted by the Senate Committee on Foreign Relations on 6 February 2018, the following government agencies endorsed the concurrence to the ratification of the Convention:

1. Department of Foreign Affairs
2. Department of Justice
3. Department of Finance
4. Bureau of Internal Revenue

WHEREFORE, BE IT HEREBY RESOLVED, that the Philippine Senate concur, as it hereby concurs, in the Philippine ratification of the renegotiated *Convention between the Government of the Republic of the Philippines 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*.

Adopted,



LOREN LEGARDA

Chair

Committee on Foreign Relations

Office of the President
of the Philippines
Malacañang

05177-1097405 12/29
109370
DTS # 30944
Jan. 18

17 January 2017

Senator AQUILINO PIMENTEL III
Senate President
Senate of the Philippines
Pasay City

OFFICE OF THE SENATE PRESIDENT
AQUILINO "KOKO" PIMENTEL III
TEL.NO: 5526601 loc.5548 FAX: 5526813

Date: 01/18/17 Time: 12:16 am

Received by: Luis F.

Dear Senate President Pimentel:

May we respectfully transmit the attached letter to the Senate President and Members of the Senate signed by President Rodrigo Roa Duterte, submitting the *"Convention between the Government of the Republic of the Philippines and the Government of the Republic of Thailand for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income,"* for the Senate's consideration and concurrence.

For your information and appropriate action.

Very truly yours,


SALVADOR C. MEDIALDEA
Executive Secretary

c.c.: **Office of Legal Affairs**
Department of Foreign Affairs
Manila


GSAO
TSP/LDM/AMG

Encl.: a/s



MALACAÑAN PALACE
MANILA

17 January 2017

**The Honorable Senate President
and Members of the Senate**

Senate of the Philippines
Pasay City

Gentlemen and Ladies of the Senate:

I have the honor to submit, for the Senate's consideration, the *Convention between the Government of the Republic of the Philippines 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*, which was signed on 21 June 2013 in Manila, Philippines.

The Convention has twenty nine (29) articles that generally provide rules in taxing income arising in one State (the country of source or situs of the income) and derived by a resident of the other State (the country of residence of the recipient).

The Convention will enter into force on the date of the last written notification of the Contracting Parties upon the completion of their respective constitutional requirements for entry into force. Accordingly, the provisions of the Convention relating to taxes on income will take effect on income derived or which accrued beginning January 1 of the calendar year following the year when the Convention enters into force.

Upon entry into force of the subject Convention, the existing Convention between the Government of the Republic of the Philippines 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, which was signed on 14 July 1982, shall be terminated and cease to have effect with respect to which the subject Convention applies.

The Department of Finance and the Bureau of Internal Revenue have been consulted and have concurred with the proposed ratification of the Convention.

After examining the text thereof, I find it advisable to ratify the *Convention between the Government of the Republic of the Philippines 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* and seek the Senate's concurrence thereto.


RODRIGO ROA DUTERTE 



THE PRESIDENT OF THE PHILIPPINES

MALACAÑANG
MANILA

INSTRUMENT OF RATIFICATION

TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

KNOW YE, that whereas, the *Convention between the Government of the Republic of the Philippines 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*, was signed on 21 June 2013 in Manila, Philippines;

WHEREAS, the Convention has twenty nine (29) articles that generally provide rules in taxing income arising in one State (the country of source or situs of the income) and derived by a resident of the other State (the country of residence of the recipient);

WHEREAS, the Convention aims to allocate taxing jurisdiction between the Parties so as to eliminate or mitigate double taxation of income;

WHEREAS, the Convention between the Philippines and the Kingdom of Thailand signed on 14 July 1982 in Manila shall terminate and cease to have effect from the date of effectivity of the Convention, with respect to taxes on income to which the Convention applies;

NOW, THEREFORE, be it known that I, RODRIGO ROA DUTERTE, President of the Republic of the Philippines, after having seen and considered the *Convention between the Government of the Republic of the Philippines 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*, do hereby ratify and confirm the same and each and every article and clause thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

GIVEN under my hand at the City of Manila, this 17th day of January in the year of Our Lord two thousand and seven^{teen}.



By the President:



SALVADOR C. MEDIALDEA
Executive Secretary

CERTIFICATION

I **HEREBY CERTIFY** that the attached documents are true and correct copies of the official text of the *Renegotiated Convention between the Government of the Republic of the Philippines 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*.

IN WITNESS WHEREOF, I, PERFECTO R. YASAY, JR., Secretary of Foreign Affairs, have caused the seal of the Department of Foreign Affairs to be affixed and my name subscribed to before the Acting Assistant Secretary for Legal Affairs of the Department, in Pasay City this ___ day of _____ 2016.



PERFECTO R. YASAY, JR.
Secretary of Foreign Affairs

SUBSCRIBED AND SWORN to before me this ___ day of _____ 2016 by the Honorable PERFECTO R. YASAY, JR., Secretary of Foreign Affairs.



LEO TITO L. AUSAN, JR.
Acting Assistant Secretary

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

The Government of the Republic of the Philippines 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:

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Information Technology, Communications
and Records Division

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FOR THE DIRECTOR OF ITCRD:


VITTORIO A. PALADO

Article 1 /


PERSONAL SCOPE

This Convention shall apply to persons who are residents of one or both of the Contracting States.

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VITTORIO A. PALADO

Article 2

TAXES COVERED

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

(a) In the case of the Philippines;

- (i) tax on individuals;
- (ii) tax on corporations;
- (iii) tax on estates and trusts;
- (iv) withholding taxes; and
- (v) stock transaction tax
(hereinafter referred to as "Philippine 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 apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of significant changes which have been made in their respective taxation laws.

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FOR THE DIRECTOR OF ITCRD:

VITTORIO A. PALADO

Article 3

GENERAL DEFINITIONS

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

- (a) the term "Philippines" means the Philippine archipelago, with all the islands and waters embraced therein, and all other territories over which the Philippines has sovereignty or jurisdiction, consisting of its terrestrial, fluvial and aerial domains, including its territorial sea, the seabed, the subsoil, the insular shelves and other submarine areas. The waters around, between, and connecting the islands of the archipelago, regardless of their breadth and dimensions, form part of the internal waters of the Philippines;
- (b) the term "Thailand" means the Kingdom of Thailand and includes maritime area adjacent to the territorial sea of the Kingdom of Thailand which by Thai legislation, and in accordance with the international law, has been or may hereafter be designated as an area within which the rights of the Kingdom of Thailand with respect to the sea-bed and subsoil and their natural resources may be exercised;
- (c) the terms "a Contracting State" and "the other Contracting State" mean the Philippines or Thailand as the context requires;
- (d) the term "person" includes an individual, an undivided estate, a trust, a company and any other body of persons as well as any entity treated as a taxable unit under the taxation laws in force in either Contracting State;
- (e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (f) 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;

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(g) the term "national" means:

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

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

(i) the term "competent authority" means, in the case of the Philippines, the Secretary of Finance or his authorized representative, and, in the case of Thailand, the Minister of Finance or his authorized representative.

2. As regards the application of the Convention by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

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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 tax therein by reason of his domicile, residence, place of incorporation, place of management or any other criterion of a similar nature, and also includes that State and any local authority thereof. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.

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

- (a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);
- (b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
- (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
- (d) if he is a national of both 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 status shall be determined as follows:

- (a) it shall be deemed to be a resident only of the Contracting State in which it is incorporated;

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- (b) if the person under the foregoing criterion is still a resident of both Contracting States, then it shall be deemed to be a resident only of the Contracting State in which its place of effective management is situated;
- (c) if the State in which its place of effective management is situated cannot be determined, then the competent authorities of the Contracting States shall settle the question by mutual agreement.

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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" 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 or exploration of natural resources;
- (g) premises used as a sales outlet;
- (h) a farm or plantation;
- (i) a warehouse, in relation to a person providing storage facilities for others;
- (j) 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 3 months;
- (k) the furnishing of services including consultancy services by a resident of one of the Contracting States through employees or other personnel, where activities of that nature continue for the same or a connected project within the other Contracting State for a period or periods aggregating more than 6 months within any twelve-month period.

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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 advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise;
- (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 6 applies - is acting in a Contracting State, on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned State, if such a person:

- (a) has and habitually exercises in the first-mentioned State, an authority to conclude contracts on behalf of the enterprise; unless his activities are limited to those mentioned in paragraph 3 of this Article; or
- (b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly makes deliveries on behalf of the enterprise; or

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(c) has no such authority, but 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. 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 Contracting State if it collects premiums in the territory of that other 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 6.


6. 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, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise or on behalf of that enterprise and other enterprises, which are controlled by it or have a controlling interest in it, he will not be considered an agent of an independent status within the meaning of this paragraph.

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

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FOR THE DIRECTOR OF IICRD:


VITTORIO A. PALADO

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry or fishery) situated in the other Contracting State may be taxed in that other State.
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, fishery rights, 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.

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FOR THE DIRECTOR OF ITCRD:

Palado
VITTORIO A. PALADO

Article 7

BUSINESS PROFITS

1. 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, 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; or
- (b) sales in the 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. Subject to the provisions of paragraph 3, 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 independently with the enterprise of which it is a permanent establishment.

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the 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 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 shall preclude that Contracting State from determining the profits to be taxed

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FOR THE DIRECTOR OF IJCRD:

VITTORIO A. PALADO

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. If the information available to the taxation authority of a Contracting State is inadequate to determine the profits to be attributed to the permanent establishment of an enterprise, nothing in this Article shall affect the application of any law of that State relating to the determination of the tax liability of a person provided that law shall be applied so far as the information available to the taxation authority permits consistently with the principles of this Article.

6. 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.

7. For the purposes of the preceding paragraphs, 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.

8. 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.

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FOR THE DIRECTOR OF ITCRD:

VITTORIA A. PALADO

Article 8


SHIPPING AND AIR TRANSPORT

1. Income or profits derived by an enterprise of a Contracting State from the operation of aircraft or ships in international traffic shall be taxable in that State.
2. Notwithstanding the provisions of paragraph 1, income or profits from sources within a Contracting State derived by an enterprise of the other Contracting State from the operation of ships or aircraft in international traffic may be taxed in the first-mentioned State but the tax so charged shall not exceed one and one-half per cent (1½%) of the gross revenues derived from sources in that State.
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.

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FOR THE DIRECTOR OF ITCRD:


VITTORIO A. PALADO

Article 9

ASSOCIATED ENTERPRISES

1. 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 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.

2. Where a Contracting State includes in the profits of an enterprise of that State, and taxes accordingly, profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits in accordance with the taxation laws of that other State. In determining such adjustment, due regard shall be had to the other provisions of the Convention and the competent authorities of the Contracting States may, if necessary, consult each other.

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FOR THE DIRECTOR OF ITCRJ:

VITTORIO A. PALADO

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 resident of the other Contracting State, the tax so charged shall not exceed:

(a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company (excluding partnerships) which holds directly at least 25 per cent of the capital of the paying company;

(b) 15 per cent of the gross amount of the dividends in all other cases.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. 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 which is subjected to the same taxation treatment as income from shares by the taxation law of that State of which the paying company is a resident.

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 cases the provisions of Article 7 (Business Profits), or Article 14 (Independent Personal Services), as the case may be, shall apply.

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5. 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.

6. Nothing in this Article shall prevent either Contracting State from imposing, apart from the corporate income tax, a tax on remittance of profits by a branch to its head office provided that the tax so imposed shall not exceed 10 per cent of the amount remitted.

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FOR THE DIRECTOR OF IICRD:


VITTORIO A. PALADO

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 also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, 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 all other cases.

3. Notwithstanding the provisions of paragraphs 1 and 2, interest arising in a Contracting State and paid to the Government of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State.

For the purposes of this paragraph, the term "Government"

(a) in the case of the Philippines, means the Government of the Republic of the Philippines, and shall include:

- (i) the Central Bank of the Philippines;
- (ii) any Department thereof;
- (iii) any local authority or statutory body;
- (iv) such other institutions, the capital of which is wholly owned by the Government of the Republic of the Philippines; and
- (v) any other institution as may be agreed from time to time between the competent authorities of the Contracting States;

(b) in the case of Thailand, means the Government of the Kingdom of Thailand and any body corporate wholly owned by the Government, and shall include:

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- (i) the Bank of Thailand;
- (ii) the Export-Import Bank of Thailand;
- (iii) the Government Saving Bank;
- (iv) the Government Housing Bank;
- (v) the Bank for Agriculture and Agricultural Cooperatives;
- (vi) any Ministry or Department thereof;
- (vii) any local authority or statutory body; and
- (viii) any other institution as may be agreed from time to time between 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. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner 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 cases the provisions of Article 7 (Business Profits) or Article 14 (Independent Personal Services), as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, 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 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 the State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the

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
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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 Contracting State, due regard being had to the other provisions of this Convention.

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FOR THE DIRECTOR OF ITCAD:


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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 also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 15 per cent of the gross amount of the royalties.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the alienation of or the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematographic 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.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner 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 cases the provisions of Article 7 (Business Profits) or Article 14 (Independent Personal Services), as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, 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 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 the State in which the permanent establishment or fixed base is situated.

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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 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 Contracting State, due regard being had to the other provisions of this Convention.

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Article 13


CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 (Income from Immovable Property) and situated in the other Contracting State may be taxed in that other State.
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 with the whole enterprise) or of such a fixed base, may be taxed in that other State.
3. Gains derived by an enterprise of a Contracting State 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 State.
4. Gains from the alienation of shares of a company, the property of which consists principally of immovable property situated in a Contracting State, may be taxed in that State. Gains from the alienation of an interest in a partnership or a trust, the property of which consists principally of immovable property situated in a Contracting State, may be taxed in that State.
5. Gains from the alienation of any property other than those mentioned in paragraphs 1, 2, 3, 4 of this Article and paragraph 3 of Article 12 (Royalties) shall be taxable only in the Contracting State of which the alienator is a resident.

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Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State. However, such income may be taxed in the other Contracting State if:


- (a) he has a fixed base regularly available to him in that other State for the purpose of performing his activities, but only so much of the income as is attributable to that fixed base may be taxed in that State; or
- (b) he is present in that other State for a period (or periods) exceeding in the aggregate 120 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 State may be taxed in that other State.

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

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Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16 (Directors' Fees), 18 (Pensions and Social Security Benefits), 19 (Governmental Function), 20 (Students and Trainees), and 21 (Professors, Teachers and Researchers), salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
 - (a) the recipient is present in the other State for a period (or periods) not exceeding in the aggregate 183 days within any twelve-month period;
 - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
 - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State shall be taxable only in that State.

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Article 16

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as, or on behalf of, 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.

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Article 17

ARTISTES AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 14 (Independent Personal Services) and 15 (Dependent Personal Services), income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7 (Business Profits), 14 (Independent Personal Services) and 15 (Dependent Personal Services), be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, income derived in respect of the activities referred to in paragraph 1 of this Article within the framework of cultural or sports exchange programme agreed to by both Contracting States, substantially supported by public funds and/or officially recognized and endorsed by a Contracting State, shall be exempted from taxation in the Contracting State in which these activities are exercised.

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Article 18

PENSIONS AND SOCIAL SECURITY BENEFITS

1. Subject to the provisions of paragraph 2 of Article 19 (Governmental Function), pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1 of this Article and of paragraph 2 of Article 19 (Governmental Function), benefits received by an individual, being a resident of a Contracting State, under the social security legislation of the other Contracting State shall be taxable only in that other State.

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Article 19

GOVERNMENTAL FUNCTION

1. (a) Remuneration, other than a pension, paid by a Contracting State or a local authority thereof to an individual in respect of services rendered to that State or authority shall be taxable only in that State.

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

- (i) is a national of that State; or
- (ii) did not become a resident of that State solely for the purpose of rendering the services.

2. (a) Any pension paid by, or out of funds created by, a Contracting State or a local authority thereof to an individual in respect of services rendered to that State or authority shall be taxable only in that State.


(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 15 (Dependent Personal Services), 16 (Directors' Fees) and 18 (Pensions and Social Security Benefits) shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a local authority thereof.

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Article 20

STUDENTS AND TRAINEES

An individual who is or was a resident of a Contracting State immediately before visiting the other Contracting State and is temporarily present in that other State solely as a student at a university, college or other similar educational institution or as a trainee for the purpose of acquiring technical, professional or business experience shall be exempt from tax in that other State on:

- (a) all remittances from abroad for purposes of his maintenance, education or training; and
- (b) for an aggregate period of not more than two years from the date of his first arrival, on any remuneration for personal services in the other State, provided that such services are in connection with his education or training or incidental thereto.

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Article 21

PROFESSORS, TEACHERS AND RESEARCHERS

1. Remuneration which a professor or a teacher, who is or was a resident of one of the Contracting States and who visits the other Contracting State for a period not exceeding two years from the date of his first visit for the purpose of teaching or carrying out advanced study or research at a university, college, school or other educational institution recognised by the authority in the other State, receives for those activities shall be taxable only in the first-mentioned State.


2. This Article shall not apply to remuneration which a professor, teacher or researcher receives for conducting research if the research is undertaken primarily for the private benefit of a specific person or persons.

3. For the purposes of paragraph 1 of this Article, the term "remuneration" shall include remittance from sources outside the other State sent to enable the professor, teacher or researcher to carry out the purposes referred to in paragraph 1.

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Article 22


OTHER INCOME

Items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention may be taxed in the State where the income arises.

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Article 23


ELIMINATION OF DOUBLE TAXATION

1. When income or profits are subject to tax in both Contracting States, relief from double taxation shall be given in accordance with the following paragraphs of this Article.
2. Tax payable in a Contracting State in respect of income or profits derived in that State shall be allowed as a credit against any tax payable in the other Contracting State in respect of that income or profits. The credit shall not, however, exceed that part of the tax payable in the other Contracting State as computed before the credit is given, which is appropriate to such item of income or profits.
3. For the purpose of allowance as a credit in a Contracting State, the tax paid in the other Contracting State shall be deemed to include the tax which is otherwise payable in that other State but has been reduced or waived in accordance with the special incentive laws designed to promote economic development in that other State.

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Article 24

NON-DISCRIMINATION

1. Subject to the provisions of Article 1 (Personal Scope), 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 favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

3. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

4. The provisions of this Article shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

5. Except where the provisions of paragraph 1 of Article 9 (Associated Enterprises), paragraph 7 of Article 11 (Interest), or paragraph 6 of Article 12 (Royalties) apply, interest, royalties, and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State 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 State.

6. The provisions of this Article shall only apply to the taxes which are the subject of this Convention.

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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, irrespective of the remedies provided by the domestic laws of those States, present his case to the competent authority of the Contracting State 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 this 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 a satisfactory 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 which is not in accordance with the Convention.

3. A Contracting State shall not, after three years from the end of the taxable period in which the income concerned has accrued, increase the tax base of a resident of either of the Contracting States by including therein items of income which have also been charged to tax in the other Contracting State. This paragraph shall not apply in the case of fraud, wilful default or neglect.

4. 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.

5. 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.

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Article 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. Any information received by a Contracting State shall be treated as secret in the same manner as information 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 only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. 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 and administrative practice of that or of the other Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (order public).

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Article 27

**MEMBERS OF DIPLOMATIC MISSIONS
AND CONSULAR POSTS**

Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

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Article 28

ENTRY INTO FORCE

1. The Contracting States shall notify each other in writing that their constitutional requirements for entry into force of this Convention have been fulfilled.
2. This Convention shall enter into force on the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect:
 - (a) in respect of taxes withheld at source on income paid to non-residents, on or after the first day of January in the calendar year next following that in which the Convention enters into force;
 - (b) in respect of other taxes on income, in any taxable year beginning on or after the first day of January in the calendar year next following that in which the Convention enters into force.
3. The Convention between the Government of the Republic of the Philippines 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, signed at Manila on 14 July 1982, shall terminate and cease to have effect from the date upon which this Convention has effect in respect of the taxes to which this Convention applies in accordance with the provisions of paragraph 2.

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FOR THE DIRECTOR OF IICAD:

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Article 29

TERMINATION

This Convention shall remain in force indefinitely, but either of the Contracting States may, on or before the 30th of 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 Contracting State, through diplomatic channels, written notice of termination.

In such event the Convention shall cease to have effect:

- (a) in respect of taxes withheld at source, on amounts paid or remitted 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.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto, have signed this Convention.

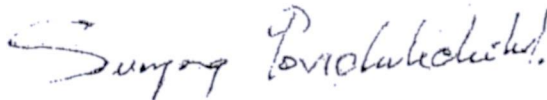
DONE in duplicate at Manila on this 21st day of June two thousand and thirteen Year of the Christian Era, each in the English language.

For the Government of the
Republic of the Philippines

For the Government of the
Kingdom of Thailand



HON. ALBERT F. DEL ROSARIO
Secretary of Foreign Affairs
Republic of the Philippines



H.E. SURAPONG TOVICHCHAKCHAIKUL
Deputy Prime Minister and Minister of
Foreign Affairs
Kingdom of Thailand

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FOR THE DIRECTOR OF ITCRD:




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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

CERTIFICATE OF CONCURRENCE

This is to certify that the **Bureau of Internal Revenue** has been consulted and is concurring with the ratification of the renegotiated **Convention between the Government of the Republic of the Philippines and the Government of the Kingdom of Thailand and for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income** signed on June 21, 2013 in Manila, Philippines.


KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

024534

May 14, 2014, Quezon City

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