

中华人民共和国政府和泰王国政府 关于对所得避免双重征税 和防止偷漏税的协定

中华人民共和国政府和泰王国政府，愿意缔结关于对所得避免双重征税和防止偷漏税的协定，达成协议如下：

第一条 人的范围

本协定适用于缔约国一方或者双方居民的人。

第二条 税种范围

一、本协定适用于由各缔约国或其地方当局对所得征收的所有税收，不论其征收方式如何。

二、对全部所得或某项所得征收的税收，包括对转让动产或不动产的收益征收的税收以及对资本增值征收的税收，应视为对所得征收的税收。

三、本协定适用的现行税种是：

（一）在泰国方面：

1. 所得税；
2. 石油所得税。

（以下简称“泰国税收”）

(二) 在中国方面:

1. 个人所得税;
2. 中外合资经营企业所得税;
3. 外国企业所得税;
4. 地方所得税;

(以下简称“中国税收”)

四、本协定也适用于本协定签订之日后增加或者代替现行税种的相同或者实质相似的对所得征收的税收。缔约国双方主管当局应将各自税法的重要变动通知对方。

第三条 一般定义

一、在本协定中，除上下文另有规定的以外:

(一) “泰国”一语是指泰王国，包括根据泰国立法和按照国际法已经确定或以后可能确定，泰王国可以对海底、底土及其自然资源行使其权利的邻近泰王国领水的区域;

(二) “中国”一语是指中华人民共和国;用于地理概念时，是指实施有关中国税收法律的所有中华人民共和国领土，包括领海，以及根据国际法，中华人民共和国拥有勘探和开发海底和底土资源以及海底以上水域资源的主权权利的领海以外的区域;

(三) “缔约国一方”和“缔约国另一方”的用语，按照上下文是指中国或者泰国;

(四) “人”一语包括个人、公司、其他团体以及按照缔约国任何一方现行税法视为应纳税单位的任何实体;

(五) “公司”一语是指法人团体或者按照各缔约国税法视同法人团体的任何实体;

(六) “缔约国一方企业”和“缔约国另一方企业”的用语分别指缔约国一方居民经营的企业和缔约国另一方居民经营的企业;

(七) “税收”一语,按照上下文是指中国税收或泰国税收;

(八) “国民”一语是指:

1. 具有缔约国一方国籍的任何个人;

2. 按照缔约国一方现行法律取得其地位的任何法人、合伙企业、协会和其他实体;

(九) “国际运输”一语是指缔约国一方企业以船舶或飞机经营的运输,不包括仅在缔约国另一方各地之间经营的运输;

(十) “主管当局”一语在泰国方面只指财政部长或其授权的代表;在中国方面是指财政部或其授权的代表。

二、缔约国一方在实施本协定时,对于未经本协定明确定义的用语,除上下文另有规定的以外,应当具有该缔约国关于本协定适用的税种的法律所规定的含义。

第四条 居民

一、在本协定中,“缔约国一方居民”一语是指按照该缔约国法律,由于住所、居所、总机构、注册所在地或者其他类似的标准,在该国负有纳税义务的人。

二、由于第一款的规定，个人同时为缔约国双方居民的，其身份应按以下规则确定：

（一）应认为是其有永久性住所所在缔约国的居民；如果在缔约国双方同时有永久性住所，应认为是与其个人和经济关系更密切（重要利益中心）所在缔约国的居民；

（二）如果其重要利益中心所在缔约国无法确定，或者在缔约国任何一方都没有永久性住所，应认为是其有习惯性居处所在缔约国的居民；

（三）如果其在缔约国双方都有，或者都没有习惯性居处，应认为是其国民所属缔约国的居民；

（四）如果其同时是缔约国双方的国民，或者不是缔约国任何一方的国民，缔约国双方主管当局应通过相互协商解决。

三、由于第一款的规定，除个人以外，同时为缔约国双方居民的人，缔约国双方主管当局应通过相互协商确定该人为本协定中缔约国一方的居民。

第五条 常设机构

一、在本协定中，“常设机构”一语是指企业进行全部或部分营业的固定营业场所。

二、“常设机构”一语特别包括：

（一）管理场所；

（二）分支机构；

（三）办事处；

(四) 工厂;

(五) 作业场所;

(六) 农场或种植园;

(七) 矿场、油井或气井、采石场或者任何其他开采自然资源的场所;

(八) 建筑工地, 建筑、装配或安装工程, 或者与其有关的监督管理活动, 以连续六个月以上的为限;

(九) 与为他人提供储存设施的人有关的仓库;

(十) 缔约国一方居民通过雇员或者其他人员在缔约国另一方提供劳务, 包括咨询劳务, 如果这种性质的活动(为同一项目或相关联的项目)在任何十二个月中连续或累计超过一百八十三天的。

三、虽有本条以上各款规定, “常设机构”一语应认为不包括:

(一) 专为储存或陈列本企业货物或者商品的目的而使用的设施;

(二) 专为储存或陈列的目的而保存本企业货物或者商品的库存;

(三) 专为另一企业加工的目的而保存本企业货物或者商品的库存;

(四) 专为本企业采购货物或者商品, 或者搜集情报的目的所设的固定营业场所;

(五) 专为本企业作广告、提供情报、科学研究, 或者进行准备性或辅助性的类似活动的目的所设的固定营业场所。

四、一个人（除适用于第五款的经纪人、一般佣金代理人或其他独立代理人以外）在缔约国一方代表缔约国另一方的企业进行活动，如果符合下列情况之一的，应认为在该缔约国一方设有常设机构：

（一）在缔约国一方有权并经常行使这种权力代表该企业签订合同。除非这个人通过固定场所进行的活动限于第三款，按照该款规定，不应认为该固定场所是常设机构；

（二）在该缔约国一方设有保存该企业货物或商品的库存，并经常代表该企业从其库存中填写订货单或交付货物；

（三）在该缔约国一方全部或几乎全部为企业或者为企业控制的或对该企业有控制利益的其他企业经常接受订货单。

五、缔约国一方企业仅通过按常规经营本身业务的经纪人、一般佣金代理人或者任何其他独立代理人在缔约国另一方进行营业，不应认为在该缔约国另一方设有常设机构。如果这个代理人在缔约国另一方进行的如第四款所述的活动，全部或几乎全部为企业，或者为企业控制的或对该企业有控制利益的其他企业，不应视为具有独立地位的代理人。

六、虽有本条以上各款的规定，缔约国一方的保险企业，除再保险业务外，如果通过雇员或通过不属于本条第五款所述的具有独立地位的代理人的代表，在缔约国另一方领土内收取保险费或接受保险业务，应认为在该缔约国另一方设有常设机构。

七、缔约国一方居民公司，控制或被控制于缔约国另一方居民公司，或者在该缔约国另一方进行营业的公司（不论是否通过

常设机构)，此项事实不能据以使任一公司构成另一公司的常设机构。

第六条 不动产所得

一、缔约国一方居民取得的不动产所得（包括农业或林业所得），可以在上述财产所在的缔约国征税。

二、在本协定中“不动产”一语应当具有财产所在地的缔约国的法律所规定的含义。该用语在任何情况下应包括附属于不动产的财产，农业和林业所使用的牲畜和设备，有关地产的一般法律规定所适用的权利，不动产的用益权以及由于开采或有权开采矿藏、水源和其他自然资源取得的不固定或固定收入的权利。船舶和飞机不应视为不动产。

三、第一款的规定应适用于从直接使用、出租或者任何其他形式使用不动产取得的所得。

四、第一款和第三款的规定也适用于企业的不动产所得和用于进行独立个人劳务的不动产所得。

第七条 营业利润

一、缔约国一方企业的利润应仅在该缔约国征税，但该企业通过设在缔约国另一方的常设机构在该缔约国另一方进行营业的除外。如果该企业通过设在该缔约国另一方的常设机构在该缔

约国另一方进行营业，该企业的利润可以在该缔约国另一方征税，但应仅以属于该常设机构的利润为限。

二、除适用第三款规定以外，缔约国一方企业通过设在缔约国另一方的常设机构进行营业，应将该常设机构视同在相同或类似情况下从事相同或类似活动的独立分设企业，并同该常设机构所隶属的企业完全独立处理，该常设机构可能得到的利润在缔约国各方应归属于该常设机构。

三、在确定常设机构的利润时，应当允许扣除其进行营业发生的各项费用，包括行政和一般管理费用，不论其发生于该常设机构所在缔约国或者其他任何地方。

四、如果缔约国一方习惯于以企业总收入的一定比例或以企业总利润的一定比例分配给所属各单位的方法，或以常设机构总收入的一定比例的方法，来确定一个常设机构的利润，则第二款并不妨碍该缔约国按这种习惯分配方法确定其应纳税的利润。但是，采用的分配方法所得到的结果，应与本条所规定的原则一致。

五、常设机构仅由于为企业采购货物或商品，不应将该项利润归属于该常设机构。

六、在以上各款中，除有适当的和充分的理由需要变动外，每年应采用相同的方法确定属于常设机构的利润。

七、利润中如果包括本协定其他各条单独规定的所得项目时，本条规定不应影响其他各条的规定。

第八条 海运和空运

一、缔约国一方企业以飞机经营国际运输取得的所得，应仅在该缔约国征税。

二、缔约国一方企业以船舶从事国际运输取得的所得，可以在缔约国另一方征税，但在该缔约国另一方所征税收应减去相当于其百分之五十的数额。

三、第一款和第二款的规定也应适用于参加合伙经营、联合经营或者参加国际经营机构取得的利润。

第九条 联属企业

当：

(一) 缔约国一方企业直接或者间接参与缔约国另一方企业的管理、控制或资本，或者

(二) 同一人直接或者间接参与缔约国一方企业和缔约国另一方企业的管理、控制或资本，

在上述任何一种情况下，两个企业之间的商业或财务关系不同于独立企业之间的关系，因此，任何本应由其中一个企业取得，但由于这些情况而没有取得的利润，可以计入该企业的利润，并据以征税。

第十条 股息

一、缔约国一方居民公司支付给缔约国另一方居民的股息，可以在该缔约国另一方征税。

二、然而，这些股息也可以在支付股息的公司是其居民的缔约国，按照该缔约国的法律征税。但是，如果收款人是股息受益所有人，并且是公司，不包括合伙企业，则所征税款不应超过：

（一）如果收款人直接拥有该支付股息公司至少百分之二十五的股份，为该股息总额的百分之十五；

（二）在其他情况下，为该股息总额的百分之二十。

本款不应影响对公司支付股息前的利润所征收的公司利润税。

三、本条所用“股息”一语是指从股份或者非债权关系分享利润的其他权利取得的所得，以及按照分配利润的公司是其居民的缔约国税法，视同股份所得同样征税的其他公司权利取得的所得。

四、如果股息受益所有人是缔约国一方居民，在支付股息的公司是其居民的缔约国另一方，通过设在该缔约国另一方的常设机构进行营业或者通过设在该缔约国另一方的固定基地从事独立个人劳务，据以支付股息的股份与该常设机构或固定基地有实际联系的，不适用第一款和第二款的规定。在这种情况下，应视具体情况适用第七条或第十四条的规定。

五、缔约国一方居民公司从缔约国另一方取得利润或所得，该缔约国另一方不得对该公司支付的股息征收任何税收。但支付

给缔约国另一方居民的股息或者据以支付股息的股份与设在缔约国另一方的常设机构或固定基地有实际联系的除外。对于该公司的未分配的利润，即使支付的股息或未分配的利润全部或部分发生于缔约国另一方的利润或所得，该缔约国另一方也不得征收任何税收。

第十一条 利息

一、发生于缔约国一方而支付给缔约国另一方居民的利息，可以在该缔约国另一方征税。

二、然而，这些利息也可以在该利息发生的缔约国，按照该缔约国的法律征税。但是，如果收款人是利息受益所有人，并且该利息是由金融机构（包括保险公司）取得，则所征税款不应超过利息总额的百分之十。

三、虽然有第二款的规定，发生在缔约国一方而支付给缔约国另一方政府的利息，应在该缔约国一方免税。

在本款中，“政府”一语：

（一）在泰国方面，是指泰王国政府，并包括：

1. 泰国银行；

2. 地方当局；以及

3. 其资金完全为泰王国政府或地方当局所有，并为缔约国双方主管当局所随时同意的金融机构。

（二）在中国方面，是指中华人民共和国政府，并包括：

1. 中国人民银行以及在中央银行一般授权的范围内进行活动的中国银行；

2. 地方当局；以及

3. 其资金完全为中华人民共和国政府或地方当局所有，并为缔约国双方主管当局所随时同意的金融机构。

四、本条所用“利息”一语是指从各种债权取得的所得，不论其有无抵押担保或者是否有权参与债务人的利润分配；特别是从公债、债券或者信用债券取得的所得，包括其溢价和奖金，以及按照所得发生的缔约国税收法律视为与贷款取得的相类似的所得。由于延期支付所处的罚金，不应视为本条所规定的利息。

五、如果利息受益所有人是缔约国一方居民，在利息发生的缔约国另一方，通过设在该缔约国另一方常设机构进行营业或者通过设在该缔约国另一方的固定基地从事独立个人劳务，据以支付利息的债权与该常设机构或者固定基地有实际联系的，不适用第一款和第二款的规定。在这种情况下，应视具体情况适用第七条或第十四条的规定。

六、如果支付利息的人为缔约国一方政府、行政区、地方当局或该缔约国居民，应认为利息发生在该缔约国。然而，当支付利息的人不论是否为缔约国一方居民，在缔约国一方设有常设机构或者固定基地，支付利息的债务与该常设机构或者固定基地有联系，并由其负担利息，上述利息应认为发生于该常设机构或固定基地所在缔约国。

七、由于支付利息的人与受益所有人之间或者他们与其他人之间的特殊关系，就有关债权所支付的利息数额超出支付人与受

益所有人没有上述关系所能同意的数额时，本条规定应仅适用于后来提及的数额。在这种情况下，对支付款项的超出部分，仍应按各缔约国的法律征税，但应适当注意本协定其他规定。

第十二条 特许权使用费

一、发生于缔约国一方而支付给缔约国另一方居民的特许权使用费，可以在该缔约国另一方征税。

二、然而，这些特许权使用费也可以在其发生的缔约国，按照该缔约国的法律征税。但是，如果收款人为特许权使用费的受益所有人，则所征税款不应超过特许权使用费总额的百分之五。

三、本条所用“特许权使用费”一语是指由于使用或有权使用任何文学、艺术或科学著作，包括电影影片、无线电或电视广播使用的胶片、磁带的版权，任何专利、商标、设计、模型、图纸、秘密配方或程序所支付的作为报酬的各种款项，也包括由于使用或有权使用工业、商业、科学设备或有关工业、商业、科学经验的情报所支付的作为报酬的各种款项。

四、如果特许权使用费受益所有人是缔约国一方居民，在特许权使用费发生的缔约国另一方，通过设在该缔约国另一方的常设机构进行营业或者通过设在该缔约国另一方的固定基地从事独立个人劳务，据以支付该特许权使用费的权利或财产与该常设机构或固定基地有实际联系的，不适用第一款和第二款的规定。在这种情况下，应视具体情况适用第七条或第十四条的规定。

五、如果支付特许权使用费的人是缔约国一方政府、行政区、地方当局或该缔约国居民，应认为特许权使用费发生在该缔约国。然而，当支付特许权使用费的人不论是否为缔约国一方居民，在缔约国一方设有常设机构或者固定基地，支付该特许权使用费的义务与该常设机构或者固定基地有联系，并由其负担特许权使用费，上述特许权使用费应认为发生于该常设机构或者固定基地所在缔约国。

六、由于支付特许权使用费的人与受益所有人之间或他们与其他人之间的特殊关系，就有关使用、权利或情报支付的特许权使用费数额超出支付人与受益所有人没有上述关系所能同意的数额时，本条规定应仅适用于后来提及的数额。在这种情况下，对该支付款项的超出部分，仍应按各缔约国的法律征税，但应注意本协定的其他规定。

第十三条 财产转让收益

一、缔约国一方居民转让第六条所指的位于缔约国另一方的不动产取得的收益，可以在该缔约国另一方征税。

二、转让缔约国一方企业在缔约国另一方的常设机构营业财产部分的动产，或者缔约国一方居民在缔约国另一方从事独立个人劳务的固定基地的动产取得的收益，包括转让常设机构（单独或随同整个企业）或者固定基地取得的收益，可以在该缔约国另一方征税。

三、缔约国一方企业转让从事国际运输的船舶或飞机，或者转让属于经营上述船舶、飞机的动产取得的收益，应仅在该缔约国一方征税。

四、转让本条第一款、第二款和第三款所述财产以外的任何财产或资产取得的收益，发生于缔约国一方的，可以在该缔约国征税。

第十四条 独立个人劳务

一、缔约国一方居民由于专业性劳务或者其他独立性活动取得的所得，应仅在该缔约国征税。但具有以下情况之一的，该项所得也可以在缔约国另一方征税：

（一）为从事其活动在缔约国另一方设有经常使用的固定基地，在这种情况下，该缔约国另一方可以仅对属于该固定基地的所得征税；

（二）在任何十二个月中在缔约国另一方停留连续或累计达到或者超过一百八十三天，在这种情况下，该缔约国另一方可以仅对在该缔约国另一方进行活动取得的所得征税；

（三）其在缔约国另一方活动的报酬，是由该缔约国另一方居民支付，或者是由位于该缔约国另一方的常设机构或固定基地负担，在这种情况下，该缔约国另一方可以仅对由此取得的报酬征税。

二、“专业性劳务”主要包括独立的科学、文学、艺术、教育或教学活动，以及医师、牙医师、律师、工程师、建筑师和会计师的独立活动。

第十五条 非独立个人劳务

一、除适用第十六条、第十八条、第十九条、第二十条和第二十一条的规定，缔约国一方居民因受雇取得的薪金、工资和其他类似报酬，除在缔约国另一方从事受雇的活动以外，应仅在该缔约国一方征税。在该缔约国另一方从事受雇的活动取得的报酬，可以在该缔约国另一方征税。

二、虽有本条第一款的规定，缔约国一方居民因在缔约国另一方从事受雇的活动取得的报酬，同时具有以下三个条件的，应仅在该缔约国一方征税：

（一）该收款人在任何十二个月中在该缔约国另一方停留连续或累计不超过一百八十三天；

（二）该项报酬由并非该缔约国另一方居民的雇主支付或代表该雇主支付；

（三）该项报酬不是由雇主设在该缔约国另一方的常设机构或固定基地所负担。

三、虽有本条以上规定，在缔约国一方企业从事国际运输的船舶或飞机上从事受雇的活动取得的报酬，应仅在该缔约国征税。

第十六条 董事费

一、缔约国一方居民作为缔约国另一方居民公司的董事会成员取得的董事费和其他类似款项，可以在该缔约国另一方征税。

二、缔约国一方居民担任缔约国另一方居民公司高级管理职务取得的薪金、工资和其他类似报酬，可以在该缔约国另一方征税。

第十七条 艺术家和运动员

一、虽有第十四条和第十五条的规定，缔约国一方居民，作为表演家，如戏剧、电影、广播或电视艺术家、音乐家或者作为运动员，在缔约国另一方从事其个人活动取得的所得，可以在该缔约国另一方征税。

二、虽有第七条、第十四条和第十五条的规定，表演家或运动员从事其个人活动的所得，并非归属表演家或运动员本人而是归属于其他人，可以在该表演家或运动员从事活动的缔约国征税。

三、如果表演家或运动员的访问实质上是由缔约国另一方的公共基金，包括任何行政区、地方当局或具有法律地位的团体赞助的，其从事表演活动所取得的报酬或利润、薪金、工资或类似所得不适用本条第一款和第二款的规定。

四、虽有第七条的规定，如果本条第一款所述的活动，是在缔约国一方由缔约国另一方的企业提供的，由于该企业提供活动

而发生的利润可以在首先提及的缔约国征税。但是该企业实质上受到缔约国另一方公共基金，包括与提供活动有联系的缔约国另一方的任何行政区、地方当局或任何具有法律地位的团体赞助的情况除外。

第十八条 退休金

一、除适用第十九条第二款的规定以外，因以前的雇佣关系支付给缔约国一方居民的退休金和其他类似报酬，应仅在该缔约国一方征税。

二、虽有第一款的规定，缔约国一方居民取得的退休金和其他类似报酬，如果该款项是由缔约国另一方企业或位于缔约国另一方的常设机构负担的，可以在该缔约国另一方征税。

第十九条 政府服务

一、（一）缔约国一方、其行政区或地方当局对向其提供服务的个人支付退休金以外的报酬，应仅在该缔约国一方征税。

（二）但是，如果该项服务是在缔约国另一方提供，而且提供服务的个人是该缔约国另一方居民，并且该居民：

1. 是该缔约国另一方国民；或者

2. 不是仅由于提供该项服务，而成为该缔约国的居民，该项报酬，应仅在该缔约国另一方征税。

二、（一）缔约国一方、其行政区、地方当局支付或者从其建立的基金中支付向其提供服务的个人的退休金，应仅在该缔约国一方征税。

（二）但是，如果提供服务的个人是缔约国另一方居民并且是其国民的，该项退休金应仅在该缔约国另一方征税。

三、第十五条、第十六条、第十七条和第十八条的规定，应适用于向缔约国一方政府、其行政区或地方当局经营的事业提供服务取得的报酬和退休金。

第二十条 学生和实习人员

一、任何个人是或者在紧接前往缔约国一方之前曾是缔约国另一方居民，仅由于下列目的而停留在首先提及的缔约国一方：

（一）到大学或其他被承认的教育机构学习；或

（二）为其合格于一项专业或营业而接受培训；或

（三）从政府、宗教、慈善、科学、文学或教育组织取得的助学金、补助金或奖金的收款人，从事学习或研究工作，

为此，应在首先提及的缔约国，对下列款项免予征税：

（一）其为维持生活、教育、学习、研究或培训的目的收到的境外汇入款项；

（二）取得的助学金、补助金或奖金；和

（三）由于在该缔约国从事个人劳务活动而取得的所得，但该项所得需要合理地用于维持其生活和学习。

第二十一条 教授、教师和研究人員

一、任何个人在紧接前往缔约国另一方以前是缔约国一方居民，应缔约国另一方的大学、学院、学校或其他类似的被该缔约国另一方主管当局承认的教育机构的邀请，在该缔约国另一方的这些教育机构仅为从事教学或研究工作，或二者兼有的目的，对其停留未超过三年而取得教学或研究的任何报酬，该缔约国另一方应免予征税。

二、本条仅适用于该个人为公共利益而不主要是为其他私人利益从事研究取得的所得。

第二十二条 未明确提及的所得

缔约国一方居民的各项所得，凡本协定上述各条未明确提及的，可以在该项所得发生地所在的缔约国征税。

第二十三条 消除双重征税

一、除本协定有明确的相反规定以外，缔约国任何一方的现行法律，应继续有效于各自一方对所得的征税。如果一项所得应在缔约国双方纳税时，则应按照本条下列各款给予消除双重征税。

二、在泰国方面，有关从中国取得的所得应缴纳的中国税收，应允许在该项所得应缴纳的泰国税收中抵免。但是该项抵免不应超过对该项所得给予抵免前所计算的相应的泰国税收数额。本款中“应缴纳的中国税收”一语应认为包括假如没有按照本协定签订之日有效的或有可能对现行法律加以修改或增加在中国为促进经济发展所制定的特别鼓励法给予免税、减税而可能缴纳的中国税收数额。

三、在中国方面，有关从泰国取得的所得应缴纳的泰国税收，应允许在该项所得应缴纳的中国税收中抵免。如果该项所得是泰国居民公司支付给中国居民公司的股息，该中国居民公司拥有支付股息公司股份不少于百分之十的，该项抵免应考虑支付该股息公司就该项所得缴纳的泰国税收。但是该项抵免不应超过对该项所得给予抵免前所计算的相应的中国税收数额。本款中，“应缴纳的泰国税收”一语应认为包括假如没有按照本协定签订之日有效的或有可能对现行法律加以修改或增加在泰国为促进经济发展所制定的特别鼓励法给予免税、减税而可能缴纳的泰国税收数额。

第二十四条 无差别待遇

一、缔约国一方国民在缔约国另一方负担的税收或者有关条件，不应与该缔约国另一方国民在相同情况下，负担或可能负担的税收或者有关条件不同或比其更重。

二、缔约国一方企业在缔约国另一方的常设机构的税收负担，不应高于该缔约国另一方对其本国进行同样活动的企业。

三、缔约国一方企业的资本全部或部分，直接或间接为缔约国另一方一个或一个以上的居民拥有或控制，该企业在该缔约国一方负担的税收或者有关条件，不应与该缔约国一方其他同类企业的负担或可能负担的税收或者有关条件不同或比其更重。

四、本条规定不应理解为缔约国一方由于民事地位或家庭负担给予本国居民的任何个人扣除、优惠和减税也必须给予缔约国另一方居民。

五、在本条中，“税收”一语是指本协定所适用的税收。

第二十五条 相互协商程序

一、当缔约国一方居民认为，缔约国一方或缔约国双方采取的措施，导致或将导致对其不符合本协定规定的征税时，可以不考虑各缔约国国内法律的补救办法将案情提交本人为其居民的缔约国主管当局。但该项案情应在不符合本协定规定的征税措施第一次通知之日起，三年内提出。

二、上述主管当局如果认为所提意见合理，又不能单方面圆满解决时，应设法同缔约国另一方主管当局通过协议解决，以避免不符合本协定的征税。

三、缔约国双方主管当局应通过协议设法解决在解释或实施本协定时所发生的困难或疑义，也可以对本协定未作规定的双重征税问题进行协商。

四、缔约国双方主管当局为对以上各款达成协议，可以相互直接联系。

第二十六条 情报交换

一、缔约国双方主管当局应交换为实施本协定的规定所需要的情报，或缔约国双方关于本协定所涉及的税种的国内法律的规定所需要的情报（以根据这些法律征税与本协定不相抵触为限）。缔约国一方收到的情报应与按照该国法律得到的情报同样保密，仅应告知与本协定所含税种有关的查定、征收、执行、起诉或裁决上诉的人员或当局（包括法院和行政管理部门）。上述人员或当局应仅为上述目的使用该情报，但可以在公开法庭的诉讼程序或法庭判决中公开有关情报。

二、第一款的规定不应理解为缔约国一方有以下义务：

（一）采取与该缔约国或缔约国另一方法律和行政惯例相违背的行政措施；

（二）提供按照该缔约国或缔约国另一方法律或正常行政渠道不能得到的情报；

（三）提供泄漏任何贸易、经营、工业、商业、专业秘密、贸易过程的情报或者泄露会违反公共政策（公共秩序）的情报。

第二十七条 外交人员和领事官员

本协定应不影响按国际法一般规则或特别协定规定的外交人员或领事官员的税收特权。

第二十八条 生效

一、本协定在缔约国双方交换外交照会确认已履行为本协定生效所必需的各自的法律程序之日起的第三十天开始生效。

二、本协定将适用于：

（一）在交换照会的次年1月1日或以后支付或汇出款额应源泉预提的税收；

（二）在交换照会的次年1月1日或以后开始的纳税年度或会计年度发生的所得缴纳的其他税收。

第二十九条 终止

本协定应长期有效。缔约国任何一方可以在本协定生效之日起满五年后任何历年6月30日或以前，通过外交途径书面通知对方终止本协定。

在这种情况下，本协定不再适用于：

（一）在发出照会的次年1月1日或以后支付或汇出款额应源泉预提的税收；

(二)在发出照会的次年1月1日或以后开始纳税年度或会计年度发生的所得缴纳的其他税收。

双方正式授权的签字人签署了本协定，以照信守。

本协定于公元1986年10月27日在曼谷签订，共两份，每份都用泰文、中文和英文写成，三种文本具有同等效力。在有疑义的情况下，以英文本为准。

中华人民共和国政府代表

田纪云

泰国政府代表

西提·沙尼西拉

**AGREEMENT
BETWEEN
THE GOVERNMENT OF THE PEOPLE’S REPUBLIC OF CHINA
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 People’s Republic of China and the Government of the Kingdom of Thailand;

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

Have agreed as follows:

**ARTICLE 1
PERSONAL SCOPE**

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

**ARTICLE 2
TAXES COVERED**

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

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

3. The existing taxes to which the Agreement shall apply are:

- (a) in the case of Thailand;
 - (i) the income tax; and
 - (ii) the petroleum income tax;

(hereinafter referred to as “Thai tax”)

- (b) in the case of China;
 - (i) the individual income tax;
 - (ii) the income tax concerning joint ventures with Chinese and foreign investment;
 - (iii) the income tax concerning foreign enterprises;
 - (iv) the local income tax.

(hereinafter referred to as “Chinese tax”)

4. The Agreement shall also apply to any identical or substantially similar taxes on income which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of important changes which have been made in their respective taxation laws.

ARTICLE 3 GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:
 - (a) the term “Thailand” means the Kingdom of Thailand and includes any area adjacent to the territorial waters of the Kingdom of Thailand which by Thai legislation and in accordance with international law, has been or may hereafter be designated as an area within which the right of the Kingdom of Thailand with respect to the seabed and sub-soil and their natural resources may be exercised;
 - (b) the term “China” means the People’s Republic of China, when used in a geographical sense, means all the territories of the People’s Republic of China, including territorial sea, in which the taxation laws of China apply, and any area beyond its territorial sea, within which the People’s Republic of China has sovereign rights of exploration for and exploitation of resources of the seabed and its sub-soil and superjacent water resources in accordance with international law;
 - (c) the terms “a Contracting State” and “the other Contracting State” mean Thailand or China, as the context requires;

- (d) the term “person” includes an individual, a company, 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 under the taxation laws of the respective Contracting States;
- (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;
- (g) the term “tax” means Thai tax or Chinese tax, as the context requires;
- (h) 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;
- (i) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except where the ship or aircraft is operated solely between places in the other Contracting State;
- (j) the term “competent authority” means, in the case of Thailand, the Minister of Finance or his authorized representative and in the case of China, the Ministry of Finance or its authorized representative.

2. As regards the application of the Agreement by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State concerning the taxes to which the Agreement applies.

ARTICLE 4 RESIDENT

1. For the purposes of this Agreement, the term “resident of a Contracting State” means any person who, under the laws of that Contracting State, is liable to tax

therein by reason of his domicile, residence, head office, place of incorporation or any other criterion of a similar nature.

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

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

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then the competent authorities of the Contracting States shall determine that the person is a resident of a Contracting State for the purposes of this Agreement 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 farm or plantation;
- (g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- (h) a building site, a construction, installation or assembly project or supervisory activities in connection therewith, where such site, project or activity continues for a period of more than 6 months;
- (i) a warehouse, in relation to a person providing storage facilities for others;
- (j) the furnishing of services, including consultancy services, by a resident of one of the Contracting States through employees or other personnel, provided activities of that nature continue (for the same or a connected project) within the other Contracting State for a period or periods aggregating more than 183 days 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 advertising, for the supply of information, for scientific research, or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. A person (other than a broker, general commission agent or any other agent of an independent status to whom paragraph 5 applies) acting in a Contracting State on behalf of an enterprise of the other Contracting State shall be deemed to be a permanent establishment in the first-mentioned Contracting State, if:

- (a) he has, and habitually exercises in the first-mentioned Contracting State, an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to those mentioned in paragraph 3 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or
- (b) he maintains in the first-mentioned Contracting State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders or make deliveries on behalf of the enterprise; or
- (c) he habitually secures orders in the first-mentioned Contracting State wholly or almost wholly for the enterprise or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other Contracting State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business. For this purpose, an agent shall not be considered an agent of an independent status if it carries on in that other Contracting State an activity described in paragraph 4 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.

6. 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 Contracting State or insures risks situated therein through an employee or through a representative who is not an agent of an independent status within the meaning of paragraph 5.

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 Contracting State (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 Contracting State from immovable property (including income from agriculture or forestry) may be taxed in the Contracting State in which such property is situated.

2. For the purposes of this Agreement, the term “immovable property” shall have the meaning which it has under the laws of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships 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 profits of an enterprise of a Contracting State shall be taxable only in that Contracting State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other Contracting State 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 Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining 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 Contracting 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 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 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 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 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 derived by an enterprise of a Contracting State from the operation of aircraft in international traffic shall be taxable only in that Contracting State.

2. Income derived by an enterprise of a Contracting State from the operation of ships in international traffic may be taxed in the other Contracting State, but the tax

imposed in that other Contracting State shall be reduced by an amount equal to 50 per cent thereof.

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

ARTICLE 9 ASSOCIATED ENTERPRISES

Where

- (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions have accrued to one of the enterprises, but by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

ARTICLE 10 DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other Contracting 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 Contracting State, but, if the recipient is the beneficial owner of the dividends and is a company, excluding partnership, the tax so charged shall not exceed:

- (a) 15 per cent of the gross amount of the dividends if the recipient holds directly at least 25 per cent of the shares of the company paying the dividends,
- (b) 20 per cent of the gross amount of the dividends in 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 tax laws of the Contracting State of which the company making the distribution 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 Contracting 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 case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other Contracting 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 Contracting 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 Contracting 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 that other Contracting State.

ARTICLE 11

INTEREST

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

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that Contracting State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 10 per cent of the gross amount of the interest in case it is received by any financial institution (including an insurance company) .

3. Notwithstanding the provisions of paragraph 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 Thailand, means the Royal Government of Thailand and shall include:

- (i) the Bank of Thailand;
- (ii) the local authorities; and
- (iii) such financial institutions, the capital of which is wholly owned by the Royal Government of Thailand or any local authority as may be agreed from time to time between the competent authorities of both of the Contracting States;

(b) in the case of China, means the Government of the People’s Republic of China and shall include:

- (i) the People’s Bank of China and Bank of China to the extent that its activity is carried on within the scope of the normal authority of a central bank;
- (ii) the local authorities; and
- (iii) such financial institutions, the capital of which is wholly owned by the Government of the People’s Republic of China or any local authority as may be agreed from time to time between the competent authorities of both 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 similar income treated as 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 Contracting State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed

base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is the Government of that Contracting State, a political subdivision, a local authority or a resident of that Contracting 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 Contracting 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 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 Agreement.

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 Contracting State.

2. However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that Contracting State, but if the recipient is the beneficial owner of the royalties, 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 use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, 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 Contracting 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 of fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is the Government of that Contracting State, a political subdivision, a local authority or a resident of that Contracting 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 obligation to pay the royalties was incurred, and those royalties are borne by that permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

6. Where, 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 Agreement.

ARTICLE 13

GAINS FROM THE ALIENATION OF PROPERTY

1. Gains derived by a resident of a Contracting State from the alienation of immovable property situated in the other Contracting State as defined in Article 6 may be taxed in that other Contracting 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 together with the whole enterprise) or of such a fixed base, may be taxed in that other Contracting 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 Contracting State.

4. Gains from the alienation of any property or assets, other than those referred to in paragraphs 1, 2 and 3 of this Article, arising in a Contracting State, may be taxed in that Contracting State.

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 Contracting State except in the following circumstances, when such income may also be taxed in the other Contracting State:

- (a) if he has a fixed base available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or
- (b) if his stay in the other Contracting State 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 Contracting State may be taxed in that other Contracting State; or
- (c) if the remuneration for his activities in the other Contracting State is paid by a resident of that other Contracting State or is borne by a permanent establishment or a fixed base situated in that other Contracting State; in that case, only so much of the remuneration as is derived therefrom may be taxed in that other Contracting State.

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, 18, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that Contracting State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Contracting State.

2. Notwithstanding the provisions of paragraph 1 of this Article, 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 Contracting State if:

- (a) the recipient is present in the other Contracting State 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 Contracting State, and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Contracting 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 Contracting State.

ARTICLE 16 DIRECTORS' FEES

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

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

ARTICLE 17 ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 14 and 15, 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 an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other Contracting State.

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

3. The provisions of paragraphs 1 and 2 of this Article shall not apply to remuneration or profits, salaries, wages and similar income derived from activities performed in a Contracting State by an entertainer or an athlete if the visit to that Contracting State is substantially supported by public funds of the other Contracting State, including any political subdivision, local authority or statutory body thereof.

4. Notwithstanding the provisions of Article 7, where the activities mentioned in paragraph 1 of this Article are provided in a Contracting State by an enterprise of the other Contracting State, the profits derived from providing these activities by such an enterprise may be taxed in the first-mentioned Contracting State unless the enterprise is substantially supported from the public funds of the other Contracting State, including any political subdivision, local authority or statutory body thereof, in connection with the provisions of such activities.

ARTICLE 18

PENSIONS

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

2. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration derived by a resident of a Contracting State may be taxed in the other Contracting State if such payments are borne by an enterprise of that other Contracting State or by a permanent establishment situated therein.

ARTICLE 19

GOVERNMENT SERVICE

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

(b) However, such remuneration shall be taxable only in the other Contracting State if the

services are rendered in that other Contracting State and individual is a resident of that other Contracting State who:
 - (i) is a national of that other Contracting State; or
 - (ii) did not become a resident of that other Contracting 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 political subdivision or a local authority thereof to an individual in respect of services rendered to that Contracting State or political subdivision or local authority shall be taxable only in that Contracting 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 other Contracting State.

3. The provisions of Articles 15, 16, 17 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by the Government of a Contracting state or a political subdivision or a local authority thereof.

ARTICLE 20

STUDENTS AND TRAINEES

1. An individual who, immediately before visiting a Contracting State, was a resident of the other Contracting State and whose visit to the first-mentioned Contracting State 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 a governmental, religious, charitable, scientific, literary or educational organization;

Shall be exempt from tax in the first-mentioned Contracting State on:

- (a) remittances from abroad for the purposes of his maintenance, education, study, research or training;
- (b) the grant, allowance or award; and
- (c) income from personal services rendered in that Contracting State provided the income constitutes earnings reasonably necessary for his maintenance and education.

ARTICLE 21 PROFESSORS, TEACHERS AND RESEARCHERS

1. An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State, and who, at the invitation of any university, college, school or other similar educational institution which is recognized by the competent authority in that other Contracting State, visits that other Contracting State for a period not exceeding 3 years solely for the purpose of teaching or research or both at such educational institution shall be exempt from tax in that other Contracting State 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 22 INCOME NOT EXPRESSLY MENTIONED

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

ARTICLE 23 ELIMINATION OF DOUBLE TAXATION

1. The laws in force in either of the Contracting States shall continue to govern the taxation of income in the respective Contracting States except where express provisions to the contrary are made in this Agreement. Where income is subject to tax in both Contracting States, relief from double taxation shall be given in accordance with the following paragraphs of this Article.

2. In the case of Thailand, Chinese tax payable in respect of income derived from China shall be allowed as a credit against Thai tax payable in respect of that income. The credit shall not, however, exceed that part of the Thai tax, as computed before the credit is given, which is appropriate to such item of income. For the purpose of this paragraph, the term “Chinese tax payable” shall be deemed to include the amount of Chinese tax which would have been paid if the Chinese tax had not been exempted or reduced in accordance with the special incentive laws designed to promote economic development in China, effective on the date of signature of this Agreement, or which may be introduced hereafter in modification of, or in addition to, the existing laws.

3. In the case of China, Thai tax payable in respect of income derived from Thailand shall be allowed as a credit against Chinese tax payable in respect of that income. Where such income is a dividend paid by a company which is a resident of Thailand to a company which is a resident of China and which owns not less than 10 per cent of the shares of the company paying the dividend, the credit shall take into account Thai tax payable by that company in respect of its income out of which the dividend is paid. The credit shall not, however, exceed that part of the Chinese tax, as computed before the credit is given, which is appropriate to such item of income. For the purpose of this paragraph, the term “Thai tax payable” shall be deemed to include the amount of Thai tax which would have been paid if the Thai tax had not been exempted or reduced in accordance with the special incentive laws designed to promote economic development in Thailand, effective on the date of signature of this Agreement, or which may be introduced hereafter in modification of, or in addition to, the existing laws.

ARTICLE 24 NON-DISCRIMINATION

1. 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 Contracting 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 Contracting State than the taxation levied on enterprises of that other Contracting 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 Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned Contracting 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. In this Article the term “taxation” means taxes which are the subject of this Agreement.

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 Agreement, he may, notwithstanding the remedies provided by the domestic laws of those Contracting 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 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 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 not in accordance with the Agreement.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.

4. The competent authorities of the Contracting States may communicate with each other directly for the purposes of reaching an agreement in the sense of the preceding paragraphs.

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 Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement insofar as the taxation thereunder is not contrary to the Agreement. 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 Contracting 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 Agreement. 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 (ordre public) .

ARTICLE 27
DIPLOMATIC AGENTS AND CONSULAR OFFICERS

Nothing in this Agreement shall affect the fiscal privileges of diplomatic agents or consular officials under the general rules of international law or under the provisions of special agreements.

ARTICLE 28
ENTRY INTO FORCE

1. This Agreement shall enter into force on the thirtieth day after the date on which diplomatic notes indicating the completion of internal legal procedures necessary in each country for the entry into force of this Agreement have been exchanged.

2. This Agreement shall have effect:

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

ARTICLE 29
TERMINATION

This Agreement shall remain in force indefinitely, but either of the Contracting States 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 Contracting State, through diplomatic channels, 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 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 Agreement.

DONE in duplicate at Bangkok on this 27th day of October, one thousand nine hundred and eighty-six Year of the Christian Era, each in the Chinese, Thai and

English languages, all texts being equally authoritative, except in the case of doubt when the English text shall prevail.

**On behalf of
the Government of
the People's Republic of China**

**On behalf of
the Government of the Kingdom
of Thailand**